



Right of Way Manual

Procedures for the Right of Way Bureau

March 2026

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CHAPTER 1 – Authority & Organization

- 1.1 The MassDOT Highway Division (MHD), acting on behalf of MassDOT and through its Highway Administrator, is authorized to acquire land for state transportation purposes in accordance with the provisions of [Chapter 79](#) & [Chapter 81](#) of the Massachusetts General Laws (MGL), [Chapter 196 of the Acts of 2004](#) and [Chapter 25 of the Acts of 2009](#), as amended, and to regulate all off premise outdoor advertising displays in accordance with the provisions of [Chapter 6C](#) & [Chapter 93D](#) of the Massachusetts General Laws, as well as [700 Code of Massachusetts Regulations \(CMR\) 3.00 et seq.](#), [23 United States Code \(USC\) Sections 131 et seq.](#), [23 Code of Federal Regulations \(CFR\) 750](#).
- 1.2 For all federally funded projects, the MassDOT Highway Division must also comply with the [Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970](#), as amended, and the applicable Federal laws and regulations outlined in more detail in CHAPTER 15 – of this manual.
- 1.3 The MassDOT Highway Division (MHD) is under the direction of an Administrator who is appointed by the Secretary of the Massachusetts Department of Transportation (MassDOT).
- 1.4 The operations of the Right of Way (ROW) Bureau (the Bureau) are carried out by personnel under the direction of the Director of the Bureau, who reports directly to the Deputy Chief Engineer for Design as shown on the Table of Organization of the MHD (refer to [Exhibit 1-1](#)).
- 1.5 The Bureau is responsible for the acquisition of all real property and rights in real property required for the highway program. These responsibilities include: assisting in highway location studies; reviewing and commenting on advance drafts of Environmental Impact Statements (EIS); performing preliminary Right of Way investigations and title studies; preparing relocation plans; making advance and hardship acquisitions; appraising property and establishing the fair market value of property acquired as a result of the highway program; meeting with property owners to discuss the settlement of their land damage case; functionally replacing certain properties and assisting in the relocation of displaced persons; processing of payments for eminent domain takings and court judgments; assisting the Office of the Attorney General in the preparation of land damage court cases, and performing other duties which may be assigned by the Administrator's Office.
- 1.6 To perform these duties, the Bureau is under the supervision and control of a Director. Responsible to the Director are the Deputy Director and the Administrators of the Finance/Clerical Section, Outdoor Advertising Section, Legal and Conveyance Section, Projects Section, Community Compliance Section, Appraisals Section, Negotiations Section, Relocation and Property Management Section, Layouts Section and the Engineering Section of the Bureau as shown on the Bureau's Table of Organization (refer to [Exhibit 1-2](#)).

- 1.7 The Deputy Director is responsible for the general operations, administrative and personnel matters, including: the planning and coordination of all IT needs; the management and monitoring of staff duties, time and attendance issues and policies; the review and revising of all standard operating procedures, including the Right of Way Manual and all standard forms and letters as to content and format; the planning and coordination of all motor vehicle needs; the preparation of the Annual Report; coordination and oversight of the Employee Performance Review System (EPRS) process, as well as assisting the Director in the performance of his/her duties. In the absence of the Director, the Deputy Director will administer the functions of the Right of Way Bureau and is authorized to sign the Right of Way Certificate and supporting documents.
- 1.8 The Finance Administrator is responsible for the general administration operations (office procedures), as well as Finance Operations and Clerical sections of the ROW Bureau.
- 1.9 The Projects Administrator is responsible for oversight for all MassDOT Federal-aid and non-Federal-aid public construction projects requiring the acquisition of rights of way. In addition, the Project Administrator is responsible for overseeing all Permit Projects, Alterations, and Discontinuances, Easement Grants, and other special projects as assigned by the Director or Deputy Director.
- 1.10 The Community Compliance Administrator is responsible for oversight and assistance for all municipal public construction projects requiring the acquisition of rights of way, including Federal-aid transportation enhancement projects.
- 1.11 The Legal and Conveyance Administrator is responsible for real property title reviews and the recordation of all MassDOT plans and instruments, and resolution of title and payment issues with property owners when possible, assisting the Attorney General's Office (AGO) in eminent domain case preparation, including: transmitting all case folders to and from the AGO's Office; accounting for the contents of such folders during the process; answering interrogatories; approving the use of outside experts; commenting on the settlement of such cases; and ensuring payment of all MassDOT property acquisition related court judgments.

The Legal and Conveyance Administrator is responsible for ensuring compliance with the Act to Protect Open Space in the Commonwealth ([M.G.L. c. 3, § 5A](#)) as well as ensuring that MassDOT has legal access to all properties impacted by a ROW project. The Legal Administrator supports all bureau sections as required.
- 1.12 The Negotiations Administrator is responsible for presenting the Offer of Award to for all property acquisition cases and subsequent negotiations including acting as a liaison between the claimant and the Bureau during the administrative settlement process.
- 1.13 The Administrator of the Outdoor Advertising Section is charged with the regulation of all off-premise outdoor advertising displays, pursuant to applicable State and Federal law. Massachusetts General Laws (M.G.L.) [Chapter 6C](#) and [Chapter 93D](#), as well as [700 CMR 3.00 et seq.](#), [23 USC Sections 131 et seq.](#), [23 CFR 750](#). The Outdoor Advertising section is also responsible for administering the Public Service Announcement program.

- 1.14 The Relocation and Property Management Administrator is responsible for all relocation activity in accordance with the Uniform Act and the management of any property acquired by MassDOT, including managing tenants prior to completion of their relocation.
- 1.15 The Appraisals Administrator is responsible for supervision of the Right of Way Appraisal Section and is responsible for the assignment and delivery of all land damage appraisals and review appraisals which are used as the recommendation of just compensation by MassDOT for proposed real property acquisitions. The Appraisal Administrator is also responsible for approving and maintaining a list of qualified fee appraisers, coordinating and reporting appraisal related activities with other Administrators and Management within the Right of Way Bureau, and coordinating Real Estate Appraisal Review Board meetings where land damages estimates exceed \$300,000.
- 1.16 The State Layout Engineer is responsible for the oversight of the Layout Section's statewide operations. The Layout Section is responsible for the preparation and review of plans and written documents associated with the land rights of the state highway system under the jurisdiction of the MassDOT Highway Division. The Layout Section also maintains files and databases on past and working layout/easement documents and maintains a web page on the MassDOT public web site of record layout/easement plans and written instruments. Layout/Easement plans and written instruments are prepared in accordance with [M.G.L. c. 81](#), the [MassDOT Project Development and Design Guide](#), the [MassDOT CAD Standard](#), the [Rules and Regulations Governing Professional Engineers and Land Surveyors – 250 CMR](#), and the Registry of Deeds Standards and Plan Regulations.
- 1.17 The Engineering Administrator is responsible for all engineering services required for the bureau's activities, including plan review, coordination with other sections within MassDOT and with consultants, contract administration for fee services, scheduling, monitoring and reporting plan development status, management of the bureau's electronic data management and technology needs.

CHAPTER 2 – Definitions and Acronyms

Administrative Settlement – The term administrative settlement means a settlement when the purchase price paid for the property exceeds the amount offered as just compensation. The settlement must be approved by a MassDOT official as being reasonable, prudent and in the public interest.

Agency – The term Agency means the Federal Agency, State, State Agency, or person that acquires real property or displaces a person.

Appraisal – The term appraisal means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

Bureau – The term *Bureau* means the MassDOT Right of Way Bureau.

Comparable Replacement Dwelling – The term *comparable replacement dwelling* means a dwelling which is:

1. Decent, safe, and sanitary as described in [49 CFR 24.2\(a\)](#);
2. Functionally equivalent to the displacement dwelling, which means that it performs the same function, and provides the same utility.
3. Adequate in size to accommodate the occupants.
4. In an area not subject to adverse environmental conditions.
5. In a location generally not less desirable than the location of the displaced person's dwelling.
6. On a site typical in size for residential development.
7. Currently available to the displaced person on the private market, except as provided in # 9 below.
8. Within the financial means of the displaced person.
9. For a person receiving government housing assistance before displacement, a dwelling that may reflect similar government housing assistance.

Refer to [49 CFR 24.2\(a\)](#) for complete definition.

Designated Representative – A property owner may voluntarily elect a designated representative to represent them in all matters associated with the Right of Way acquisition process as described in [49 CFR 24.2\(a\)](#) “[Owner's or tenant's designated representative](#)”.

Displaced Person –

1. General – The term *displaced person* means any person who permanently moves from the real property or moves his or her personal property from the real property (this includes a

person who occupies the real property prior to its acquisition, but who does not meet the length of occupancy requirements of the Uniform Act):

- a. As a direct result of a written notice of intent to acquire, rehabilitate and/or demolish the initiation of negotiations for, or the acquisition of, such real property in whole or in part for a project.
 - b. As a direct result of rehabilitation or demolition for a project; or
 - c. As a direct result of a written notice of intent to acquire, or the acquisition, rehabilitation or demolition of, in whole or in part, other real property on which the person conducts a business or farm operation, for a project. However, eligibility for such person under this paragraph applies only for purposes of obtaining relocation assistance advisory services and moving expenses.
2. Persons required to move temporarily.
- a. A person is required to move or move his/her personal property from the real property as direct result of the project but is not required to relocate permanently. Such determination shall be made by MassDOT.
3. Voluntary acquisitions:
- a. A tenant who moves as a direct result of a voluntary acquisition as described in [49 CFR 24.101\(b\)\(1\)](#) through (3) is eligible for relocation assistance when there is a binding written agreement between the agency and the owner that obligates the agency, without further election, to purchase the real property
4. Persons not displaced
- a. A person who has occupied the property for the purpose of obtaining assistance under the Uniform Act
 - b. A person who is not required to relocate permanently as a direct result of a project. Refer to [49 CFR 24.2\(a\)](#) for a complete list of persons not displaced.

Donation of Real Property – The term *donation* means the owner is willing to give all or a portion of the needed real property to MassDOT for less than what constitutes just compensation. The property owner retains certain rights, which are explained in [Chapter 13 - Negotiations](#).

Dwelling – The term *dwelling* means the place of permanent or customary and usual residence. It includes a single-family house, a single-family unit in a multi-family building or a multi-purpose property, a unit of a condominium or cooperative housing project, a mobile home, or any other residential unit.

Early Acquisition – The term *early acquisition* means acquisition of real property interests by MassDOT prior to completion of the environmental review process for a proposed transportation project, as provided under [23 CFR 710.501](#) and [23 U.S.C. 108](#).

Easement – The term easement means the right, privilege, or interest that one party has in the land of another. An easement may be temporary or permanent.

Eligibility Date – The term *eligibility date* means the date the ROW Agent makes the acquisition offer with the owner of the property, or his representative or the date that an occupant moves from the real property being acquired after issuance of a Notice of Intent to Acquire.

Eminent Domain – The term eminent domain means the right of the government or public utility to acquire privately-owned property for necessary public use; the property owner must be fairly compensated.

Federal Financial Assistance – grant, loan or contribution provided by the United States except any Federal guarantee, insurance or tax credits and any interest reduction payment to an individual in connection with the purchase and occupancy of a residence by that individual.

Fee Simple – The term fee simple means absolute ownership of real property; the owner is entitled to the entire property with unconditional power of disposition during the owner's life, and upon his/her death the property descends to the owner's designated heirs.

Household Income – The term household income means total gross income received for a 12-month period from all sources (earned and unearned) including, but not limited to wages, salary, child support, alimony, unemployment benefits, workers compensation, social security, or the net income from a business. It does not include income received or earned by dependent children and full-time students under 18 years of age.

Land Damage Agreement – The term land damage agreement refers to an agreement between MassDOT and a property owner for real property or rights in real property in which the property owner waives their right to just compensation and is typically, but not exclusively, for a zero-dollar award.

Limited Access – The term limited access refers to transportation facilities specially designed for through traffic. The owners or occupants of abutting real property have no easement rights over, from or to the facility or only controlled rights of access, light, air, or view.

Local Public Agency – The term Local Public Agency (LPA) means any department, Agency or instrumentality of a political subdivision of a State, who has the authority to acquire property by eminent domain under State law.

Market Value – The term market value means the highest price which a hypothetical willing buyer would pay a hypothetical willing seller in an assumed free and open market, neither party being under any obligation to buy or sell. (Epstein V. Boston Housing Authority, (1944) 58 N.E. 2nd 135, 317 Mass. 297)

Mobile Home – The term mobile home refers to a complete livable dwelling unit, typically capable of being moved from place to place. Mobile homes may include trailers, manufactured homes and recreational vehicles used as residences.

Order of Taking – The term Order of Taking refers to a legal document recorded at the registry of deeds in the county where the taken property is located. This document must contain a description of the land taken, the interest therein taken and the purpose for which such property is taken.

Pro-Tanto Award Check – In an eminent domain case, pro tanto describes the payment award made by the government for the taking of land. This payment is given without prejudice which means that the property owner may later maintain an action if the property owner believes that the payment award amount made by the government was inadequate compensation for the taking.

Relocatee – The term *relocatee* means any person who meets the definition of a displaced person.

Reverse Mortgage - a first mortgage which provides for future payments to the homeowner based on accumulated equity and which a housing creditor is authorized to make under any Federal law or State constitution, law, or regulation. It is a class of lien generally available to persons 62 years of age or older. Reverse mortgages do not require a monthly mortgage payment and can also be used to access a home's equity. The reverse mortgage becomes due when none of the original borrowers live in the home, if taxes or insurance become delinquent, or if the property falls into disrepair.

Right of Entry – The term *right of entry* means the right to enter and begin construction or perform other activities on real property temporarily by agreement with the property owner. Access acquired by a *right of entry* agreement is not recorded at the registry of deeds and is revocable by the property owner.

Temporary Shelter - any facility, the primary purpose of which is to provide a person with a temporary overnight shelter which does not allow prolonged or guaranteed occupancy. A shelter typically requires the occupants to remove their personal property and themselves from the premises on a daily basis, offers no guarantee of reentry in the evening, and in most cases does not meet the definition of dwelling.

Uneconomic Remnant – The term *uneconomic remnant* means a parcel of real property in which the owner is left with an interest after the partial acquisition of the owner's property, and which MassDOT has determined has little or no value or utility to the owner.

Unlawful Occupancy – The term *unlawful occupancy* refers to a person who occupies without property right, title or payment of rent or a person legally evicted, who has no legal rights to occupy the property under State law. MassDOT may, at its discretion, consider such person to be in lawful occupancy.

ACRONYMS

CFR	Code of Federal Regulations
FHWA	Federal Highway Administration
IT	Information Technology
LPA	Local Public Agency
MassDOT	Massachusetts Department of Transportation
MBTA	Massachusetts Bay Transportation Authority
MGL	Massachusetts General Laws
MHD	MassDOT Highway Division
OREAD	Office of Real Estate Asset Development
RHP	Replacement Housing Payment
ROW	Right of Way
STIP	Statewide Transportation Improvement Program
TIP	Transportation Improvement Plan
URA	Uniform Act
USC	United States Code
USPAP	Uniform Standards of Professional Appraisal Practice

CHAPTER 3 – Projects Section

3.1 ACQUISITION

The Projects Section is responsible for initiating the acquisition of all necessary rights in private and public property for the design, construction, and implementation of transportation improvement projects. To provide uniform and equitable treatment for those whose property is acquired, and for persons displaced by such acquisitions, MassDOT is bound by the [Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970](#), as amended, and Massachusetts General Laws, primarily [Chapter 79](#) and [Chapter 81](#).

- 3.1.1 Design Public Hearings/Public Information Meetings
- 3.1.2 The Projects Administrator (PA) is notified of design public hearings and public information meetings. A Field Agent attends these meetings on behalf of the Bureau. At the hearing or public information meeting, the Field Agent explains the rights of the affected owners and responds to general questions regarding the Right of Way process.
- 3.1.3 Preliminary Projects Activity.
- 3.1.4 The PA notifies the Projects area supervisor that the preliminary ROW plans are accepted and ready for assignment to Field Agents.
- 3.1.5 The Field Agent creates a case file for each property, which includes a
 - A. Title Report,
 - B. Notice to Owner (NTO),
 - C. Field Card,
 - D. Parcel Sketch,
 - E. Property Interview Record (PIR),
 - F. Email Communication Authorization (ECA), and
 - G. Excel Spreadsheet (Eform).
- 3.1.6 Excel Spreadsheet (Eform).

The Eform contains all case related information, as well as various ROW forms, templates and a journal to memorialize contacts with the property owner(s) (refer to [Exhibit 3-1](#)).
- 3.1.7 Field Agents obtain assessment and zoning data from municipalities, retrieve documents from registries of deeds, and make on-site visits of properties and structures.
- 3.1.8 The field agent will inform the property owner of their right to elect a designated representative. If the property owner chooses to have a designated representative, the Field agent will record a Designated Representative form ([Exhibit 3-3](#) Designated Representative Form).

- 3.1.9 The Field Agents obtain authorization from property owners to communicate via email with ROW during the acquisition process. The authorization is recorded through the Email Communication Authorization (ECA) form. ([Exhibit 3-4](#) Email Communication authorization), MassDOT electronic communication procedures comply with [49 CFR 24.5](#). See [Exhibit 3-5](#) Electronic Communication Procedure.
- 3.1.10 The Field Agent generates a Notice to Owner letter and forwards it to the property owner via traditional mail or email communication. In the case of condominiums and other types of housing with common or community areas, notification will be given to the appropriate parties, including, condo or homeowner's board, a designated representative and all individual owners when common or community property is being acquired for the project prior to the preliminary interview.
- 3.1.11 If the property owner advises the Field Agent that an attorney has been retained, they must supply a letter of representation to the ROW Bureau, addressed to the Director.
- 3.1.12 **Property Interview**
The Field Agent conducts the property interview with owner(s) of record or their designated representative(s), and if applicable, tenants and lessees who hold an interest in the affected property. At the property interview, the Field Agent provides the Right of Way brochure, a parcel sketch, and explains:
- A. the transportation improvement project;
 - B. its impact to the property;
 - C. the acquisition process as outlined in the Right of Way brochure; and
 - D. the owner(s) rights.
- Property and contact information is verified, and comments/concerns are noted on the property interview record.
- The preferred type of contact is in person. If this is not possible or practical, a written request (Property interview record mail out) for completion of the preliminary interview record will be forwarded to the property owner(s) or their designated representative(s).
- Once the interviews are complete, the Projects area supervisor reviews the files for accuracy and completeness, compiles relevant documents, and provides them to the PA.
- 3.1.13 **Appraisals**
Once the interviews are complete, the PA requests Appraisals from the ROW Bureau Appraisals section.
- 3.1.14 **Personal Property Reports**
Personal property reports are generated by the Field Agents for all items considered as such.
- 3.1.15 **Federal Land Transfers**

In situations where Mass DOT needs to acquire property interests in lands owned by the United States, it may employ the opportunities afforded for FHWA assistance as set out in [23 CFR 710.601](#).

3.1.16 Voluntary Acquisitions

Voluntary acquisitions are rarely used by MassDOT. If and when a voluntary acquisition is contemplated it will be carried out according to [49 CFR 24.101\(b\)\(1\)](#) through (3).

3.1.17 Environmental Clearance Requirement

Although preliminary acquisition activity may occur prior to environmental clearance, Negotiations and Relocation Assistance activity must be deferred until NEPA clearance is obtained as stated in the federal regulations at [23 CFR 710.203\(a\)\(3\)](#).

3.1.18 Right of Way Certificate

Upon notification that all Awards have been made, the PA drafts the Right of Way Certificate in accordance with the provisions of federal regulations stated at [23 CFR 635.309](#), for the Director's signature and distributes to all interested parties.

3.2 EARLY ACQUISITIONS

3.2.1 Early Acquisitions are under the overall supervision of the PA. This procedure provides lead time for the acquisition and relocation of improved properties where project level environmental approvals, and acquisition authorization is pending; it also provides a means of alleviating physical or financial hardships to property owners caused by an impending project and precludes substantial and imminent property development within the preferred highway location.

3.2.2 Real Property Rights Involved

An early acquisition may employ any of the following property rights applications:

- A. Fee title acquisitions
- B. Permanent easements acquisitions
- C. Options to purchase; paying compensation for the right to purchase property at a fair market value at a future date, at the discretion of Mass DOT
- D. Property reservations; would pay a rental fee for a stated period of time
- E. Any other appropriate reservation technique

3.2.3 Early Acquisition Hardship Purchase

A hardship purchase primarily applies to owner-occupants of real property who have been placed in an extraordinary or emergency situation by an impending highway project. In rare instances, an owner of income-producing or vacant property may also be eligible for advance hardship acquisition. Hardship acquisitions are generally

instituted upon written requests by the owner of real property citing the hardship created by the impending highway project.

The property owners' written request must contain:

- A. Support for the hardship acquisition by providing justification on the basis of health, safety or financial reasons that remaining in the property poses, and undue hardship compared to others; and
- B. 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.

MassDOT must concur and accept this request. Determinations will be made on a case by case basis in a uniform and compassionate manner.

3.2.4 Early Acquisition Protective Purchase

A protective purchase may occur at the discretion of Mass DOT, when it is determined that it is in the public interest to take effective control over real property to prevent excess future cost appreciation.

3.2.5 Environmental Decisions

Hardship or protective acquisitions may occur prior to final environmental clearance(s). However, acquisition of property under this section shall not influence the environmental assessment of a project, including the decision relative to the need to construct the project or the selection of a specific location.

3.2.6 Investigation

Upon request or notification, an investigation will be conducted into all the circumstances involving the property to be affected by the proposed highway improvement project. Written notification that an investigation has been initiated, signed by the Director of the ROW Bureau, will be sent to the requestor.

3.2.7 Recommendation

Upon completion of the investigation, the PA will make a recommendation to the Director of the ROW Bureau.

For hardship acquisitions, the PA will provide the following information:

- A. A copy of the owner's request for a hardship acquisition
- B. A plan showing the proposed acquisition and its relationship to the proposed project, including right of way limits
- C. Project status
- D. A statement reflecting the displacee's plans for obtaining replacement housing; or, assurance that replacement housing is available within the financial means of the relocatee and relocation will be accomplished in a reasonable and orderly manner
- E. A statement certifying that the acquisition will not influence the environmental considerations of the project, including the no-build alternative

- F. An estimate of the acquisition costs, and relocation costs (if applicable)

For protective acquisitions, the PA will provide the following information:

- A. A copy of pertinent correspondence detailing the reasons for initiating the action and evidence that it is in the public interest.
- B. It should demonstrate prevention of imminent development(s) and increased costs which would tend to limit the choice of highway alternatives.

This information is to be prepared in appropriate form for the Director's signature, and if required, for transmittal to the FHWA for approval of the advance taking.

3.2.8 Approval/Disapproval

On Federally participating highway projects, no further action will be taken until FHWA approval or disapproval of a hardship/protective acquisition case is received by MassDOT.

For non-federal aid projects, once the investigation is complete, the ROW Bureau Director, in consultation with MassDOT's Chief Engineer, will approve or disapprove all recommendations for advance acquisitions. The ROW Bureau Director will notify the property owner, in writing, of MassDOT's decision regarding his/her request for advance acquisition.

3.2.9 FHWA Reimbursement

On Federal aid projects, MassDOT may request FHWA agreement to provide reimbursement for hardship or protective acquisitions, provided the following conditions are met:

- A. The acquisition is included in the currently approved STIP.
- B. MassDOT has complied with the applicable public involvement requirements in 23 CFR, Parts [450](#) and [771](#).
- C. A determination has been completed for any property subject to the provisions of [23 USC 138](#).
- D. Procedures of the Advisory Council on Historic Preservation are completed for the properties subject to 16 USC 470(f) (historic properties).

3.2.10 Federal Participation Alternatives

Federal participation in an early acquisition may occur in either of the following manners:

- A. If MassDOT desires federal participation at either the time of the acquisition or when normal project acquisition activities commence, then the acquisition must be approved in writing by the FHWA as either a "early acquisition," a "protective purchase," or a "hardship acquisition," as defined by federal regulations at 23 CFR 710.501 or 710.503 (refer to [Exhibit 3-2](#)).
- B. If MassDOT does not desire Federal participation in the acquisition but would desire to be eligible for a project credit match at a later date, then Federal

approval is not necessary, however, all applicable regulations and procedures must be followed. Under this procedure, a Federal project match credit will only be allowed for those real property rights incorporated into the eventual project operating right of way. It is important to note that a project credit match is only available for the value of the real property rights and does not include relocation assistance payments or miscellaneous MassDOT administrative expenses.

3.3 FUNCTIONAL REPLACEMENT PROGRAM

3.3.1 The functional replacement program is the responsibility of the Projects Administrator. Functional replacement allows for payment of the cost to erect a structure of similar function on a replacement site. When publicly owned and used land and facilities, such as fire stations or police departments, are needed for a highway project, the acquiring agency may functionally replace the property in lieu of providing compensation. The intent is that the replacement property will provide equivalent utility as the acquired property.

The acquiring agency may participate in costs necessary to replace the functions of the acquired property, but the costs must have been actually incurred and not include betterments or increases in capacity.

Publicly-owned properties including land and/or facilities may be subject to the functional replacement provisions of [23 CFR 710.509](#). Instead of paying fair market value for the real property, the State may provide compensation by functionally replacing the publicly owned real property with another facility which will provide equivalent utility.

The property must be in public ownership and use at the time of acquisition, and the public ownership and use must continue with the replacement property. Functional replacement is not allowable when a railroad or a utility owns the property. FHWA concurrence is required if federal funds will be participating in the functional replacement.

3.3.2 Early Coordination

During the early stages of highway project development, ROW Bureau personnel meet with representatives of the public agency that owns the property to discuss the effects of a possible acquisition and the potential application of functional replacement procedures. The results of these discussions and eventual decisions are to be included in negative declarations and environmental impact and section 4F statements, if required on the project.

3.3.3 Federal Approvals

If federal funds are participating in the project acquisition costs, then a federal functional replacement approval process must be established to prevent any misunderstandings regarding federal participation.

3.3.4 Project Development

After FHWA concurrence in conjunction with Federal participating acquisition projects, or general court authorization for non-federal aid projects, the property is appraised and an amount for just compensation is established.

For Federal participating acquisition projects, MassDOT requests FHWA authorization to proceed with the acquisition of the substitute site and to proceed with the physical construction of minor structures. In the case of major improvements, authorization to proceed with development of detailed plans, specifications and estimates will be requested.

The completed plans, specifications, and estimates are submitted to FHWA for review and approval in accordance with established procedures. Where major improvements are involved, advertising for bids and letting of the contract to construct the replacement facility may follow the general procedures utilized by the owning agency, if acceptable to MassDOT and FHWA. The specifications where applicable, should include provisions for MassDOT inspection during construction of the replacement facility.

Prior to concurrence in the award for actual construction, an agreement is drafted setting forth the rights, obligations, and duties of each party with regard to the facility being acquired, the acquisition of the replacement site, and the construction of the replacement facility. The proposed agreement should also set forth how the costs of the new facility are to be shared between the parties. The proposed agreement will be approved by FHWA prior to execution with the owning agency.

3.3.5 Costs for Consultant

If the owning agency wishes to be reimbursed for costs of engaging a consultant for planning or architectural services, it must receive prior approval from MassDOT and FHWA.

- A. Prior to construction, MassDOT may require the owning agency to engage a Clerk of the Works, the cost of which is to be reimbursed by MassDOT as part of the total cost of the project.
- B. MassDOT may choose to assign a Project Liaison Engineer to represent them during the construction period.

3.3.6 Final payment

On Federal participating projects a request for final payment will be prepared for submittal to FHWA after the replacement facility has been completed and accepted by the owning agency. This request will include:

- A. A signed statement by an appropriate official of both the owning agency and MassDOT, certifying that the cost of the replacement facility has actually been incurred, in accordance with the provisions of the executed agreement.
- B. The statement certifying that a final inspection of the facility was made by MassDOT and the owning agency, and that MassDOT is released from any further responsibility.

CHAPTER 4 – Appraisals Section

4.1 APPRAISALS

- 4.1.1 Staff appraisers are assigned and supervised by the Appraisal Administrator (AA). All appraisal assignments will be delegated by the AA.
- 4.1.2 Conflict of Interest:
- A. The appraiser shall not have any interest, direct or indirect, in the real property valued for MassDOT.
 - B. Compensation for making an appraisal shall not be based on the amount of the valuation estimate.
 - C. No person shall attempt to unduly influence or coerce an appraiser regarding any valuation or other aspect of an appraisal.
- 4.1.3 Under the requirements of [Ch 79 M.G.L.](#), at least one written appraisal for damages must be made before any award of damages can be authorized by the Highway Administrator (HA). A minimum of two (2) appraisals may be obtained where the damages are estimated to exceed \$300,000, or where the appraisal is involved, complicated, or highly controversial. All appraisals produced and submitted to the Bureau must comply with the [Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970](#), as amended, [49 CFR 24](#), State Laws, and to the greatest extent practicable, the [Uniform Standards of Professional Appraisal Practice \(USPAP\)](#).
- 4.1.4 M.G.L. Ch. 79 requires that damages for property taken shall be fixed at the time immediately prior to the recording of the Order of Taking, and in cases where only part of the parcel of land is taken, damages for overall injury to the part not taken shall be included (if applicable).
- 4.1.5 Special benefits accruing to a remaining portion of land will be considered in accordance with State law.
- 4.1.6 The appraiser is specifically directed to disregard changes in value arising from knowledge or anticipation of the public improvement which requires the acquisition and may not be considered in the award of compensation.
- 4.1.7 Bureau staff appraisers are required to have the following qualifications:
- A. Considerable knowledge of the laws, methods, procedures and practices relating to the appraisal of real property.
 - B. Considerable knowledge of current property values, valuation factors and condemnation appraisal practices.
 - C. Ability to collect and analyze real estate sales and related data to be used when making evaluations of property values.

- D. Ability to prepare appraisal reports, according to MassDOT/ROW Bureau's standard operating procedures that are clear, concise, and informative.
- E. Ability to read Right of Way and Highway design plans.
- F. Ability to represent the Commonwealth as an expert witness in land damage hearings and/or trials.
- G. Being certified in accordance with title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) (12 U.S.C. 3331 et seq.) is preferred.

4.1.7.1 The AA will carry out a continuous program of evaluation as to qualifications and performances of each staff appraiser and will ensure that each appraiser's qualifications match the scope of work being assigned. The form and content of staff appraisers' work will be checked by a review appraiser.

4.1.8 The staff appraiser will be furnished with documentation provided by the Bureau's Project Section to assist in the preparation of a scope of work statement. The documentation will include a subject property title report, property owner interview report, sketch of the proposed right of way plan depicting all parcels (including uneconomic remnants) to be acquired, subject property assessors' field card, an environmental site assessment (if one has been prepared), and other related documentation.

4.1.9 The property owner or a representative is advised by the field agent who conducts the preliminary interview, of their right to accompany the appraiser on the property inspection. The staff appraiser will initiate property owner contact by means of an Appraiser Contact Letter (Refer to [MassDOT ROW Bureau Electronic Communication Procedure](#)).

4.1.10

4.1.11 Property owners impacted by a MassDOT acquisition, may elect to receive notices by electronic delivery in lieu of certified or registered first class mail. Property owners must fill in and sign the Email Contact Authorization (ECA) form to authorize email communication from MassDOT. To do so, ROW staff must adhere to the following process to ensure compliance with Title 49 CFR 24.5.

- 1) The ECA must be sent utilizing the EForms software. By doing so, the case information will be automatically filled in the ECA, and automatically sent out, via Adobe Sign, to the property owner's email on file.
- 2) ROW agents will be automatically notified when the ECA has been signed and approved. ROW agents can check the status of their Adobe Sign agreements on our internal SharePoint site.
- 3) Upon receipt of the Adobe Sign Agreement by the property owner, a received timestamp is automatically added to our internal record keeping system.

- 4) Reminders of the pending agreement will be automatically sent out weekly until signed.
- 5) Unsigned requests will automatically expire after 2 months.
- 6) When signed, the property owner's responses, an electronic copy of the signed agreement, and an agreement certification will be automatically saved to the Case folder. This signed electronic copy of the document will be locked from any further modifications.
- 7) If the property owner provides a different email address in their ECA, or wish to change their email address on file after it has been authorized, a new ECA form must be sent to this new email address.
- 8) Upon receipt of a signed ECA, property owners can receive fill out and sign Property Interview Record (PIR) and other regular correspondence, forms and documents from MassDOT via email.

- 4.1.12 Exhibit 4-1 Appraisal Contact Letter) sent via certified receipt required. The appraiser will make every effort to contact the property owner or representative to schedule the property viewing. The appraiser will include in the body of the appraisal a copy of the Appraiser Contact Letter, returned certified mail receipt, and a signed Appraiser's Affidavit (Refer to [Exhibit 4-2](#)) confirming the date, time, purpose and person(s) involved in the property viewing.
- 4.1.13 In the event that buildings or structures are owned by some other person(s) than the owner of the land, the appraiser assigned will place a value on the building or structure to the extent that it enhances the value of the real property, using the recognized approaches to determining value.
- 4.1.14 Appraisals prepared by staff appraisers are produced utilizing standard formats supplied by the Bureau and must comply with the Bureau's requirements.
- 4.1.15 In general, the detail of the appraisal report will vary according to the amount and type of damage caused by the taking for the highway improvement.
- 4.1.16 When the amount of the estimated damage is \$500.00, or less, a payment of \$500.00 will be made.
- 4.1.17 Appraisal reports for each acquisition must contain or make reference to all items that are essential by explaining, substantiating and thereby documenting the estimate of just compensation. All unit values must be supported through an appropriate approach to value; namely the sales comparison approach, income approach, and/or cost approach.
- 4.1.18 Where a non-complex appraisal assignment involves only a minimum value estimate of damages for a partial taking, the appraiser may use the Restricted Appraisal format. Its use is limited to a maximum of \$10,000.00 for all damages, and this format may only be utilized by MassDOT staff appraisers. (Refer to [Exhibit 4-3](#))
- 4.1.19 Where the appraisal assignment involves a total taking or uncomplicated partial taking where damages are in excess of \$10,000.00; or a complex appraisal assignment of a property where it is deemed that a before and after valuation scenario is unnecessary, the Appraisal Report format shall be used. (Refer to [Exhibit 4-4](#))
- 4.1.20 When a complex appraisal assignment results in the measure of indirect damages to the remainder property, or a severance damage, that cannot be adequately addressed through a cost to cure, a before and after appraisal methodology is required. The appraiser shall allocate both direct and indirect damages via this methodology.
- 4.1.21 The appraisal report will include, where and if appropriate, all three (3) approaches to value, i.e. the sales comparison approach, the income approach, and the cost approach. These approaches will be correlated into a final estimate of value.
- 4.1.22 Where two (2) appraisals are required, the appraisers may use the same architect's or contractor's cost estimate in each appraisal, providing that each of the appraisers checks the estimate for reliability and accuracy. On acquisitions where damages are estimated

to exceed \$300,000, two (2) cost estimates may be required, at the discretion of the Bureau.

- 4.1.23 All appraisals obtained the appraiser to list and delineate between items considered real or personal property. In instances where the appraiser has difficulty in differentiating between real or personal property, he/she should refer to the real and personal property report prepared by the review appraiser for the Bureau's Relocation Section, if one is available. Also, a special interpretation can be requested from the AA.
- 4.1.24 When an acquisition includes the taking of a rental unit improvement, an Economic Rental documenting the fair market rental rate for each unit will be prepared for the use of the Bureau 's Relocation/Property Management Section.

4.2 FEE APPRAISAL ASSIGNMENT & CONTROL

- 4.2.1 The Appraisal Administrator (AA) has the responsibility of obtaining all fee (contract) appraisals. The AA's duties include: screening fee appraiser (FA) applicants; securing approval of fee appraisers (FAs); recommending FAs for use on a project; obtaining fees for contract appraisal work; furnishing data to selected appraisers for use in their assignments.
- 4.2.2 Conflict of Interest:
- A. The FA shall not have any interest, direct or indirect, in the real property valued for MassDOT.
 - B. Compensation for making an appraisal or review appraisal shall not be based on the amount of the valuation estimate.
 - C. No person shall attempt to unduly influence or coerce a FA regarding any valuation or other aspect of an appraisal or review appraisal.
- 4.2.3 The Bureau has adopted a set of qualifications which FAs must possess (refer to Sec. 4.2.4 & 4.2.5 for detail) if they are to be considered for assignments. The Bureau's primary purpose for utilizing FAs is to assist in establishing the fair market value of damages for real property and/or interests taken in the construction of highway improvements.
- 4.2.4 FAs used by the Bureau are classified into two (2) groups, i.e., Real Estate Appraisers (REA) and Real Estate Appraisal Specialists (REAS), contractors, cost experts, and engineers, in order to best serve the needs of the Bureau in various fields of appraising.
- 4.2.5 A REA must have the following qualifications and make the required submissions for review, to be approved by the AA.
- A. Have a minimum of five (5) years' experience, either as self-employed or with an agency concerned with the appraisal or acquisition of real estate.
 - B. Be certified in accordance with title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) (12 U.S.C. 3331 et seq.)
 - C. Present evidence of ability to qualify as an expert real estate appraiser in the Massachusetts Superior Court.

- D. Presently be devoted at least 50% of a normal working days' time to the real estate field.
 - E. Satisfy the Bureau as to one's character, integrity, and ability to serve the best interests of the Commonwealth of Massachusetts.
 - F. Submit an up to date resume or qualifications statement.
 - G. Submit at least three (3) recent appraisals for review by the Bureau, with a minimum of one (1) each of three (3) different types of property, specifically: improved commercial/industrial, improved residential and vacant land. A sample of an appraisal prepared for eminent domain purposes or a sample of a partial valuation appraisal is highly recommended. Note: Freddie Mac and Fannie Mae forms are not acceptable.
 - H. Submit the names and addresses of at least three (3) references that have personal knowledge of the applicant's character and qualifications.
- 4.2.6 A REAS must have the following qualifications and make the required submissions for review to be approved by the AA.
- A. Have a minimum of five (5) years' experience in a specialized field, either as self-employed or with a firm or agency in that field.
 - B. Present evidence of ability to qualify as an expert in that specialized field in the Massachusetts Superior Court.
 - C. Presently be devoted at least 50% of a normal working days' time to that specialized field.
 - D. Submit the names and addresses of at least three (3) references that have personal knowledge of the applicant's character and qualifications.
 - E. Satisfy the Bureau as to one's character, integrity, and ability to serve the best interests of the Commonwealth of Massachusetts.
 - F. Submit at least three (3) copies of separate work reports performed in that specialized field for review by the Bureau or other appropriate Divisions within MassDOT.
 - G. Be certified and/or licensed (if applicable) within that specialized field.
 - H. Submit an up to date resume or qualifications statement.
- 4.2.7 Any of the preceding requirements for REAs and REASs may be waived by MassDOT when it is considered to be in the best interest of the Commonwealth.
- 4.2.8 All Bureau appraisal work is performed either by staff or fee appraisers, th. The fee appraisal assignments are entirely dependent upon the extent and nature of the workload of staff appraisers.
- 4.2.9 When an appraisal assignment has been selected to be completed by a FA, the AA will supply selected applicants with documentation provided by the Bureau's Project Section to assist in the preparation of a scope of work statement. The documentation will include a subject property title report, property owner interview report, sketch of the proposed right of way plan depicting all parcels to be acquired, subject property assessors' field card, an environmental site assessment (if one has been prepared), and other related documentation. The FA is requested to submit in writing to the Bureau, a "bid" fee for each property plan or package of properties they will have been furnished.

- 4.2.10 Bid proposals received are submitted to the AA for his/her recommendation of assignment.
- 4.2.11 Upon the FA's acceptance, the Bureau will issue a "Letter of Assignment" detailing the contract specifics of the award (Refer to Exhibit 4-5 Letter of Assignment).
- 4.2.12 Upon completion of a FA's assignment, the fee appraisal reports are to be transmitted to the AA for assignment to a RA.

4.3 APPRAISAL REVIEW

- 4.3.1 The function of the Review Appraiser (RA) is to determine the amount believed to be the estimate of just compensation of real property, or damages to same, taken for or affected by the construction of a highway improvement. The amount determined will govern negotiations and settlements by MassDOT in land damage cases.
- 4.3.2 Conflict of Interest:
 - A. The RA shall not have any interest, direct or indirect, in the real property valued for MassDOT.
 - B. Compensation for making an appraisal review shall not be based on the amount of the valuation estimate.
 - C. No person shall attempt to unduly influence or coerce a review appraiser regarding any valuation or other aspect of an appraisal review.
 - D. A review appraiser making an appraisal review may be authorized by MassDOT to act as a negotiator for real property for which that person has made an appraisal review only if the offer to acquire the property is \$10,000 or less.
- 4.3.3 RAs are selected for their experience/expertise and have demonstrated ability to: analyze appraisal problems, determine property values, and evaluate the effect of partial takings, easements, and construction on various property values. It is recommended that a RA hold a valid MA Certified General appraisal license and have court experience, or the experience required to be qualified as an expert witness.
- 4.3.4 The RA position is one of important responsibility and public trust. The individual must be a person possessing good judgment, tact and integrity.
- 4.3.5 The RAs are selected, with the latter qualifications in mind, by the Deputy Director or Director of the Bureau.
- 4.3.6 The RA has the responsibility to determine:
 - A. Whether or not the appraisals reflect the fair market value of the property and a reasonable estimate of just compensation.
 - B. Whether the appraisals have been made in accordance with accepted appraisal techniques and whether each applicable approach to value has been utilized.
 - C. If the appraisal reports are in compliance with applicable federal and state laws, standards, and guidelines.

- D. Whether or not the appraisal reports contain sufficient documentation to substantiate the opinions/conclusions in the report.
 - E. Whether an uneconomic remnant has been established.
- 4.3.7 The AA, after a sufficient number of appraisal reports have been submitted on a particular project enabling a comparison of values, parcel by parcel for overall consistency, will assign the appraisals to the same RA, if possible, who is familiar with the project and/or area. It is important to have a number of appraisals on a project available for review at the same time, especially where properties of similar character and same range of value are involved.
- 4.3.8 The RA will field review all appraisals. If the field review is not made, the reasons for not doing so will be stated.
- 4.3.9 The RA will completely analyze the appraisal report and utilizing the RA's Checklist (Refer to Exhibit 4-6 Review appraiser's Checklist) he/she will ensure that the appraisal includes all information and documentation necessary to be in compliance with Bureau requirements.
- 4.3.10 The RA in utilizing the RA's Checklist will indicate the acceptability of the appraisal, the determination of damages, and will date and sign the review appraisal. An appraisal report can be considered to be either: (1) recommended, (2) accepted, but not selected, or (3) not accepted.
- 4.3.11 Upon completion of the review of each appraisal, the RA will complete the form entitled "Statement of the Review Appraiser" (Refer to Exhibit 4-7 Statement of the Review Appraiser)
- 4.3.12 If the appraisal report has omissions of any elements required in the specifications, contains improper and/or insufficient support data, unacceptable analysis of a problem, or errors in reflecting values, the appraiser will be requested to resubmit that portion of the report which requires correction.
- 4.3.13 The RA, upon receipt of the corrections, will examine them to ensure that the revised comments are satisfactory.
- 4.3.14 If the RA does not agree with the appraiser's estimate of fair market value and/or damages and it is determined by the AA that it is not practical to obtain an additional appraisal, the RA may prepare his/her own documented estimate of value and/or damages using the "Review Appraiser's Comments and Estimate Form" (Refer to Exhibit 4-8 Reviewing Appraiser's Comments and Estimate)
- 4.3.15 No appraisal report will be submitted to the Real Estate Appraisal Review Board (REARB) for its action unless same is over \$300,000 and meets all the requirements, and is fully acceptable to the RA. However, if any corrections are deemed minor in nature and do not affect the estimates of value and/or damages, the items may be documented by the RA and forwarded to the REARB for their consideration in order to avoid unnecessary delay in a taking.

- 4.3.16 The RA may consult with the REARB for the purpose of obtaining any information which will assist the RA in establishing fair market value and/or the extent of damages.
- 4.3.17 The RA will appear before the REARB, for Board presentations for damage estimates in excess of \$300,000..
- 4.3.18 When the REARB establishes an estimate of value different from that of the RA, the REARB will fully document the reasons for the change in the amount previously recommended by the RA.
- 4.3.19 Upon completion of the RA's assignment in establishing a fair market value and/or damages, the RA will prepare a "Just Compensation Summary Report" (Refer to Exhibit 4-9 Just compensation summary report)
- 4.3.20 The RA may be assigned to review sample appraisal reports submitted by fee appraisers who are seeking contract work from the Bureau. Recommendations following such reviews are submitted to the AA for final action.
- 4.3.21 The RA also recommends or may set the economic market rental charge (use and occupancy) for occupied property acquired by MassDOT. These rental figures will be made available for use by the Bureau's Relocation and Property Management Sections.
- 4.3.22 The RA will prepare a Real and Personal Property Report (Refer to Exhibit 4-10 Real and personal property report) from an inventory of real/personal property, furnished by the Bureau's Relocation Section, to assist said section in determining which items are eligible for relocation assistance.
- 4.3.23 The RA may reconsider his/her estimates of value, pertaining to any case, providing that new data for review is presented by the property owner, AGO, or other party of interest.
- 4.3.24 At the request of the Trial Division of the AGO, through the Director of the Bureau, the RA will review the acceptability of appraisals obtained for litigation purposes.

4.4 REAL ESTATE APPRAISAL REVIEW BOARD

- 4.4.1 The Real Estate Appraisal Review Board (REARB) was established and codified in [Section 43\(a\) of Chapter 6C of the Massachusetts General Laws](#). The REARB is mandated to review real property appraisals made by or for the MassDOT and determine the maximum amount to be paid by MassDOT in connection with any land acquisition meeting and exceeding the threshold amount for its jurisdiction.
- 4.4.2 The REARB meets when necessary but at least twice a year, as notified by the Bureau, for the purpose of carrying out its responsibilities. The Appraisal Administrator (AA) schedules the work agenda for said Board by completing the "Docket of Department Real Estate Appraisal Review Board" (Refer to Exhibit 4-11 Docket of Department Real Estate Appraisal Review Board).

- 4.4.3 The Bureau will furnish the REARB with all the necessary data, pertinent plans, photographs and any other material, which has been compiled by MassDOT and would be of value to the REARB's review. MassDOT will also supply engineering services, research information, and additional appraisals that would be required to assist the REARB in its decisions.
- 4.4.4 The REARB will consult with the Review Appraiser (RA) in those cases in which it is deemed to be helpful to the REARB in determining value or damages. The RA will be made available for such a conference/ meeting.
- 4.4.5 At least one (1) member of the REARB shall make a field inspection, if appropriate, of each property involving possible damages of \$300,000 or more,
- 4.4.6 The REARB will furnish to MassDOT its determination of the maximum amount to be paid, as damages, for real property taken or injured due to construction of a highway improvement. This value is to be prepared by the REARB in a statement that must be signed by not less than three (3) members on the Real Estate Appraisal Review Board of which a minimum of (2) members must hold a valid MA Certified General Appraisal License. (Refer to Exhibit 4-12 Real Estate Review Board Recommendation).
- 4.4.7 In the event that the REARBs recommendation, with respect to the value for any parcel of land taken by MassDOT differs from the amount fixed by the RA, the written statement accompanying the recommendation will set forth in full and complete detail the reasons for such difference.
- 4.4.8 The REARB may direct comments and recommendations to the Bureau with respect to the quality of appraisals that are submitted for review
- 4.4.9 When the REARB establishes an estimate of value different from that of the RA, the REARB will fully document the reasons for the change in the amount previously recommended by the RA.

CHAPTER 5 – Legal Section

- 5.1 The Legal Section provides a broad range of services including the processing of eminent domain filings (as described below beginning at 5.2). The Legal Section also performs other legal duties assigned to it by the Director of Right of Way (ROW), including:
- A. The preparation of proposed legislation deemed necessary by the Director of ROW.
 - B. The preparation of requests for opinions by the AGO in those areas where such legal opinion is required for official interpretation of statutes as such apply to MassDOT and ROW.
 - C. The preparation of legal opinions on all statutes, regulations, case decisions, administration orders, both State and Federal, that affect the administrative and legal activities of ROW.
 - D. The drafting of legal documents such as deeds, easements, and agreements.

The Legal Section represents MassDOT and ROW in administrative hearings before MassDOT's Administrative Law Judge and is responsible to secure witnesses, evidence, documentation and data in support of MassDOT and/or ROW position(s). Also, the Legal Section is responsible for resolving property rental arrearages and evictions.

- 5.2 When MassDOT determines that public necessity and convenience require that land or an interest in land be acquired for a highway purpose, it may acquire same by adopting an Order of Taking. This order is approved by MassDOT's Highway Administrator and must be recorded within thirty (30) days of the date of approval in the Registry of Deeds of the county in which the property taken is located. Upon recording, title to the land or the interest acquired vests with MassDOT.
- 5.3 Within sixty (60) days of the recording of the Order of Taking with the appropriate Registry of Deeds, MassDOT is required to pay every person entitled to damages on account of the acquisition, the full amount established as just and reasonable compensation, plus interest from the date of recording to the date of payment and, in the case of fee acquisitions an apportionment for the area acquired of taxes paid. In the event that there are no title problems with respect to the property, a check is then issued for payment of such damages. The pro tanto payment shall be without prejudice to or waiver of any right to claim a greater sum by filing a legal action in the Superior Court where the land is located.
- 5.4 A person dissatisfied with an award of damages may petition for an assessment of such damages to the Superior Court of the county in which the property taken is situated. The petition must be filed within three (3) years of the date that the Order of Taking was recorded with the appropriate Registry of Deeds.
- 5.5 A copy of the Petition filed with the Superior Court must be served on MassDOT and the Attorney General's office (AGO) within ninety (90) days of its filing by a Deputy Sheriff or by registered or certified mail in accordance with [Mass. R. Civ. P 4\(d\)\(3\)](#). The AGO is statutorily authorized to represent MassDOT in any action brought against it.

- 5.6 The Petition served upon MassDOT is forwarded to the Right of Way Bureau (ROW) and transmitted to the Legal Section. On Federal-aid projects, a copy of the petition is forwarded to FHWA.
- 5.7 The AGO, by letter to the Director of ROW, requests MassDOT's case file.
- 5.8 The Legal Section prepares the case file and maintains a list of pending cases.
- 5.9 The Legal Section transmits the case file. The original case file is kept within the Legal Section at the Right of Way Bureau.
- 5.10 The AGO assigns an Assistant or Special Assistant Attorney General to represent MassDOT.
- 5.11 The assigned Attorney checks with ROW for unpaid rent that may affect any settlement or judgment. Also, information is sought regarding relocation assistance, the pro tanto payment, engineering documents, environmental reports and any other information which may be relevant to the case.
- 5.12 The assigned Attorney prepares an Answer to the Complaint or Petition together with a Counterclaim, if any, and prepares Interrogatories to be answered by the Plaintiff/Petitioner and files them with the appropriate Superior Court. Plaintiff's Interrogatories to MassDOT and the "Answers" thereto are coordinated and reviewed with the Legal Section of ROW and the signature of MassDOT's authorized signatory is secured.
- 5.13 If, prior to trial, an additional appraisal is needed by the AGO, a request for approval of the additional appraisal is processed through ROW. The Appraisal Administrator of ROW will arrange for a review of the revised/new appraisal, if needed.
- 5.14 In the event that settlement negotiations or mediation sessions are undertaken, the Legal Section of ROW will work closely with the AGO during this process. If the assigned Attorney, after a detailed review, determines that settlement of the case, without trial, is in the best interest of the Commonwealth, said Attorney shall prepare a written report recommending settlement. In preparing said report, the assigned Attorney will provide written documentation setting forth the rationale for the settlement. This recommendation is presented to the Director of ROW and the Legal Section Administrator for the purpose of obtaining settlement authority. After review by ROW, a determination will be made as to whether settlement is a viable course of action and, if so determined to be a viable course of action, a further determination will be made as to the monetary parameters of settlement.
- 5.15 When an actual date for the trial of a case is assigned by the Court, the assigned Attorney contacts the Legal Section of ROW to coordinate the availability of all witnesses and to secure pertinent photographs of the premises subject to the taking either prior to construction, during construction or upon completion of the project. When requested, the Legal Section staff person will assist the assigned Attorney during the trial of any case.

- 5.16 As soon as possible after trial, the assigned Attorney shall review the course of events at the trial, including the conduct of witnesses for both sides, and determine whether an appeal should be filed.
- 5.17 Upon completion of trial or settlement, the Legal Section monitors the payment of eminent domain court judgments, including the calculation of post judgment interest.
- 5.18 The "Pending Eminent Domain Cases" report is prepared and maintained by the Legal Section.
- 5.19 The AGO's Trial Division will issue an annual status report showing those cases still awaiting assignment of a trial date to the Legal Section of ROW.

CHAPTER 6 – Conveyance Section

6.1 Conveyance Section Responsibilities

The Conveyance Section of the Bureau has responsibility for the legal work involved in the abstracting of titles relative to the acquisition of real property interests and rights in land for highway purposes. In conjunction with the Finance Section, this includes the actual payments for the aforesaid rights, titles or interests in all affected properties.

6.2 Types of Takings

Parcels are taken in fee simple or as easements (temporary or permanent) for such purposes as sloping of grade, drainage, access, utility location and highway construction.

6.3 Title Examination/Scope of Examination

Title examination requests for parcels affected by a highway improvement are submitted by the Project Administrator to the Bureau's Conveyance Section at such appropriate time(s) as determined by the Project Administrator in their discretion.

The overall purpose for performing an eminent domain title search is to confirm ownership of the parcel to be acquired for highway purposes as well as to confirm the names of any persons and/or entities holding mortgages, liens or other interests in the affected parcel to ensure that said persons and/or entities receive statutory notice and, if applicable, payment.

For takings in which the acquisition is greater than \$10,000¹, title examinations by the Bureau Conveyance staff or by an outside Fee Examiner will cover a period of not less than twenty-five (25) years which shall begin with a deed which on its face does not suggest a defect in title.

For takings in which the value of the acquisition is \$10,000¹ or less, an "abbreviated" title examination by the Bureau Conveyance staff or by an outside Fee Examiner may be utilized by conducting a search of the last owner of record or of the most recent deed involving an arms-length transaction to ensure that the current owner(s) holds the entire fee interest in the subject parcel. Liability will be borne by the Bureau for "abbreviated" title searches.

A title report listing the record owner and all encumbrances will be issued by the Bureau Conveyance staff or outside Fee Examiner for all title searches conducted.

6.4 Fee Title Examiner Qualifications

The Bureau may retain Fee Title Examiners to perform title exams on a contractual basis. A Fee Title Examiner may be an Attorney-at-law and member in good standing of the Massachusetts Bar or a professional title examiner with proven skills and experience.

¹ This amount may be adjusted periodically through administrative action.

6.5 Fee Title Examiner List

The Conveyance Administrator may, in their discretion, assign title examinations to Fee Examiners who are on an approved list maintained in the Bureau on the basis of said Examiners' availability and expertise.

6.6 Fee Title Examiner Selection

Assignments to Fee Examiners may be by assignment letter or email. Assignments will contain all necessary and available title information for the examination. In the event of an involved, complex title, the Conveyance Administrator will select the Fee Examiner best qualified to do that type of work. The Conveyance Administrator may authorize additional billable hours above the contractual standard for complex title exams and is responsible for approving such bills for payment after reviewing the title work.

6.7 Title Examination Assignment

The Conveyance Section will assign title examinations at least three months prior to the implementation of the Order of Taking. Fee Examiners are instructed to complete their assignments and return them to the Bureau within 30 days. Additional time, if needed to complete an assignment, must be approved by the Conveyance Administrator.

6.8 Title Examination-Abstract of Title

The Fee Examiner or staff conveyancer is responsible to supply an electronic copy of the abstract of title. A staff conveyancer uploads the abstract to the proper electronic folder, reviews the abstract for locus and completeness and ascertains what instruments and/or corrective documentation may be necessary before payment to the proper parties can be processed. This information is also used by the Finance Section, at this time, in the preparation of the Vendor Update (VU) Form.

6.9 Review of Layout Schedules

The Bureau's Conveyance staff shall be responsible to review and approve layout schedules which have been prepared by the Projects Section. The approved layout schedules are, thereafter, used by the Layout Section with respect to the preparation of final taking plans.

6.10 Recording of Layout and Order of Taking Instruments

The Bureau's Layout Section or an outside engineering consultant prepares the plans and instruments for the Order of Taking. The Conveyance staff reviews the Order of Taking Instrument and Plan for consistency with the Layout Schedules. Documents are amended as needed. An appropriate official of the Highway Division of MassDOT signs the Order of Taking which is attested to by a Notary Public. Thereafter, a staff conveyancer records the Order of Taking and plans in the Registry of Deeds, the Registered Land Division, or both, as applicable, for the county in which the land is located. By statute, the Order of Taking must be recorded within thirty days (30) of the date of said signing. The date of recording is the effective date of the Taking.

6.11 Title Rundown Upon Recordation

Upon recording of the Order of Taking, the staff conveyancer will perform a title run-down for each affected property owner from the date that the title was last run through the time and date of said recording. Any changes in the title with respect to ownership, mortgages or liens are abstracted at this time. The staff conveyancer will upload the recorded documents and title rundowns to SharePoint and will notify the Deputy Director of the Right of Way and the Administrators of the Finance, Layouts, and Conveyancing Sections of any changes in the title. Once this process is complete, the staff conveyancer will notify all sections within the ROW Bureau that the recording has been completed.

6.12 Procedure Regarding Mortgages and Liens

In the event of a total or “substantial” acquisition of property, the lending institution holding the mortgage is requested to prepare a Discharge of Mortgage and forward it to the Conveyance Section. These instruments, although executed, are held in escrow and not recorded until payment is made to the damaged parties. Upon payment, said instruments are recorded in the appropriate registry of deeds. With respect to partial acquisitions, whether same are in fee simple or constitute temporary or permanent easements, when damages exceed \$20,000.00, all mortgage holders, lien holders and affected lessees shall be listed on the pro-tanto damage award check to the property owner. In the event that damages are \$20,000.00 or less, the pro-tanto damage award check will be made out solely in the name of the property owner.

6.13 Payment Authorization

Payment is authorized upon the recording of the acquisition document. In the event that the Bureau’s Conveyance section deems a property owner’s title to be defective, staff conveyancers are responsible to notify and obtain from the property owner all necessary corrective documentation before authorizing the delivery of payment checks to said property owner.

CHAPTER 7 – Layout Section

- 7.1 This section describes the production of documents (plans and written instruments) acceptable for recording at the Registry of Deeds.
- 7.2 The Massachusetts Department of Transportation Highway Division (MassDOT) is granted the authority to establish a new state highway or alter the location of an existing state highway by [M.G.L. c. 81](#).

MassDOT is granted the authority, to acquire property by eminent domain under chapter seventy-nine, for the construction of ditches or drains, retention/detention areas, drainage structures and pipes for the purpose of properly draining any highway by [M.G.L. c. 83 § 4](#).

MassDOT is granted the authority to layout a state highway with limited access provisions by [M.G.L. c. 81 § 7C](#). A limited access way is hereby defined to be a highway over which the easement of access in favor of abutting land exists only at such points and in such manner as is designated in the order of laying out.

In connection with the laying out, alteration or reconstruction of a state highway, the Department may alter or relocate connecting ways as may be necessary under the authority of [M.G.L. c. 81 § 7A](#). Land or rights in land may be acquired for this purpose by eminent domain under chapter seventy-nine by the Department in behalf of the city or town in which the land lies, or in behalf of the commonwealth, at the option of the Department.

Under the authority of [M.G.L. c. 81 § 29A](#), MassDOT may lay out or alter ways other than state highways in any county, city or town provided that the county commissioner of the county, or the mayor of the city or the board of selectmen of the town consents thereto. Land or rights in land may be acquired for this purpose by eminent domain under chapter seventy-nine by the Department in behalf of the county, city or town in which the land lies.

- 7.3 Taking Documents: Taking Documents consist of Land Survey Plans and a Written Instrument. If a new State Highway Layout (SHLO) is being proposed, the plan is referred to as a “Layout Plan,” and a proposed SHLO number is assigned. If an existing SHLO is being revised or altered, the plan is referred to as a “Layout Alteration Plan,” and a proposed SHLO alteration number is assigned. If there are only acquisitions (i.e., easements) being made, and the existing Layout will not be changed, the plan is referred to as an “Easement Plan,” and no SHLO number is assigned.

The Taking Document plans show the proposed acquisitions, proposed Layout lines or Easement lines, and the base mapping condition. Proposed construction details are not shown.

When the Taking Documents are approved by the Layout Section, plans plotted on mylar are requested.

- 7.4 Plans must be stamped with the seal of a Massachusetts Professional Land Surveyor in responsible charge of the work. Plans prepared by Layout Section personnel must bear the stamp of a Professional Land Surveyor of the Layout Section. Plans prepared by consulting firms shall bear the stamp of a Professional Land Surveyor of their own staff. To prepare taking documents, a consulting firm is required to be prequalified by MassDOT's Architects and Engineers Review Board in the Layout Document Preparation category.
- 7.5 The Written Instrument cites MassDOT's authority to acquire property, describes the proposed SHLO line (if any), describes the baseline used, gives metes and bound descriptions of permanent easements, states the purpose of any permanent or temporary easements, gives the Title of the plans, and has a schedule of Parcel numbers, owners names, parcel areas, and the Book and Page of the properties being impacted. Parcels acquired for layout alterations are not described in the written instrument.
- 7.6 The Chief Engineer and the Highway Administrator or Director or the Right of Way Bureau sign the plans plotted on mylar. The Highway Administrator or Director or the Right of Way Bureau signs the written instrument.
- 7.7 Standard Symbols and Line styles: The Line styles used on the Right of Way and Layout or Taking Plans are shown in the latest edition of the [Project Development and Design Guidelines](#), Chapter 18, Exhibit 18-23. The abbreviations and symbols used are given in Section 18.2 of the [MassDOT Project Development and Design Guide](#), [MassDOT CAD Standard](#) and the [Layout/Easement Plan Preparation Guidelines](#) are also required for the preparation of any Taking plan.

CHAPTER 8 – Finance and Clerical Section

8.1 ENCUMBRANCE

- 8.1.1 Funds are encumbered at the beginning of each new fiscal year and the determination of the amounts to be encumbered is predicated on the projected acquisition cost for projects programmed for the fiscal year.
- 8.1.2 Funds are encumbered for the following categories:
- A. Land Taking (non-federal aid)
 - B. Land Taking (federal aid)
 - C. Land Taking Bridge (non-federal aid)
 - D. Land Taking Bridge (federal aid)
 - E. Court Judgment (non-federal aid)
 - F. Court Judgment (federal aid)
 - G. Relocation (non-federal aid)
 - H. Title Examiners – For each individual consultant.
 - I. Real Estate Appraisers – For each individual consultant.
 - J. Cost Experts and Movers – For each individual consultant.
 - K. Real Estate Appraisal Review Board
 - L. Administrative Expenses, which encompasses the following:
 - 1. ROW Subscription Expense
 - 2. Fees and Fines
 - 3. Municipal Taxes
 - 4. Electric Expense
 - 5. Gas Expense
 - 6. Water and Sewage Disposal
 - 7. Stenographers
 - 8. Process servers
 - 9. Maintenance and Repair
 - 10. Registry of Deeds
 - 11. Language translation services
- 8.1.3 Encumbrance package for items A thru F in Subsection 8.1.2 consists of the following documentation:
- A. Commonwealth of Massachusetts Office of the Comptroller Contract Commodity Encumbrance Form (CT Form).
 - B. Request for Allocation of Funds Prior to Encumbrance (Form 681).
 - C. CT Form with event Type PR51 Request for Approval Form.
 - D. Sample of Administrator Approval memo from previous year's taking.
 - E. Sample Layout Schedule in support of item D.
 - F. Sample Order of Taking from previous year.

NOTE: For initial encumbrances, at the beginning of each fiscal year, all six steps and forms are required. For modification, such as increases or decreases, the first three items are sufficient.

- 8.1.4 Encumbrance package for item G in Subsection 8.1.2 consists of the following documentation:
- A. Commonwealth of Massachusetts Office of the Comptroller General Accounting Encumbrance Form (GAE Form)
 - B. Request for Allocation of Bond Funds Prior to Encumbrance (Form 681)
 - C. CT Form with event Type PR51 Request for Approval Form
 - D. Sample pages from the Federal Highway Administration of the Federal Register [49 CFR Part 24](#).
- 8.1.5 Encumbrance package for items H, I and J in Subsection 8.1.2 consists of the following documentation:
- A. CT Form
 - B. Form 681
 - C. Budget Page from RFR
 - D. Copy of Master Agreement from MMARS
 - E. Description or purpose of the procurement from the RFR
- 8.1.6 Encumbrance package for all the categories listed in item K in Subsection 8.1.2 consists of the following documentation:
- A. GAE Form
 - B. Form 681
 - C. Listing one or multiple entities that would be paid under this encumbrance.
- 8.1.7 The original encumbrance package, as referenced above with one (1) copy of the package, and 2 copies of Form 681 are sent to the DOT Capital Budget to the Director of Capital Budgets for authorized signatures on Form 681. The Budget Office forwards the encumbrance documentation to MassDOT Fiscal Management for processing and entry into the Massachusetts Management Accounting Record System (MMARS). Fiscal Management then forwards the documentation to the State Comptroller's Office for final approval.

8.2 VENDOR UPDATE

- 8.2.1 The vendor update (VU) forms are prepared by the Finance Section. Information on the VU form is entered onto a spreadsheet maintained by the Finance Administrator for tracking purposes. The Finance Section enters VU information, which contains the correct names of the payees as listed on the deed of record and the correct social security or Federal tax identification number as listed in the owner's signed W-9 IRS form (Refer to [Exhibit 8-1](#) or to <https://www.mass.gov/files/documents/2016/08/ny/fw9.pdf>). The current payee and SSI number or EIN number is entered into the MMARS. If a property owner's award is \$20,000.00 or less, they are encouraged to complete an Electronic Funds Transfer (EFT) Form (Refer to [Exhibit 8-2](#)), thereby having the funds deposited directly into their bank account. At the discretion of the Finance Manager, where applicable the VU is prepared listing the property owner's address, therefore the check is sent directly to the payee from the treasurer's office.

8.3 MUNICIPAL REAL ESTATE TAXES

- 8.3.1 M.G.L., Ch.79, Sec.44A, provides in part that the municipal collector of taxes can claim taxes by written notice, prior to payment of the award. The Division's statutory obligation is to make a taking payment within 60 days: therefore, prior to recording an Order of Taking, the Finance Section will send the collector of taxes a form letter seeking such information, which is scanned into the record file. The amount is then deducted from the total award on the Payment Commodity Form (PRC).

8.4 NOTICE OF TAKING

- 8.4.1 A "Notice of Taking" (Refer to Exhibit 8-3 Notice of Taking), is sent to all parties of interest on the day of recording of the taking.

8.5 PAYMENTS

- 8.5.1 The Finance Section prepares the Payment Commodity Form (PRC). The PRC information contains the owner(s) name, as well as mortgagees and/or other parties of interest, ascertained from the title examination. Additionally, if there are any real estate taxes claimed by the City/Town, the Finance Section prepares a VU, always listing the owner on the first line of the VU and listing the City/Town on the second line, thereby assuring that both payees will be listed on the check. Upon receipt of the check, it is mailed to the City/Town with a copy of the letter sent to the property owner.
- 8.5.2 The customary documents that accompany the PRC for land acquisition are:
- A. Highway Administrator Approval Memo
 - B. Layout Schedule
 - C. Payment and Computation Schedule
 - D. Award memo listing property owners
 - E. Real Estate Appraisal Review Board recommendation if required. (refer to Section [Real Estate Appraisal Review Board](#) and [Exhibit 4-12](#))
- 8.5.3 The Payment Commodity Form (PRC) with supporting documentation is approved by the Finance Administrator and automatically forwarded to MassDOT Fiscal Management Office for entry into the MMARS System.
- 8.5.4 The Comptroller's Office secures the required approval and forwards it to the State Treasurer for the preparation of the payment checks. The payment checks are retrieved from the Treasures Office and the Finance Administrator reviews the checks for accuracy and updates the tracking spreadsheet and the record file. The Finance Section prepares letters to be signed by the Deputy Director for distribution of the checks to the payees.

8.6 EMINENT DOMAIN TRUST FUND (EDTF)

- 8.6.1 When payment cannot be processed due to a title defect or lack of proper documentation from the payee (correctly completed and signed W-9 form, etc.) the award is deposited into the Eminent Domain Trust Fund account at the State Treasurer's Office.
- 8.6.2 A PRC is prepared and processed for payment checks the EDTF with the same supporting documentation as a regular PRC. All checks for deposit into the EDTF are made payable to the Department of State Treasurer Eminent Domain.
- 8.6.3 Once an EDTF check is received from the treasurer's office, an Eminent Domain Trust Fund Account deposit form is prepared.
- 8.6.4 The following documentation is required to accompany the EDTF deposit form:
- A. Memo from Finance Administrator requesting deposit of check into EDTF
 - B. Original check made payable to the State Treasurer Eminent Domain
 - C. Spreadsheet listing the following information: check number, check date, check amount, vendor code, vendor name, city/town, parcels(s), cash transfer number and deposit date.

The deposit form and documentation is hand delivered to MassDOT Accounts Payable for processing.

- 8.6.5 Documentation required for the retrieval of funds from the EDTF is as follows:
- A. Memo from the Finance Administrator requesting retrieval of funds.
 - B. Eminent Domain Trust Fund Account Payment Certification form is prepared
 - C. A copy of the check that was deposited into the EDTF account.
 - D. A copy of the vendor/customer sheet from MMARS with the correct name of the payees to be listed on the check.
- 8.6.6 The amount of interest earned on the award is calculated by the Treasurer's Office at the time of retrieval.
- 8.6.7 All deposit and retrieval documentation is uploaded to the record file.

8.7 RE-ISSUE CHECK

- 8.7.1 MassDOT may be required to re-issue a check. This can occur if the payee's status has changed, or if a lien holder listed on the check that is no longer valid. A check may only be re-issued up to one year from the date of its issuance. Funds from checks not cashed by the payee within one year of the date issued automatically go into the State Treasurer's Unclaimed Check Fund.
- 8.7.2 The Finance Section must first ascertain the names of the payees to be listed on the new re-issued check. If a lien holder is to be removed or the names for the payees changed, then a vendor update form needs to be prepared and signed by a ROW attorney. The information on the VU form needs to be entered into MMARS. Once the Comptroller

approves the VCM in final status a re-issue request memo to Fiscal Management is prepared.

- 8.7.3 The re-issue request memo is prepared by the Finance Administrator explaining why the check needs to be re-issued. The memo along with the following supporting documentation is submitted to Fiscal Management.
- A. Original check-issue request form.
 - B. Original check that is to be re-issued.
 - C. Copy of vendor/customer AD number (name and address from MMARS). As an example, AD001, AD002 or whatever number is listed in MMARS, should be highlighted in yellow on the memo. This is very important. The re-issue check needs to reflect the names of the payees and address as stipulated in the VU form.
 - D. Copy of PRC that was prepared for the issuance of the original check.
 - E. Copy from MMARS – the AD-CTR-DISBQ number.
 - F. Copies of any other supporting documentation that may be pertinent to a particular case.

8.8 UNCLAIMED CHECK FUND

- 8.8.1 If a check is not cashed within one year of being issued, the funds are automatically transferred over by the State Treasurer's office to the Unclaimed Check Fund (Chapter 759, acts of 1970). Once requested by the owner and all legal liabilities being met an award may be retrieved from the Unclaimed Check Fund. To retrieve an award, a letter is sent to the State Treasurer's Office with documentation of the particular circumstances that caused the check not to be cashed within one year of its issuance. The following three items must be submitted with the cover letter:
- A. Original check or a copy of the check.
 - B. Copy of the PRC that was prepared for the original check.
 - C. Disbursement Doc. ID – AD, CTR- DISBQ from MMARS.
- 8.8.2 Other documentation, such as a copy of a mortgage discharge, a copy of a death certificate, etc. should be included as warranted in a particular case.
- 8.8.3 When issuing checks under \$20,000.00 from the Unclaimed Check Fund that were originally disbursed prior to 2008, lien holders need not be listed pursuant to a MassDOT policy change, which was approved on January 15, 2008. (Amendment of Procedure for Award Payments).

8.9 PAYMENT OF SETTLEMENT/JUDGMENTS

- 8.9.1 The Legal Administrator sends a settlement/judgment package consisting of the following to the Finance Administrator.
- A. Original settlement statement or court judgment from the Attorney General's Office
 - B. Memo listing the name of the payees and the amount of the Judgment.

- 8.9.2 The Finance Section confirms lien holder status and prepares a PRC with appropriate backup and forwards to Fiscal Management for processing.

8.10 RESCINDING OF 1099-S AND 1099-INT FROM THE IRS

- 8.10.1 There are times when MassDOT must contact the Comptroller's Office and request that the IRS rescind and revise the 1099-S and 1099-INT for a particular property owner. All information may be sent electronically to the Comptroller's Office. A detailed explanation and supporting documentation are required as to the reasoning for the rescinding of the current year's 1099-S and 1099-INT.

CHAPTER 9 – Relocation

9.1 GENERAL

- 9.1.1 The Bureau's Relocation Section is responsible for administering relocation assistance and payments for state highway projects throughout the Commonwealth.

Relocation benefits are available to individuals, families, businesses, farms and non-profit organizations lawfully present in the United States which must be certified by the displacee. If MassDOT has reason to believe that the certification is invalid, the person's status will be verified by using the Systemic Alien Verification for Entitlements (SAVE) program administered by USCIS.

No relocation payments or relocation advisory assistance shall be provided to a person who has not provided certification or who has been determined to be not lawfully present in the United States, unless such person can demonstrate to the agency's satisfaction that the denial of payments and advisory assistance will result in exceptional and extremely unusual hardship to a qualifying spouse, parent, or child who is a citizen of the United States or an alien lawfully present in the United States.

MassDOT will not make a payment for replacement housing or rental assistance to a person who is not lawfully present in the United States. When calculating relocation benefits, only lawfully present individuals will be considered in any calculation used to determine benefit amounts.

- 9.1.2 Guidance for the Relocation Program

- A. On January 2, 1970, the [Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970](#) was enacted. Implementing regulations associated with this law are set out in [49 CFR, Part 24](#), and these regulations provide the basic requirements of the relocation assistance program.
- B. Whenever possible, minority persons, including those temporarily displaced, shall be given reasonable opportunities to relocate to decent, safe, and sanitary replacement dwellings, not located in an area of minority concentration, that are within their financial means. This regulation, which is part of the implementation of the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA), focuses on preventing discrimination and ensuring fair housing choices during the relocation process
- C. As there many unique circumstances associated with providing relocation assistance and benefits, additional guidance materials can be found at the Federal Highway Administration (FHWA) website under the title of "Uniform Act Frequently Asked Questions." (Refer to https://www.fhwa.dot.gov/real_estate/index.cfm)

- 9.1.3 Relocation Planning

When the number of displaces along a project exceeds 6 dwelling or businesses a written relocation plan will be developed. The objective of relocation planning is to assure that the location and design engineering alternatives being considered are sensitive to potential right of way problems. A Summary Findings is included in the appropriate NEPA document for the project and serves as the analysis of impacts due to displacement, required in such documents.

- 9.1.4 The Relocation Plan is a blueprint of relocation needs and anticipated problems and is intended to be a basis for relocation assistance efforts. Therefore, copies of the Relocation Plan are circulated to field agents responsible for further case work within the Relocation Section. (Refer to [Exhibit 9-1](#))
- 9.1.5 When preliminary engineering is sufficiently complete to identify affected properties, and subsequent to departmental approval to acquire, MassDOT will conduct interviews with each household and business to be displaced and furnish a general written description of the agency's relocation program in the form of the ROW Relocation Brochure (Refer to [Exhibit 9-xxx](#)) in accordance with 49 CFR 24/203(a). The Relocation Administrator will assign personnel to conduct the interviews, or similarly assist staff of local public agencies when required. Whenever practicable, Projects and Relocation Section personnel should team up when conducting residential or business interviews.
- 9.1.6 Eligibility for Relocation Benefits
- A. Eligibility for relocation assistance shall begin on the date of initiation of negotiations for the occupied property. Within seven (7) days of this occurrence, MassDOT shall notify all occupants in writing of their eligibility for applicable relocation assistance, in accordance with 49 CFR 24.203(b).
 - B. When it is determined that it is in the public interest to establish eligibility for relocation benefits prior to the initiation of negotiations for acquisition of a parcel, the MassDOT will issue to the owner and tenants a 'Notice of Intent to Acquire.' On Federal-aid projects, this notice will only be issued after FHWA authorizes the initiation of negotiations on a project or authorizes acquisition of individual parcels solely for protective buying or because of hardship or as an advance acquisition.
 - C. The above notices shall be served in person, by certified mail, or if elected by the Claimant to receive notices electronically, return receipt requested in either case and so documented in MassDOT files. Persons who are unable to read and understand the notice must be provided with appropriate translation and/or counseling. Each notice shall indicate the name and telephone number of a MassDOT representative who may be contacted for answers to questions or other related matters.
 - D. Notice to Vacate
Where real property is acquired and/or displacements required no person lawfully occupying the acquired property shall be required to move from said dwelling, business or farm unless he or she has received at least 120 days advance written notice of the earliest date by which he or she may be required to move. This notice is sent by Certified Mail to the relocatee by the Clerical

Section. In the case of unimproved property, the displacee will be given a 30-day notice to vacate.

E. Eviction for Cause

Eviction for cause must conform to applicable state and local law. Any person who has lawfully occupied the real property, but who is later evicted for cause on or after the date of the initiation of negotiations, retains the right to the relocation payments and other assistance set forth in these procedures. For purposes of determining eligibility for relocation payments, the date of displacement is the date the person moves or the date a comparable dwelling is made available, whichever is later. See Legal Section for clarity regarding this matter.

9.1.7 Relocation Process

A Relocation Agent makes preliminary personal contact and explains the relocation benefits and process and makes meeting notes. If a personal contact cannot be made, the Relocation Agent will document the record to show that reasonable efforts were made to achieve the personal contact. The Relocation Agent ensures that claimant has a relocation brochure and notes this fact on the appropriate form.

9.1.8 Advance Payments

If a person demonstrates the need for an advanced relocation payment in order to avoid or reduce a hardship, the agency shall issue the payment, subject to such safeguards as are appropriate to ensure that the objective of the payment is accomplished. An agency shall deduct the amount of any advance relocation payment from the relocation payment(s) to which a person is otherwise entitled. The agency shall not withhold any part of a relocation payment to a person to satisfy any other obligation.

9.1.9 Relocation Assistance Advisory Services

- A. The MassDOT Relocation Advisory Services program includes but is not limited to providing displaced persons uniform and consistent services and payments regardless of race, color, religion, sex or national origin.
- B. Eligibility - Relocation Assistance Advisory Services will be offered to:
 1. All persons occupying property which has been acquired.
 2. All persons occupying property immediately adjacent to the real property acquired when the MassDOT determines that such person or persons are caused substantial economic injury because of the acquisition.
 3. All persons who, because of the acquisition of real property used for a business or farm operation, move from other real property used for a dwelling, or move their personal property from such other real property.

9.2 RESIDENTIAL DISPLACED PERSONS

9.2.1 Residential Interview

The residential relocation interview obtains information on family composition, household income, housing and neighborhood characteristics, replacement housing preferences and any special circumstances affecting relocation.

9.2.2 Time for Filing Claims - All claims for a relocation payment shall be filed with MassDOT within 18 months after:

- A. For tenants, the date of displacement.
- B. For owners, the date of displacement or the date of the final payment for the acquisition of the real property, whichever is later.
- C. This time period may be waived by MassDOT for good cause.

9.2.3 Residential Moving Payments

- A. Any residential displaced person, including displaces from mobile homes, are eligible for the actual, reasonable, and necessary expenses for moving personal property from the displacement dwelling.
- B. The eligible moving expenses may be determined by the cost of one, or any combination of a commercial move, a self-move, or a fixed residential moving cost schedule. The federal regulations regarding application of these moving reimbursement payments are set out in [49 CFR 24.301](#) and [49 CFR 24.302](#).
- C. Moving expenses beyond 50 miles from the displacement dwelling are not eligible for reimbursement unless MassDOT determines that relocation beyond 50 miles is justified.

9.2.4 Replacement Housing Payments for Owners and Tenants

- A. The displaced person is eligible for the appropriate payments when he/she relocates and occupies a decent, safe and sanitary replacement dwelling within a one-year period beginning on the latter of the following dates:
 - 1. The date on which the owner received payment from MassDOT for all costs associated with the acquired dwelling, or
 - 2. The date on which the displacee is required to move by MassDOT's written Notice to Vacate, or
 - 3. The date on which the displacee does, in fact, move, if prior to 2. above.
- B. Decent, Safe and Sanitary Inspections
All comparables considered as replacement housing alternatives, will be subjected to a decent, safe and sanitary inspection prior to informing the displacee of their availability. If this inspection(s) does not occur, the reason will be explained in the Owner Eligibility Letter.

Before processing any replacement housing payment to a displaced occupant, the Relocation Agent must inspect the replacement dwelling and determine that it meets the standards for decent, safe and sanitary housing.
- C. To Whom Payment is Made
Payments will be made directly to the relocated individual or family.

Alternatively, upon receiving a signed “Assignment of Relocation Payment” form from the relocated individual or family, the payment may be made directly to the landlord for rent; to the seller for use towards the purchase of a dwelling; or to a lender or lending institution, for the purchase of replacement housing. MassDOT may deposit the Replacement Housing Payment into escrow to be dispersed at the closing or pending the displacee’s move.

D. Multiple Occupancy of Same Dwelling Unit

1. Families: If two or more eligible families occupy the same single-family dwelling unit, each family will be eligible for a replacement housing or rent supplement payment based on housing which is comparable to the quarters occupied by each family. For owner-occupants, the acquisition price to be utilized as the basis for a replacement housing computation is that amount that each owner received from the fair market value of the property acquired. For tenant-occupants, the supplement will be based on each displacee’s share of the rent for the space they occupy and the cost of a replacement unit.
2. Individuals: If two or more eligible individuals, with no identifiable head of the household, occupy the same single-family dwelling unit, they will be considered as one "family" for replacement housing payment or rent supplement purposes, unless the MassDOT determines that such occupants maintain separate households within the same dwelling. When all individuals do not relocate to decent, safe and sanitary housing, the MassDOT will pay a pro rate share of the computed replacement housing payment, that would have been received if all individuals had relocated together into the same ownership or rental status as they had at the time of their eligibility date for relocation benefits.

E. Joint Residential and Business Use

Where displaced individuals or families occupy living quarters on the same premises as a displaced business, farm or nonprofit organization, such individuals or families are separate displaced persons from the businesses for purposes of determining eligibility for relocation payments. Since eligibility for residential and business relocation assistance and payments have different requirements, MassDOT will determine the allocation or breakout between residential and business use based upon square foot usage, percentage of occupancy, or some other reasonable measure.

F. Calculating Payments for Replacement Housing

1. Three Comparable Methods
2. The Relocation Agent will select three (3) comparable listings which are available on the open market and compute the payment based on the dwelling most nearly representative of, and equal to, or greater than the displacee’s dwelling. When three (3) listings are not available, less than three (3) may be utilized. Selection of the comparable and computation of the payment will be done by the Relocation Agent assigned to the case with approval from the Director of the Right of Way Bureau.
3. Comparable Replacement Dwelling Lacks Major Exterior Attribute

4. When the available comparable listing used in computing the replacement housing supplement is similar, but lacks a major exterior attribute such as a garage, outbuilding, swimming pool, etc., the value of said attribute shall be deducted from the acquisition cost of the displacement dwelling for purposes of computing the payment.
5. Revisions to Replacement Housing Amount
6. If the relocatee requests assistance in finding replacement housing, he/she will be provided information on housing which is comparable and available for purchase within the offered amount. When such housing is no longer available, the Relocation Agent will re-compute the new replacement housing amount, based on available housing which is equal to or better and meets the other comparable criteria.

9.2.5 Replacement Housing Payments for 90-Day Homeowner-Occupants

A displaced person is eligible for the replacement housing payment for a 90-day homeowner-occupant if the person has actually owned and occupied the displacement dwelling for not less than 90 days immediately prior to the initiation of negotiations. The amount of the payment is not to exceed \$41,200 (See also [49 CFR 24.404](#) and Replacement Housing Of Last Resort Replacement Housing Of Last Resort of this manual) and is comprised of the following:

- A. The price differential payment is the amount, if any, which, when added to the amount for which MassDOT acquired the property, equals the actual cost that the owner is required to pay for a decent, safe and sanitary replacement dwelling, or the amount determined by MassDOT as necessary to purchase a comparable dwelling; whichever is less.
- B. The increased mortgage interest costs and other debt service costs incurred by a mortgage being placed on the replacement dwelling. These costs are computed in accordance with [49 CFR 24.401\(d\)](#).
- C. The payment for replacing a reverse mortgage shall be the difference between the existing reverse mortgage balance and the minimum dollar amount necessary to purchase a replacement reverse mortgage which will provide the same or similar terms as that for the reverse mortgage on the displacement dwelling in accordance with [49 CFR 24.401\(e\)](#).
- D. The reasonable and necessary expenses that are incidental to the purchase of the replacement dwelling, in accordance with [49 CFR 24.401\(f\)](#).
- E. A 90-day homeowner-occupant eligible for a price differential payment who elects to rent a replacement dwelling, is eligible for a rental replacement housing payment. The amount of the rental replacement housing payment is computed in accordance with [49 CFR 24.401\(g\)](#). The amount of the rental assistance payment may not exceed the amount the homeowner could have received as a price differential payment.

9.2.6 Replacement Housing Payments for 90-Day Tenants Rental Assistance

- A. A displaced tenant is eligible for a rental assistance replacement housing payment not to exceed \$9,570 (See 49 CFR 24.404), when:
 - 1. He/she is in occupancy at the initiation of negotiations for the acquisition of the real property, in whole or in part; or
 - 2. He/she is in occupancy at the time one is given a written notice by MassDOT that it is their intent to acquire the property by a given date; and
 - 3. Such occupancy has been for at least 90 consecutive days immediately prior to the date of vacate or "eligibility date," whichever is earlier. (See [49 CFR 24.404](#) if occupancy has been for less than 90 days).

- B. Computation of the rental assistance payment shall be 42 times the amount obtained by subtracting the base monthly rental for the displacement dwelling from the lesser of:
 - 1. The monthly rent and estimated average monthly cost of utilities for a comparable replacement dwelling; or
 - 2. The monthly rent and estimated average monthly costs of utilities for the decent, safe, and sanitary replacement dwelling actually occupied by the displaced person.

- C. Base monthly rental for displacement dwelling is the lesser of:
 - 1. The average monthly cost for rent and utilities at the displacement dwelling for a reasonable period prior to displacement.
 - 2. Thirty (30) percent of the displaced person's average gross household income if the amount is classified as low income by the U.S. Department of Housing and Urban Development. (Updated and available at the FHWA Web site). In order to be eligible for this computation, the displaced person must provide appropriate evidence of household income, and for persons who are considered as dependents.
 - 3. The total of the amounts designated for shelter and utilities if receiving a welfare assistance payment from a program that designates the amounts for shelter and utilities.

- D. A 90-day tenant who is eligible for a rental assistance payment may convert the computed payment amount to downpayment assistance to purchase a decent, safe and sanitary replacement dwelling.
 - 1. If the computed rental assistance payment is less than \$9,570, the displaced tenant may receive an amount up to \$9,570 to be applied to the down payment and eligible expenses incidental to the purchase of a replacement dwelling (See [49 CFR 24.402\(c\)](#))
 - 2. The full amount of the replacement housing payment for downpayment assistance must be applied to the purchase price of the replacement dwelling and related incidental expenses.

- E. A displaced tenant is entitled to reasonable reimbursement, as determined by the agency, for actual expenses not to exceed \$1,000, incurred for rental replacement dwelling application fees or credit reports required to lease a replacement dwelling.

The full amount of the replacement housing payment for downpayment assistance must be applied to the purchase price of the replacement dwelling and related incidental expenses.

9.3 MOBILE HOMES

This section describes the requirements governing the provision of relocation payments to a person displaced from a mobile home and/or mobile home site who meets the basic eligibility requirements of this section. Except as modified by this section, such a displaced person is entitled to a moving expense payment and a replacement housing payment to the same extent and subject to the same requirements as persons displaced from conventional dwellings.

- 9.3.1 A homeowner-occupant displaced from a mobile home or mobile home site is entitled to a payment for the cost of moving his or her mobile home on an actual cost basis. A nonoccupant owner of a rented mobile home is eligible for actual cost reimbursement. The occupant of the mobile home is also eligible for moving personal property from the mobile home.
- 9.3.2 The following rules apply to payments for actual moving expenses,
- A. A displaced mobile homeowner, who moves the mobile home to a replacement site, is eligible for the reasonable cost of disassembling, moving, and reassembling any attached appurtenances, such as porches, decks, skirting, and awnings, which were not acquired, anchoring of the unit, and utility "hook-up" charges.
 - B. If a mobile home requires repairs and/or modifications so that it can be moved and/or made decent, safe, and sanitary, and the MassDOT determines that it would be economically feasible to incur the additional expense, the reasonable cost of such repairs and/or modifications is reimbursable.
 - C. A non-returnable mobile home park entrance fee is reimbursable to the extent it does not exceed the fee at a comparable mobile home park, if the person is displaced from a mobile home park or the MassDOT determines that payment of the fee is necessary to effect relocation.

9.4 REPLACEMENT HOUSING OF LAST RESORT

- 9.4.1 Any decision to provide last resort housing assistance must be adequately justified, which may be done on a case-by-case basis, for good cause, which means the appropriate consideration has been given to:
- A. The availability of comparable replacement housing in the program or project area; and
 - B. The resources available to provide comparable replacement housing; and
 - C. The individual circumstances of the displaced person.
- 9.4.2 Housing of last resort may also be justified by a determination that:

- A. There is little, if any, comparable replacement housing available to displaced persons within an entire program or project area; and, therefore, last resort housing assistance is necessary for the area as a whole; and
 - B. A program or project cannot be advanced to completion in a timely manner without last resort housing assistance; and
 - C. The method selected for providing last resort housing assistance is cost effective, considering all elements which contribute to total program or project costs.
- 9.4.3 The displaced tenant who does not meet length-of-occupancy requirements, qualifies for a replacement housing payment under [49 CFR 24.404\(c\)](#) and [49 CFR 24.2\(a\) “Comparable replacement dwelling”](#)(viii)(c).

9.5 DISPLACED BUSINESSES

9.5.1 Relocation Interviews

- 9.5.2 All displaced business owner/operators will be personally interviewed to determine the individual needs and requirements of that business in accordance with [49 CFR 24.205\(c\)\(2\)\(i\)](#). Moving Payments to Business

Any business which qualifies as a displaced person is eligible for the appropriate moving payments as follows:

- A. The actual reasonable expenses incurred in moving and reestablishing the business or other personal property as provided for in this chapter.
 - B. The actual direct loss of tangible personal property incurred as a result of moving or discontinuing the business as provided for in this chapter.
 - C. The purchase of substitute personal property as provided for in this chapter.
 - D. The actual reasonable expenses incurred in searching for a replacement property as outlined in this chapter.
- 9.5.3 Actual and Reasonable Expenses (including for personal property only moves)
- A. Transportation of personal property. Transportation costs for a distance beyond 50 miles are not eligible, unless MassDOT determines that relocation beyond 50 miles is justified;
 - B. Packing, crating, unpacking, and uncrating of the personal property;
 - C. Disconnecting, dismantling, removing, reassembling, and reinstalling relocated machinery, equipment, and other personal property, including substitute personal property. This includes connection to utilities available nearby. It also includes modifications to the personal property necessary to adapt it to the replacement structure, the replacement site, or the utilities at the replacement site, and modifications necessary to adapt the utilities at the replacement site to the personal property;
 - D. Storage of the personal property for a period not to exceed 12 months at a location not owned or leased by the displacee, unless MassDOT determines that a longer period is necessary. MassDOT may approve a payment for

- storage when the process of relocating from the acquired site to the replacement site is delayed for reasons beyond the control of the displaced person. Storage may not be longer than 12 months, starting at the date of vacation from the acquired site and ending when the replacement site becomes available. Agencies may approve storage for more than 12 months in unusual instances as justified, documented, and approved by the agency.
- E. Insurance for the replacement value of the personal property in connection with the move and necessary storage;
 - F. Any license, permit, or certification required of the displaced person at the replacement location. However, the payment may be based on the remaining useful life of the existing license, permit or certification;
 - G. The replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the displaced person, his or her agent, or employee) where insurance covering such loss, theft, or damage is not reasonably available;
 - H. Professional services necessary for:
 - 1. Planning the move of the personal property,
 - 2. Moving the personal property, and
 - 3. Installing the relocated personal property at the replacement location.
 - I. Re-lettering signs and replacing stationery on hand at the time of displacement that are made obsolete as a result of the move.
 - J. Related Nonresidential Expenses
 - 1. Connection to available utilities from the replacement site's property line to improvements at the replacement site
 - 2. Professional services prior to the purchase or lease of the replacement site for soil testing, feasibility and marketing studies to determine site suitability;
 - 3. Impact fees and one-time assessments for anticipated heavy utility usage.

9.5.4 Actual Direct Loss of Tangible Personal Property

When a business is displaced, in whole or in part, and is entitled to relocate its personal property but elects not to do so, it is entitled to receive an actual direct loss of tangible personal property payment for those items not relocated. The payment shall consist of the lesser of:

- A. The fair market value in place of the item as is for continued use at the displacement site, less the proceeds from its sale. (the claimant must make a good faith effort to sell the personal property, unless the MassDOT determines that such effort is not necessary).
- B. The estimated cost of moving the item, but with no allowance for storage or for reconnecting a piece of equipment if the equipment is in storage or not being used at the acquired site. (If the business operation is discontinued, the estimated cost shall be based on a moving distance of 50 miles.)

9.5.5 The reasonable cost incurred in attempting to sell an item (auction, newspaper advertising, etc.) that is not to be relocated is also eligible for reimbursement.

9.5.6 Purchase of Substitute Personal Property

If an item of personal property which is used as part of a business or farm operation is not moved but promptly replaced with a substitute item that performs a comparable function at the replacement site, the displaced business is entitled to payment of the lesser of:

- A. The cost of the substitute item, including installation costs at the replacement site, minus any proceeds from the sale or trade-in of the replaced item; or
- B. The estimated cost of moving and reinstalling the replaced item but with no allowance for storage. At MassDOT's discretion, the estimated cost for a low cost or uncomplicated move may be based on a single bid or estimate.

9.5.7 Searching for Replacement Property

A displaced business or farm operation is entitled to reimbursement for actual expenses, not to exceed \$5,000, as the MassDOT determines to be reasonable, which are incurred in searching for a replacement location.

9.5.8 Low Value/High Bulk - When the personal property (such as stockpiled sand, gravel, minerals, metals, and other similar items) to be moved is of low value and high bulk, and the cost of moving the property would be disproportionate to its value in the judgment of MassDOT, the allowable moving cost payment shall not exceed the lesser of:

- A. The amount which would be received if the property were sold at the site, or
- B. The replacement cost of a comparable quantity delivered to the new business location.

9.5.9 Business Re-Establishment Benefit (BRB)

In addition to other payments authorized by these procedures, a small business, farm, or nonprofit organization is eligible to receive a BRB payment not to exceed \$33,200, when their eligibility for relocation benefits has been established as outlined in this chapter. These payments are described in [49 CFR 24.304](#).

9.5.10 Move Process - The Relocation Agent will interview each displacee and explain all relocation benefits and required applicable documentation to complete a claim as outlined below:

- A. Commercial Moves
 - 1. Inventory - A complete inventory of all personal property must be prepared by the Relocation Agent and/or the displacee and must be dated and signed by both parties. Said inventory of personal property must be reviewed and certified as to real/personal property by the Review Appraiser and the Supervisor of the Review Appraisal Section.
 - 2. Specifications - The MassDOT, depending on the size and complexity of the move, may hire a consultant for the purpose of providing performance specifications, which would be supplied to MassDOT.
 - 3. Bids - After the above items have been properly prepared, the Relocation Agent will engage at least two commercial movers, three if possible, to

make independent bids of moving expenses including all necessary categories such as carpentry and electrical etc., prior to the actual move. If the business move is determined to be complex, then a third bid may be required. For small, uncomplicated moves then MassDOT may utilize one commercial mover.

4. Estimates and payments must be approved by the Director or Deputy Director of the Right of Way Bureau. Meetings are scheduled on an “as needed” basis to review, approve, or disapprove all claims. If a claim is denied, the claimant is notified of the right to appeal.
 5. Authorization to Move - The displacee is forwarded a letter of Authorization to Move, based on the most qualified acceptable bid, which must have been accepted by the Director of the Bureau.
 6. Pre-Move Inspection - The Relocation Agent will certify that the items as contained on the inventory were on the premises at the time of inspection.
 7. Monitoring of Move - At the commencement of the move, the Relocation Agent shall monitor the work in order to verify and support reasonableness of the move claim.
 8. Post-Move Inspection - After completion of the move, the Relocation Agent will certify that all items, are in fact moved and are located and installed on the new premises.
- B. Types of Commercial Moves
1. Negotiated Self Move - This type of claim will be utilized when the business owner elects to move themselves. MassDOT obtains moving bids from qualified commercial movers or specialists and proposes the negotiated amount which is equal to the low bid, less the overhead and profit fees. If the business owner accepts this amount, no further documentation is required, and the negotiated amount is paid.
 2. Moving Expense Finding - On small uncomplicated moves, an Agent other than the Agent handling the claim may make a Moving Expense Finding in an amount not to exceed \$5,000. If displacee agrees with the amount, he/she signs a form accepting the amount and no further documentation is required to process this payment.

9.5.11 In Lieu of Actual Moving Expenses

Any displaced businesses (other than outdoor advertising/ display business or a non-profit organization) are eligible for a fixed payment, in lieu of a payment for actual moving and related expenses and the business reestablishment benefit, in an amount equal to its average annual net earnings as set out in the federal regulations at [49 CFR 24.305](#).

9.5.12 Moving Payments to Farm Operations

The owner of a displaced farm operation is entitled to receive payments for actual reasonable moving and related re-establishment expenses, and actual reasonable expenses incurred in searching for a replacement farm. A displaced farm operation may also choose a fixed payment in lieu of the payments for actual moving and related

expenses and actual reasonable reestablishment expenses in accordance with [49 CFR 24.305\(c\)](#).

9.5.13 Moving Payments to Non-Profit Organizations

- A. A displaced non-profit organization is eligible to receive payments for actual reasonable moving expenses and related re-establishment expenses and actual reasonable expenses incurred in searching for a replacement site.
- B. In lieu of actual moving and related expenses, the non-profit organization may choose a fixed payment in accordance with the [49 CFR 24.305\(d\)](#).

9.5.14 Outdoor Advertising Sign (Billboards) Off Premise

- A. The owner of a displaced advertising sign is eligible to receive the actual reasonable moving expenses for a sign which is considered personal property.
- B. The amount of a direct loss payment for an advertising sign which is personal property is the lesser of:
 - 1. The depreciated reproduction cost of the sign as determined by MassDOT less the proceeds from its sale, or
 - 2. The estimated cost of moving the sign but with no allowance for storage.

9.5.15 Privately Owned Signs (On Premise)

The Projects Section will provide the Relocation Section with a Personal Property Report for each privately-owned sign, light pole and/or flag pole, whatever is categorized as personal property. The Relocation Agent will then provide the displacee with a Relocation Brochure and explain all relocation benefits and entitlements for a move to a new location.

9.5.16 Ineligible Moving and Related Expenses

- A. The cost of moving any structure or other real property improvement in which the displaced person reserved ownership.
- B. Interest on a loan to cover moving expenses.
- C. Loss of goodwill.
- D. Loss of profits.
- E. Loss of trained employees.
- F. Any additional operating expenses of a business or farm operation incurred because of operating in a new location except estimated increased costs of operation during the first 2 years at the replacement site as provided in [49 CFR 24.304\(a\)](#).
- G. For rent, lease, personal or real property taxes, insurance premiums and utility charges and any other charges the Agency considers essential to the re-establishment of the business.
- H. Any legal fee or other cost for preparing a claim for a relocation payment or for representing the claimant before the agency.
- I. Expenses for searching for a temporary or replacement dwelling which includes costs for mileage, meals, lodging, time and professional real estate broker or attorney's fees.

- J. Physical changes to the real property at the temporary or replacement location of a business or farm operation except as provided in paragraph (g)(3) of this section and [49 CFR 24.304\(a\)](#).
- K. Costs for storage of personal property on real property already owned or leased by the displaced person or person to be moved temporarily.
- L. Refundable security and utility deposits; and
- M. Cosmetic changes to a replacement or temporary dwelling, which are not required by State or local law, such as painting, draperies, or replacement carpet or flooring.

9.6 CLAIM FILING AND APPEALS

9.6.1 Claim for Payment (Residential or Nonresidential)

A displacee must file a written claim within eighteen (18) months after the later of the following dates:

- A. For tenants, the date he/she moves from the real property or moves his/her personal property from the real property,
- B. For owners, the date the person moves from the real property or date of final payment for the acquisition of the real property, whichever is later.
- C. MassDOT may waive this time period for good cause.

9.6.2 Appeals

- A. Appeals may be requested anytime within 18 months after the date of displacement or, not less than 60 days after MassDOT acts on a final claim, whichever is later.
- B. MassDOT has established a procedure for appeals, consistent with applicable Massachusetts law and Federal requirements. Information of the appeal procedure is provided to the claimant by the Agent. MassDOT will be represented at all hearings by the Right of Way Bureau's Legal Counsel. The Administrative Law Judge will hear the claimant's case and upon making a determination shall submit a recommendation to the MassDOT Administrator for approval. The claimant shall then receive any adjustment determined by the Administrative Law Judge and approved by the Highway Administrator. If dissatisfied, claimant has the further right to appeal to the Executive Office of Housing and Livable Communities (EOHLC)..

CHAPTER 10 – Property Management

10.1 Bureau Responsibilities

The Bureau's Property Management responsibilities involve managing and preparing for the disposal of real property acquired by the Bureau on behalf of the MassDOT for highway purposes. Other sections (District Engineering and the Office of Real Estate Asset Development) within the Department are responsible for property demolition and/or other disposition. The Bureau's responsibilities include:

- A. Clearing the right of way of all structures and, where eviction is warranted, all occupants.
- B. Maintaining occupied and unoccupied real property, including contracting for property repairs or supplies or other necessary services pending turning over to District or OREAD for disposition.

10.2 Clearance Procedures

In order to clear the right of way of all structures as soon as possible the following steps will be taken:

- A. Obtain the key from the former occupant, once the premises have been vacated.
- B. Determine if the (former) owner has disconnected all utilities. If not, the agent assigned will provide for all utility disconnections.
- C. After a structure becomes vacant, the Relocation Administrator will inform the Construction Engineer of the availability of same for demolition and an agent will deliver a "Release of Structure(s) for Demolition" to the District Highway Director.

10.3 Eviction for Construction

In order to clear the right of way of occupants when deemed necessary, i.e., when they are unreasonably and/or willfully delaying the highway project by continuing to occupy areas needed for construction, Mass DOT may issue Eviction Warrants under the provisions of [M.G.L. Ch.79, Sec.3](#), or [Ch. 427 of the Acts of 1966](#), as well as the applicable provisions of the Code of Massachusetts Regulations (CMR) and guidelines issued by the Division of Housing and Community Development (See [Chapter 5 – Legal Section](#) for more information).

10.4 MassDOT views the use of an Eviction Warrant as being an extremely serious matter. The Eviction Warrant under provisions of [M.G.L Ch. 79, Sec. 3](#), is used only after all relocation efforts have proved to be unavailing and only after justifications for such procedure has been documented in detail.

10.5 No former owner, tenant or lessee who has had possession of real property, or any portion thereof, which has been acquired by the MassDOT, shall be required to vacate any portion of such property which is being used by same as a dwelling place or place of

business at the time the acquisition was made, until four (4) months after the notice of such acquisition has been given in writing. MassDOT may terminate any occupancy, by giving an occupant a thirty (30) day notice, in writing and by certified mail, of its intention to terminate said occupancy, providing the four (4) months grace period for which an occupant received notice of acquisition, has expired.

- 10.6 The maintenance and repair functions of the Property Management Section may be carried out by other MassDOT employees, or by contract with independent contractors or consulting firms. In the latter case, consideration is given, where possible, to the hiring of those businesses listed with the MassDOT Office of Civil Rights.
- 10.7 The maintenance and repair services, to MassDOT-owned buildings acquired for right of way purposes, are for basic necessities depending on whether same are occupied to be saved, sold or leased, including repairs for interruption or failure of heating, lighting, water and electric services, snow removal, repairs to common stairways or passageways. When MassDOT acquires property, which is occupied or will use acquired property for the housing of persons who are being moved from one acquired property to another, then such property shall be maintained as required by law and/or MassDOT contract. (Refer to [Chapter 427 of the Acts of 1966](#), “State Sanitary Code, Minimum Standard of Fitness for Human Habitation”; opinion of the Attorney General, dated 12/29/69).
- 10.8 When a MassDOT-owned structure requires repair, the Agent will consult with the Section Administrator as to agreement on a repair contract, making certain to follow MassDOT Fiscal Management procedures for securing goods and services. If the cost to repair exceeds \$5,000.00, the Agent shall obtain at least three (3) written bid proposals and the bid offering the best value will be accepted. Once all applicable approvals have been obtained, the ROW Agent notifies the successful bidder to proceed with the repair work.
- 10.9 In case of an emergency, where an occupant's health or safety is impaired, the requirement of securing three (3) bid proposals may be waived. When an emergency repair cost is \$1,000.00 or less, the Agent will secure a verbal service contract, documenting the agreement via email. In all cases, the Agent shall require prior approval of the Section Administrator before committing to the purchase of materials, equipment, or service commodities. In the absence of the Section Administrator, approval is required from the Director, or Deputy Director of the Bureau.

CHAPTER 11 – Community Compliance (LPA) Section

The purpose of this chapter is to identify and clarify the responsibilities of any political subdivision of the Commonwealth of Massachusetts that is undertaking a highway infrastructure project that will utilize Federal-aid in any phase of the project. This chapter will also outline the proper procedures required to assure compliance with property owner rights defined under the [Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970](#), as amended.

- 11.1 MassDOT is responsible for any highway, bridge, multi-use path and non-traditional (scenic by-way) projects undertaken with the assistance of Federal-aid funds, including those undertaken by political subdivisions or local public agencies. Accordingly, on any Federal-aid project where real property acquisition or relocation assistance activities are conducted by a local public agency (LPA), the MassDOT Right of Way (ROW) Bureau is responsible for certifying compliance by the agency with provisions of law and applicable regulations.

The Bureau is required to monitor through its Community Compliance Section, all real property acquisition and relocation assistance activities conducted by LPAs, to the extent necessary to assure compliance with applicable Federal and State law requirements and regulations.

Note: When there is Federal participation in any phase, including construction, of a project, LPAs must comply with the provisions of Title II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act) (PL 91-646), as amended.

- 11.2 The Bureau's Community Compliance Administrator (CCA) is notified of the project through project scoping, pre-25% design or 25% design through the Project Management Section of MassDOT. The CCA then assigns a ROW Community Compliance Officer (CCO) to the project and municipality.

Once the project has advanced to the MassDOT 25% design public hearing, then the CCO prepares a letter (refer to Exhibit 9-4 Relocation Brochure) under the signature of the CCA, to be sent to the appropriate LPA. The letter is sent to the highest elected official and copied to appropriate municipal boards, District Highway Director, Director of Project Management, MassDOT Project Manager and Director of the appropriate MassDOT Project Development Sections. The CCO is subsequently kept informed of the status of any approved project(s) by the appropriate MassDOT's Design Development Section.

- 11.3 LPAs are responsible for the right of way acquisition on Local Systems projects. The LPA is empowered to make acquisition(s) according to the provisions of [Chapter 121B](#), [Section 11](#) and [Section 26](#), and [Chapter 79](#) of the Massachusetts General Laws, subject to exceptions when approved by MassDOT or FHWA. Title examinations of properties must be performed and reviewed to determine ownership and/or rights in the parcel(s) to be acquired. If MassDOT determines that the municipality has not acquired all required land or rights therein, the municipality shall be responsible for all damages resulting there

from, including compensation to private land owners, and contractor claims of any nature. In such events, MassDOT has the option to withdraw its participation from the project.

LPAs are responsible for notifying the property owner in writing of the municipalities' interest in acquiring an interest in their property and the basic protections provided to them by law.

LPAs are responsible for contacting and interviewing property owner(s) or their representatives and discussing the issues and impacts regarding the property to be acquired. Property owners must be given the Federal Aid Acquisition Guide for Property Owners (refer to [Exhibit 11-2](#)). The Property Owner Contact Diary (refer to [Exhibit 11-3](#)) must be completed for each impacted property owner with a detailed description of all communication and contact.

11.4 In the event that land damages and/or relocation costs are determined to be excessive or a budgetary burden, the LPA may request in writing that MassDOT acquire the right of way and/or handle the relocation on their behalf, as provided for under M.G.L., Ch. 81, [Sec. 29A](#), and [Sec. 7J](#), as amended.

11.5 The CCO is responsible for monitoring LPA acquisition procedures for Uniform Act Title III compliance. MassDOT's CCA is responsible for monitoring LPA relocation assistance and payment activities for Uniform Act Title II compliance. The CCA will keep the Director of Right of Way informed of the LPA's relocation activity.

11.6 The CCA is notified of public hearings by MassDOT's Project Manager and/or District Project Development Engineer for the area involved in that district. Prior to scheduling any public hearing, the Project Manager must obtain approval from the CCA to use the 25% Preliminary ROW Plans for the public hearing.

The CCA or designee will attend all public hearings for the local project in that City or Town. At the public hearing, the CCO will explain both the responsibilities of the LPA and the rights of the affected owners, with regard to the ROW acquisition and relocation process.

11.7 The CCO is generally informed by the MassDOT Project Manager as to which local official has been designated by the LPA to serve as the Right of Way Representative. The CCO may contact other local officials, as needed, such as an Assessor, Highway Engineer, City Solicitor or Town Counsel. These contacts may be by phone, letter or personal contact and records of same should be maintained.

11.8 Around the 25% Design Public Hearing the CCO will meet with the designated municipal Right of Way Representative to review the project and deliver the informational package. The package will include the Federal Aid Acquisition Guide for Property Owners, MassDOT/Right of Way Bureau Municipal Guidelines for Right of Way Acquisitions on Federal and State Aid Projects (refer to [Exhibit 11-4](#)), Property Owner Contact Diary, and a Municipal ROW Document Checklist (refer to [Exhibit 11-5](#) Municipal Documentation Checklist). Other items included in this meeting are the

Affidavits (refer to [Exhibit 11-6](#)), the Appraisal forms and the LPA Appraisal Function Job Aid (refer to [Exhibit 11-7](#)).

- 11.9 The CCA and CCCE (Community Compliance Civil Engineer) will determine as the project progresses whether layout plans and/or easement plans will be required. The CCCE will monitor the design submittals to make certain that the proposed work shown on the highway/construction plans, bridge plans, landscape and environmental plans match what is proposed and shown for work on the ROW Plans. The CCCE will review and provide written responses to every design submittal received.

Projects with No ROW Impacts

ROW plans are required in every plan submission. This includes if a project has no ROW impacts and there are no easements required in order to construct the transportation facility. The ROW Bureau will review the ROW plans associated with the project and confirm as to whether or not any easements will be needed at that stage of the project. The ROW Bureau may request that easements be added upon reviewing the plans.

These plans will share all the same features, standards, and requirements as a plan submission with easements. This includes compliance with [Plan Preparation Guidelines requirements](#), submitting a completed [Municipal QA/QC form](#), and including the required basemap notes with the certifying stamp and signature of the PLS in responsible charge.

Plan Review & Plan Preparation Guidelines Compliance

Submitted ROW plans should adhere to and comply with the standards, specifications, and requirements set forth in the [Plan Preparation Guidelines](#). Every ROW plan submission consists of three components that are required in each submission: the ROW plans, the Municipal QA/QC form, and the response to comments that addresses all comments made on the previous submission. If any of these components are missing, the submission is considered incomplete and the review cannot be completed.

The ROW plans and documents will be reviewed and compliance with the Plan Preparation Guidelines will be verified with each submission. Upon reaching compliance with the Plan Preparation Guidelines and being at least at the 75% milestone, the ROW plans can be recommended for approval. Approval is conditional on any changes that will affect ROW and the ROW process. If changes are made the plans need to be resubmitted and reapproved.

- 11.10 The CCO will review all documents signed by property owners and municipalities for consistency with the 100% PS&E Plans and approved Right of Way plans. The CCO will compare the parcel areas and term of easements in the review appraisal to the 100% PS&E Plans, approved Right of Way Plans, and the Order of Taking for consistency and accuracy.
- 11.11 A Right of Entry (ROE) (refer to Exhibit 11-8) may be obtained by the LPA in lieu of acquiring temporary easement rights, provided the owner understands they are waiving their right to appraisals and just compensation. For projects that utilize a significant amount of ROEs in order to secure the necessary right of way, the CCA may request the CCO to perform an audit in order to ensure coercion was not used to obtain the ROEs.

- 11.12 In exceptional circumstances only, and with prior approval of the property owner and MassDOT, a Right of Entry may be used to gain access for construction purposes to a parcel identified on the ROW Plans as a permanent easement. The permanent acquisition must be completed, and all documentation submitted to the CCO for review as soon as possible following execution of the Right of Entry.
- 11.13 Appraisal and Review Appraisal reports are prepared by Certified General Appraisers and Certified General Review Appraisers, hired locally by the LPA. Note: for MassDOT projects please refer to definition of appraisal in [Chapter 2](#) of this manual.

The property owner or a representative is advised by the field agent who conducts the preliminary interview, of their right to accompany the appraiser on the property inspection. The appraiser will make every effort to contact the property owner or representative to schedule the property viewing. The appraiser will include in the body of the appraisal a signed affidavit confirming the date, time, purpose and person(s) involved in the property viewing.

Completed appraisal reports and review appraisal reports are delivered to the CCO for review. The CCO will review to ensure that the appraisal and review appraisals comply with [49 CFR Part 24](#). The CCO will complete the CCO Appraisal Checklist (refer to [Exhibit 11-9](#)).

Acquisitions cannot be secured until the NEPA process has been approved. Please see definition of NEPA in Chapter 2 of Manual. In very rare circumstances, and with MassDOT ROW and FHWA approval, early acquisition can occur prior to NEPA approval. (Refer to [Chapter 3 – Projects Section, Subsection 3.2](#))

- 11.14 Property owners may donate some or all of their property in any combination to the LPA, provided that any mortgagees/lenders with interests in the property consent to the donation by signature on a Certificate of Donation Form (refer to [Exhibit 11-10](#)). The LPA cannot coerce or compel an owner to donate their property. The property owner must be made aware of their rights to an appraisal and just compensation. If the property owner decides to donate they must execute the Certificate of Donation. If the subject parcel(s) is/are owned by a corporation, estate, trust, etc., then an appropriate document, authorizing the donation must be attached to the donation form.
- 11.15 LPAs are required to identify and offer to acquire from a tenant, any tenant owned improvements which are considered to be a part of the real property to be acquired, and in which the fee owner disclaims any interest.
- 11.16 LPAs are required to provide a written summary statement (Written Offer) to the impacted property owner(s). The Written Offer cannot be less than the amount of just compensation. The property owner must be provided a minimum of 30 days to consider the offer without coercive actions by the municipality. The Federal Aid Acquisition Guide for Property Owners must be included in the Written Offer.
- 11.17 Upon recording of acquisition documents, the LPA must provide affidavits of compliance for acquisition to the CCO. The affidavit may be signed by the Mayor or a Selectman,

City Solicitor or Town Counsel, City Engineer, or Superintendent of Public Works. A separate affidavit is required for relocations.

- 11.18 The CCO maintains electronic files on all projects and makes certain that any information pertaining to a particular project, e.g., agency(s) correspondence, records, data, is placed in that file. This will include, but is not limited to, scanned copies of: recorded Orders of Taking, plans, instruments, deed grants, permits, licenses, donation forms, ROEs, appraisal affidavits, municipal affidavits, Property Owner Contact Diaries, encroachment licenses, the Municipalities Written Interest in acquiring, appraisals, and appraisal reviews as well as any written communication between MassDOT and the LPA.
- 11.19 Only when all Title II and Title III provisions of the Uniform Act have been complied with, including completion of the necessary affidavits, and upon the issuance of an award of damages to affected property owners, will the CCO recommend the issuance of a Right of Way Certificate. Upon receipt of the CCAs written recommendation for issuance of the certificate, the ROW Bureau Director executes the ROW Certificate. The CCA then distributes the signed ROW Certificate to the FHWA MA Division Office and the appropriate MassDOT sections who in turn forward it to the Federal Aid Planning Office prior to advertising the project for construction bids.
- 11.20 MassDOT must make certain the LPA involved adheres to an appeal process consistent with applicable Massachusetts law and Federal requirements.

CHAPTER 12 – Outdoor Advertising Section

1.1 SIGN CONTROL

- 12.1.1 The purpose of the sign control program is to effectively control the erection and maintenance of outdoor advertising signs, displays and devices adjacent to the National Highway System and the Federal-Aid Primary System in existence on June 1, 1991 and within view of other public ways.
- 12.1.2 The laws under which this program is governed are: [Highway Beautification Act of 1965](#), as amended, and as outlined in [23 CFR Part 750](#); [M.G.L. 6C](#), [M.G.L. Ch. 93D](#); [700 CMR](#), and the [Federal/State Outdoor Advertising Control Agreement of 12/31/71 as amended in 1980](#).
- 12.1.3 This program will be controlled and implemented by the Outdoor Advertising Section within the ROW Bureau.
- 12.1.4 Definitions (See [700 CMR 3.01](#) and [700 CMR 3.00 Revisions](#))
- 12.1.5 The Outdoor Advertising Section does maintain an inventory of all permitted signs.
- 12.1.6 The status of all signs will be checked on an ongoing basis for legality and existing valid sign permits, through current sign permit lists supplied by the OOA. Any questionable permit number will be checked directly with the OOA.
- 12.1.7 The Section Administrator is responsible for seeking appropriate remedy for unpermitted and/or unlawful signs.
- 12.1.8 The section staff are responsible for monitoring all off-premise signs and identifying violations.
- 12.1.9 The section personnel shall maintain continuing route reviews in order to locate, catalogue and identify illegal signs.
- 12.1.10 Sign permit applications submitted to the Outdoor Advertising Section shall be reviewed by section personnel so as to establish:
- A. If the proposed sign is within the control areas;
 - B. The zoning of the proposed locus;
 - C. Conformity with local zoning;
 - D. The conformity with or the violation of the Federal/State Agreement Criteria, as incorporated into M.G.L. Ch. 93D.
- 12.1.11 After said review by the Outdoor Advertising Section, if a determination is made that the application is in compliance with Federal/State requirements, the Section Administrator will issue a permit. If the Outdoor Advertising Section determines that the application is not in compliance, the Section Administrator will notify the applicant and the applicant may appeal the denial.

- 12.1.12 A complete record of all permit applications, the permit or a copy of same, and the action(s) of the Outdoor Advertising Section, shall be maintained by the Section.
- 12.1.13 The Outdoor Advertising Section staff assigned to the sign control program may be required to appear at meetings, or legal proceedings, to discuss, or testify to the physical and legal facts.

12.2 JUNKYARD CONTROL

- 12.2.1 The purpose of the junkyard control program is to effectively control junkyards in order to protect public investment in highways; promote safety and recreational values; preserve natural beauty in areas adjacent to the National Highway System (NHS) and the Federal-Aid Primary System in existence on June 1, 1991 and encourage the recycling of scrap metal and junk.
- 12.2.2 Definitions: (Refer to [23 CFR 751.7](#))
- 12.2.3 If it is determined to be necessary in order to provide effective control of junkyards located within 1,000 feet of a NHS and/or Federal-Aid Primary Highway (as specified in paragraph 12.2.1 above), the State, operating through MassDOT, will do so in accordance with the provisions of [23 CFR Part 751](#), as amended.
- 12.2.4 If it is determined to be necessary, the Right of Way (ROW) Bureau of MassDOT shall be responsible for maintaining the inventory of junkyards within the control area established by [M.G.L. Ch. 140B](#).
- 12.2.5 The inventory shall be compiled by the ROW Bureau personnel associated with the sign control program and done in concert with the inventorying of signs located within the control area as set forth in the sign control section of this manual.
- 12.2.6 Records of the junkyard(s) inventory will be kept by the Bureau and be available for inspection by the FHWA.
- 12.2.7 Junkyard inventories will be compiled on a selected route basis within each MassDOT District. Each junkyard will be listed by city/town and route within each District. The Junkyard Data form will also contain the following information:
- A. Locus, property owner, junkyard owner or lessee;
 - B. Principal type of business being conducted i.e. class & license number;
 - C. Date, zoning classification, extent of land use;
 - D. Remarks.
- 12.2.8 Each junkyard inventoried will be recorded on a separate Junkyard Inventory form. This form shall contain the following information:
- A. City/Town, route number, District & date;
 - B. Locus, property owner, junkyard owner or lessee;
 - C. Principal type of business being conducted;
 - D. Extent of land use, zoning legality;

- E. Type of license, permit numbers, photograph(s)
- 12.2.9 Nonconforming junkyards will be reported on an individual basis to the Bureau for a determination regarding feasibility of a screening project.
- 12.2.10 Upon the determination that a screening project is feasible, the Bureau shall acquire any rights or easements required for the completion of the project, according to standard right of way procedures.
- 12.2.11 Every effort shall be made to screen a junkyard that is to continue as an ongoing business.
- 12.2.12 Upon the determination that a screening project is not feasible, the Bureau shall develop an estimate of costs for either relocating or acquiring the subject junkyard in accordance with standard ROW procedures.
- 12.2.13 Relocation data and/or relocation costs will be submitted to the Relocation Section for a final determination as to the method to be utilized in eliminating or relocating the nonconforming junkyard.
- 12.2.14 Upon determination that relocation or elimination of the nonconforming junkyard is required, the process will be completed utilizing standard Bureau procedures upon certification of the project by FHWA.
- 12.2.15 Authorization to proceed with a junkyard control project may be given when MassDOT submits a written request to FHWA which includes the following:
- A. The zoning and validation of the legal status of each junkyard on the project;
 - B. The control measures proposed for each junkyard including, where applicable, information relative to permanent disposal sites to be acquired by the State;
 - C. The real property interest to be acquired in order to implement the control measures;
 - D. Plans or graphic displays indicating the location of the junkyard relative to the highway, the 1,000-foot control lines, property ownership boundaries, the general location of the junk or scrap material, and any buildings, structures, or improvement involved; and
 - E. Where screening is to be utilized, the type of screening, and adequately detailed plans and cross sections, or other adequate graphic displays which illustrate the relationship of the motorist, the screen, and the material to be screened at critical points of view.
- 12.2.16 MassDOT records concerning each junkyard involved in a beautification project shall include, as a minimum, the following data:
- A. Satisfactory evidence of ownership of the junkyard or junk, or both;
 - B. Documentation of value or cost, including separate interest if applicable, as well as proof of obligation or payment of funds;
 - C. Evidence that necessary property interests have passed to the State and that the junk has either been screened, relocated, or disposed of;
 - D. If a dwelling has been acquired by the condemnation process, evidence that the costs involved are not included in the State's claim for Federal participation.

- 12.2.17 Appropriate authorities in cities and towns are to be notified, on a continuing basis by ROW Bureau personnel, of the existence and effects of the Highway Beautification Act and M.G.L., Ch. 140B. This will be done in conjunction with MassDOT's continuing inventory efforts. Applicable reference material shall be left with the appropriate city and/or town official.
- 12.2.18 Any junkyard which does not conform to the requirements of M.G.L., Ch. 140B, shall be deemed a nuisance. MassDOT, through the Attorney General's Office, shall make application to the Superior Court in the County in which the junkyard is located for any injunction to abate the nuisance.
- 12.2.19 MassDOT shall give a thirty (30) day notice by certified mail, to the owner of a junkyard and the junkyard business owner or lessee, if different, citing the violation of said Chapter 140B and requiring conformance with the law prior to requesting action through the Attorney General.
- 12.2.20 Where possible, any screening shall be located upon the property owned or controlled by the owner or operator of the junkyard. Once constructed, the screening is to become the property of the owner or operator of the junkyard, pursuant to an agreement between the owner and MassDOT. The duty to maintain any screening shall be vested in the owner or operator of the junkyard. Failure to maintain the screening shall be the basis of a recommendation from MassDOT to the Attorney General for prosecution as a nuisance.

CHAPTER 13 – Negotiations Section

Negotiations – All acquisition discussions shall be directed to accomplish the result; that the property owner receive just compensation (which is also fair and just to the public); that every courtesy, consideration, and patience is extended to the property owner; and to foster a feeling of confidence and respect by the property owner toward the Department of Transportation and its employees.

MassDOT will make every reasonable attempt to negotiate the acquisition prior to the initiation of any court filing action.

13.1 All contact and effort used by the negotiator must be chronicled. This should include:

- A. Date and location of contact
- B. Persons present
- C. Dollar amounts of offers made
- D. Counteroffers
- E. Concerns
- F. Reasons agreement could or could not be reached
- G. Any other pertinent data

All entries will be initialed by the individual making the specific entry.

It is imperative that the entries refer only to the negotiations and discussions with the owners or their representatives

13.2 The negotiator will prepare an offer letter (refer to [Exhibit 13-1](#) Offer of Just Compensation) and forward it to the property owner. It must be presented, along with the Just Compensation Report (refer to [Exhibit 4-](#)), a minimum of 30 days prior to the scheduled Highway Administrator's approval. This will provide the owner with all the information necessary to make an informed decision and enough time to consider the offer.

13.3 The offer letter will at a minimum contain the following:

- A. The amount of just compensation being offered for the acquisition.
- B. A description and location identification of the real property, as well as the interest in the real property.

An identification of the buildings and any other structures being acquired.

13.4 If an "uneconomic remnant" has been identified, there will be two separate offer letters. One offer for the real property plus damages to the remainder, and a second offer including the total acquisition of the "uneconomic remnant."

13.5 Subsequent to the initial offer, the personal negotiation contact usually consists of more than one meeting with the property owner. During the negotiation process, the negotiator will fully discuss the offer and answer any questions the owner may have regarding the offer and acquisition.

- If the property owner is satisfied with the offer and wishes to release MassDOT from any future claims, the negotiator will obtain said release.
- 13.6 If the property owner is not satisfied with the offer, MassDOT will make the award to the owner without prejudice which allows the property owner to receive the award and maintain their right to dispute the amount.
 - 13.7 MassDOT will neither advance or delay court filing action in any manner that may be interpreted as being coercive.
 - 13.8 If a property owner should desire to donate some or all the real property required for project purposes, the owner must be informed in writing of their right to receive compensation for the property. A Federal matching credit may be applicable to project costs in accordance with the provisions of 23 CFR 710.505.
 - 13.9 MassDOT provides for dispute resolution through the administrative settlement process. The process was developed to enhance the acquisition process by adding flexibility to settle reasonable differences in opinion of value and to negotiate the acquisition of required right of way which would otherwise require judicial determinations of fair compensation.
 - 13.10 An administrative settlement is typically warranted when reasonable efforts to negotiate an agreement for the original offer of just compensation amount have failed and an authorized Agency official approves such an arrangement. Such an arrangement must be reasonable, prudent, and in the public interest. When federal funds pay for or participate in acquisition costs, a written justification shall be prepared, which states what available information, including trial risks, support such a settlement.
 - 13.11 The property owner may provide documentation and information related to the value of their property, including but not limited to, an appraisal for consideration by MassDOT. Any appraisal submitted by the property owner will be reviewed to the same level of quality as a MassDOT obtained appraisal.
 - 13.12 Upon receipt of an appeal from the property owner, the Negotiator will initiate and conduct a thorough investigation of all files to familiarize themselves with all activity for that property to date. Based on that initial investigation, the negotiator may consult with all parties involved, as well as external resources as required. The Negotiator will gather all factual information, discuss the findings with the Negotiation team, and make a recommendation by presentation of the facts to the Administrative Claims Review Committee (ACRC) for their consideration. The Negotiator will provide the ACRC with all the factual information collected, and any other material deemed necessary and of value.
 - 13.13 The Negotiator will coordinate with the ROW legal team for the settlement agreement.
 - 13.14 If the ACRC does not concur by vote with the Negotiation team's recommendation, the vote will be retained in the file. The ACRC will provide the Negotiator with a written justification for their decision that will be forwarded to the property owner.

- 13.15 If a resolution cannot be reached through the administrative settlement process, the property owner can bring a claim in court for additional monies within three years from the date of recording.
- 13.16 All reasonable efforts to negotiate the amount of the award will be made and will continue until an administrative settlement is reached or until a claim is filed in court by the property owner, whichever comes first.

CHAPTER 14 – Right of Way Engineering Section

Engineering - The Right of Way (ROW) Engineering Section is responsible for all engineering services required for the bureau's activities, including plan review, coordination with other sections within MassDOT and with consultants, contract administration for fee services, scheduling, monitoring and reporting plan development status, management of the bureau's electronic data management and technology needs.

- 14.1 The Engineering Section may be called on to participate in early phases of a project's design by the Project Manager or the design consultant. Particularly if a project is complex or non-typical, early coordination between the design team and the ROW Engineering Section is encouraged to avoid a lengthy Preliminary ROW Plan review process.
- 14.2 Preliminary ROW Plans – The Engineering Section receives the Preliminary Right of Way (ROW) Plans from the Design Project Manager for review.
- 14.3 The Preliminary ROW Plans are reviewed to ensure conformance with [MassDOT Project Development and Design Guide](#), the most recent version of the [Plan Preparation Guidelines](#) and the [MassDOT CAD Standard](#). A comment and revision process is repeated until the plans are acceptable for use in the ROW acquisition process. These reviews include field visits to verify existing site conditions, examination of the current design to determine adequacy of the proposed ROW acquisitions, and consideration of potential design changes that could reduce impacts to abutting property owners.
- 14.4 Prior to finalizing Preliminary ROW Plan review the Engineering Section will request title examinations from the Conveyance Section. When the title examinations are available, the Engineering Section will compare them to the information on the plans and make any final corrections to the property owner information necessary to match the title information. The engineering section will also check the title examinations for any land restrictions that will impact the proposed takings, to ensure the frontage shown on the ROW plans are within an acceptable tolerance of the frontage reported on the deed, and to see if any existing easement exist so duplicate rights do not need to be taken
- 14.5 When all comments are addressed, and the plans are of sufficient quality, the ROW Engineering Administrator notifies the Design Project Manager, the ROW Projects Administrator and the State Layout Engineer that the Preliminary ROW Plans are “accepted.”
- 14.6 Parcel Sketches - After the preliminary ROW plans have been accepted the Engineering section uses the accepted plans to create individual color-coded parcel sketches for the Field Agents use in explaining the property impacts to the owner(s). The individual sketches are saved in PDF format and uploaded to the appropriate case files.
- 14.7 The Engineering Section is responsible for determining the technology needs of the Bureau in coordination with Director, Deputy Director and other section administrators.

- 14.8 The Engineering Section will advocate for the Bureau with MassDOT's IT department and with others as requested by the Director in support of the Bureau's technology requirements.
- 14.9 The Engineering Section will coordinate the development, installation, staff's education, and maintenance of the Bureau's technology assets, such as database development, maintenance, and updates; preservation of record documents; management and control of access by consultants to the bureau's case files; development and maintenance of the bureau's page on the MassDOT website; coordination with Layouts, Planning, OREAD, and MBTA regarding GIS data management and shared use applications.

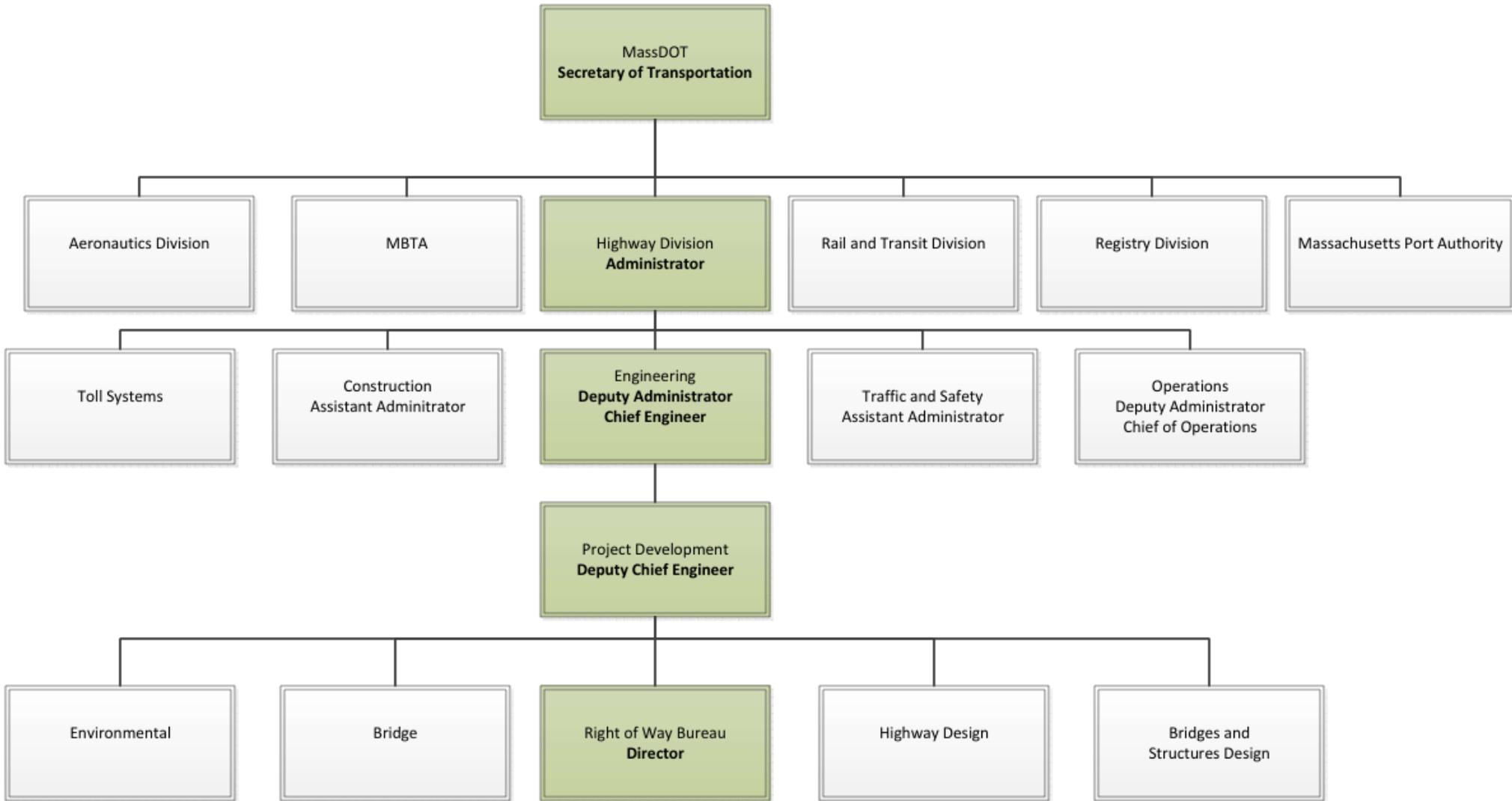
CHAPTER 15 – Federal Highway Administration

- 15.1 From the Federal perspective, oversight of the administration of the right of way program for Federal-aid projects in Massachusetts is primarily the responsibility of the Federal Highway Administration (FHWA), Massachusetts Division Office.
- 15.2 The Massachusetts Division Office is located in 220 Binney Street – 9th floor, Cambridge, MA 02142.
- 15.3 Oversight responsibilities are carried out by the Right of Way Program Manager and/or Realty Specialist who reports to the Massachusetts Division Administrator
- 15.4 Right of way project and program oversight responsibilities are outlined in the most current “Stewardship and Oversight Agreement” executed between MassDOT and FHWA (refer to <https://www.fhwa.dot.gov/federalaid/stewardship/agreements/ma.pdf>).
- 15.5 The use of Federal funds in the right of way and real estate program is governed by various Federal laws and regulations. Among those referred to in this manual are:
 - A. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended
 - B. Title 23, United States Code, Chapter 1, Section 131 (Control of Outdoor Advertising)
 - C. Title 23, United States Code, Chapter 1, Section 136 (Control of Junkyards)
 - D. Title 23, United States Code, Chapter 1, Section 142(f) (Availability of Right of Way)
 - E. Title 23, United States Code, Chapter 3, Section 323 (Donations)
 - F. Title 23, Code of Federal Regulations, Part 1, Section 1.23 (Right of Way)
 - G. Title 23, Code of Federal Regulations, Part 1, Section 635 (Physical Construction Authorization)
 - H. Title 23, Code of Federal Regulations, Part 645 (Utilities)
 - I. Title 23, Code of Federal Regulations, Part 646 (Railroads)
 - J. Title 23, Code of Federal Regulations, Part 652 (Pedestrian and Bicycle Accommodations and Projects)
 - K. Title 23, Code of Federal Regulations, Part 710 (Right of Way and Real Estate)
 - L. Property management, ROW use agreements and disposal of excess real property under 23 CFR 710 Subpart D, 710.401 – 710.409.
 - M. Title 23, Code of Federal Regulations, Part 750 (Highway Beautification) Title 23, Code of Federal Regulations, Part 771 (Environmental Impact and Related Procedures)

- N. Title 49, Code of Federal Regulations, Part 21 (Nondiscrimination in Federally-Assisted Programs of the Department of Transportation)
 - O. Title 49, Code of Federal Regulations, Part 24 (Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs)
 - P. Title VI, Civil Rights Act of 1964)
 - Q. Title VIII, Civil Rights Act of 1964
- 15.6 Additional right of way program guidance can be accessed electronically at the FHWA Real Estate Services website: https://www.fhwa.dot.gov/real_estate/index.cfm

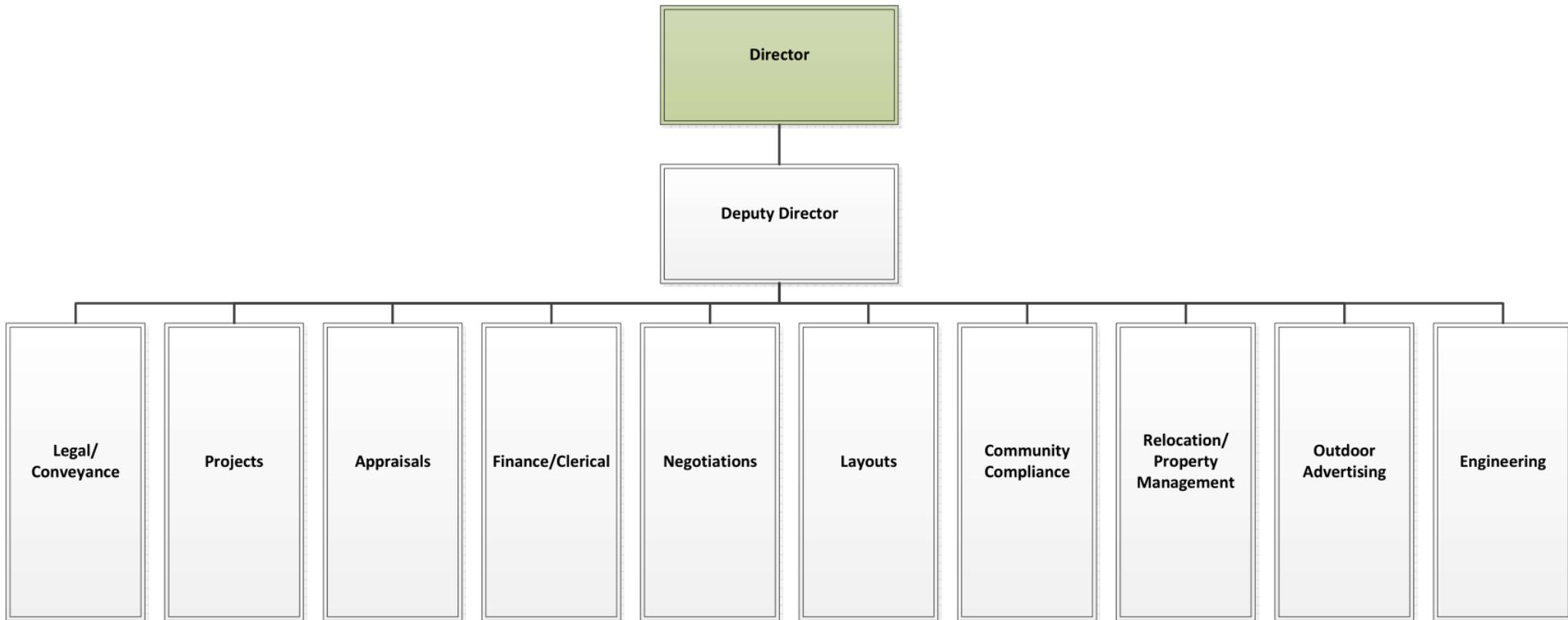
CHAPTER 16 – Exhibits

EXHIBIT 1-1 REPORTING PATH WITHIN MASSDOT'S ORGANIZATIONAL STRUCTURE



Right of Way Bureau Reporting Path within MassDOT's Organizational Structure

EXHIBIT 1-2 RIGHT OF WAY BUREAU ORGANIZATIONAL STRUCTURE



MassDOT – Highway Division - Right of Way Bureau Organizational Structure

Mortgage Information	
1. Name _____ Address _____ Registry reference _____	2. Name _____ Address _____ Registry reference _____
3. Name _____ Address _____ Registry reference _____	4. Name _____ Address _____ Registry reference _____
Mortgage notes _____	

Leases	
1. Name _____ Address _____ Registry reference _____	2. Name _____ Address _____ Registry reference _____
3. Name _____ Address _____ Registry reference _____	4. Name _____ Address _____ Registry reference _____
Lease notes _____	

Encumbrances	
Grantee _____ Address _____	Type _____ Ref _____ Hide on layout? _____
Grantee _____ Address _____	Type _____ Ref _____ Hide on layout? _____
Grantee _____ Address _____	Type _____ Ref _____ Hide on layout? _____
Grantee _____ Address _____	Type _____ Ref _____ Hide on layout? _____
Grantee _____ Address _____	Type _____ Ref _____ Hide on layout? _____
Grantee _____ Address _____	Type _____ Ref _____ Hide on layout? _____
Encumb _____	

Tenants
Name and contact info, if required for project

EXHIBIT 3-2 EARLY ACQUISITION ALTERNATIVES & REQUIREMENTS

<p style="text-align: center;">Early Acquisition (EA) Alternatives & Requirements (23 CFR 710.501)</p>							Revision date: 02/12/2018
Acquiring ROW Alternatives	Require NEPA Decision	Allow 4F Properties	Start Acquisition	Request Reimbursement/Credits	Comply w/ Federal Law*	Subject to Condemnation	Requirements
<p>1) State-funded Early Acquisition without Federal Credit or Reimbursement</p> <p>23 CFR 710.501(b) 23 USC 108(c)(1)</p>	NO	No, if the State wishes to maintain Federal eligibility for future Federal assistance on any part of the transportation project	When legally permissible by State Law	N/A	Yes, if the transportation project maintains Federal eligibility.	YES, if State law allows	<p>A State may carry out early acquisition entirely at its expense. However, a State may maintain eligibility for future Federal assistance on a transportation project. To maintain eligibility, early acquisition must comply with the following requirements of 23 CFR 710.501(c)(1)-(5):</p> <ul style="list-style-type: none"> • Property lawfully obtained by the State agency; • Not 4F property; • Acquisitions and relocations comply with the Uniform Act; State agency complies with Title VI of the Civil Rights Act; • FHWA concurs with the State that the Early Acquisition did not influence the NEPA decision for the proposed transportation project including: <ul style="list-style-type: none"> ○ The need to construct, ○ The consideration of alternatives, or ○ The selection of design or location.
<p>2) State-funded Early Acquisition eligible for Future Credit</p> <p>23 CFR 710.501(c)</p>	NO	NO	When legally permissible by State law.	Request credit for the portion of the property after incorporated in the Federal-aid transportation project	YES	YES, if State law allows	<ul style="list-style-type: none"> • Property lawfully obtained by the State agency; • Not 4F property; • Acquisitions and relocations comply with the Uniform Act; • State agency complies with Title VI of the Civil Rights Act; • FHWA concurs with the State that the Early Acquisition did not influence the NEPA decision for the proposed transportation project including: <ul style="list-style-type: none"> ○ The need to construct, ○ The consideration of alternatives, or ○ The selection of design or location; • Property is incorporated in the transportation project to which the credit will be applied; and • The amount of the credit may be current fair market value or historic acquisition cost to acquire; however, this credit must be applied consistently within the transportation project subject to the requirements at 23 U.S.C. 323(b).
<p>3) State-funded Early Acquisition Eligible for Future Reimbursement</p> <p>23 CFR 710.501(d) 23 USC 108(c)</p>	NO	NO	When legally permissible by State law.	After NEPA is completed and real property interests are incorporated in a Title 23 project and all applicable requirements are met.	YES	YES, if State law allows	<ul style="list-style-type: none"> • Property lawfully obtained by the State agency; • Not 4F property; • Acquisitions and relocations comply with the Uniform Act; • State agency complies with Title VI of the Civil Rights Act; • FHWA concurs with the State that the Early Acquisition did not influence NEPA for the proposed transportation project including: <ul style="list-style-type: none"> ○ The need to construct, ○ The consideration of alternatives, ○ The selection of design or location; • State has a mandatory, comprehensive, and coordinated land use, environmental, and transportation planning process under State law, and the Governor has determined in advance that the acquisition is consistent with the State plans and is consistent with the State transportation planning process under 23 U.S.C. 135; • The State selects the alternative for which the real property interest is acquired pursuant to NEPA; • Prior to approval for Federal participation, NEPA, section 4(f), and all other environmental review/approval requirements are complete (see https://www.fhwa.dot.gov/environment/env_sum.cfm and provisions in 771.119(g) and 771.125(a)(1) on reasonable assurances of compliance).

Acquiring ROW Alternatives	Require NEPA Decision	Allow 4F Properties	Start Acquisition	Request Reimbursement/Credits	Comply w/ Federal Law*	Subject to Condemnation	Requirements
<p>4) Federally Funded Early Acquisition (Stand-alone Project)</p> <p>23 CFR 710.501(e) 23 USC 108(d)</p>	<p>YES, NEPA decision required for the early acquisition, stand-alone project only (separate from NEPA for the transportation project). (Usually a CE)</p>	<p>NO</p>	<p>After NEPA is complete for the Early Acquisition Project</p>	<p>This is a reimbursable, stand-alone, Federal-aid Project based on FHWA authorization to proceed with the early acquisition</p>	<p>YES</p>	<p>NO</p>	<ul style="list-style-type: none"> • Reimbursement of acquisition costs is based on the usual costs to acquire 23 CFR 710.203(b)(1). <ul style="list-style-type: none"> • State certifies and FHWA concurs that the following requirements have been met: <ul style="list-style-type: none"> ○ State has authority to acquire under State law; ○ Is for a Title 23 eligible transportation project and does not involve 4F properties; ○ Will not cause significant adverse environmental impacts because of the EA project or from cumulative effects of multiple EA projects carried out in connection with the transportation project; ○ Will not limit the choice of reasonable alternatives for the transportation project or otherwise influence the decision of FHWA on any approval required of the transportation project; ○ Will not prevent FHWA from making an impartial decision as to whether to accept an alternative that is being considered in the environmental review process for a proposed transportation project; ○ Is consistent with the State transportation planning process under 23 U.S.C. 135; ○ Complies with other applicable Federal laws (including regulations); ○ Will be acquired through negotiation, without the threat or use of condemnation; ○ Will not reduce or eliminate relocation benefits under the Uniform Act and Title VI of the Civil Rights Act; ○ The Early Acquisition project is in the applicable Transportation Improvement Program(s); and ○ NEPA for the Early Acquisition project is complete (including compliance with 23 CFR 710.501(e)(4)), and approved by FHWA. • Real property interests acquired cannot be developed in anticipation of the transportation project until a NEPA decision for that transportation project has been completed. No development activity related to demolition, site preparation, or construction that is not necessary to protect health or safety may be undertaken, and any such work requires prior FHWA approval under 23 CFR 710.501(f). • If reimbursement is made and the real property interests are not incorporated in a transportation project within 20 years, pursuant to 23 U.S.C.108(d)(7) FHWA must offset the amount against Federal-aid funds apportioned to the State. • Eligibility for Relocation Assistance a person is considered displaced when required to move from the real property as a direct result of a binding written agreement for the purchase of the real property interest. Except as provided in 23 CFR 710.501(h), options to purchase and similar agreements do not create an immediate commitment and do not create relocation eligibility. <p>Note: The "Option" to purchase the property at a later date allows the property to remain occupied limiting the risk of blight in the neighborhood due to vacant buildings.</p>

**Advance Acquisition (EA)
Alternatives & Requirements**
(23 CFR 710.501)

Revision date: 02/12/2018

Acquiring ROW Alternatives	Require NEPA Decision	Allow 4F Properties	Start Acquisition	Request Reimbursement/Credits	Comply w/ Federal Law*	Subject to Condemnation	Requirements
1) Protective Buying 23 CFR 710.503	** Yes, typically a CE. See 23 CFR 771.117(d)(12)	Yes, if 4F determination and, if applicable, procedures of the Advisory Council on Historic Preservation, are completed for the parcel. 710.503(a)(3)-(4)	Usually during the NEPA process.	After property is incorporated in the Federal-aid transportation project.	YES	YES, if State law allows	<ul style="list-style-type: none"> Development of the property is imminent and would limit future transportation choices. Acquisition shall not influence the environmental review of the transportation project, including decisions on need to construct the transportation project or selection of an alternative.
2) Hardship Acquisition 23 CFR 710.503	** Yes typically a CE. See 23 CFR 771.117(d)(12)	Yes, if 4F determination and, if applicable, procedures of the Advisory Council on Historic Preservation, are completed for the parcel. 710.503(a)(3)-(4)	Usually during the NEPA process.	After property is incorporated in the Federal-aid transportation project.	YES	Yes, if State law allows. See comment at right.	<ul style="list-style-type: none"> A request for hardship acquisition based on a property owner's written submission that shows (1) remaining in the property poses an undue hardship compared to other property owners because of health, safety, or financial reasons, and (2) the owner has been unable to sell the property at fair market value because of the impending transportation project, within a time period that is typical for properties not impacted by the impending transportation project. Acquisition must not influence the environmental review of the transportation project, including decisions on need to construct the transportation project or selection of an alternative. <p>Note: While the agency may condemn if a settlement cannot be reached on a hardship acquisition, great care should be taken to ensure that the decision is warranted both for the property owner and the agency.</p>

* Relevant Federal Law includes the Uniform Act, Title VI Civil Rights Act, and Federal Regulations (primarily, 23 CFR Part 710).

** Note: Protective Buying and Hardship Acquisitions usually occur However, prior to approving an AA, NEPA and section 4(f) clearance is necessary for the AA parcels. This requires the AA parcels to be carved out from the overall transportation project to do NEPA and 4(f) review on those parcels. The NEPA class of action is typically a CE. The AA reviews and decisions are for advanced acquisition, and the AA parcels still will be included in the NEPA and section 4(f) evaluations for the transportation project.

EXHIBIT 3-3 DESIGNATED REPRESENTATIVE FORM

**DESIGNATED REPRESENTATIVE
RIGHT OF WAY BUREAU**

Project «Project Name»
Project Number «Project Number»
Owner Name «Owners»
Parcel(s) «Parcel List»
Property Address «Property Address», «City»

Dear property owner,

You have the right to voluntarily elect a designated representative to represent you in all matters associated with the Right of Way Bureau (“ROW”) acquisition process for this project which shall include, but not be limited to, the right to receive all correspondences from ROW unless limitations are imposed by you with respect to your election.

Please provide the following information for the designated representative.

Contact Information

Contact Name _____

Address Line 2 (opt) _____

Street Address _____

City, State ZIP _____

Phone _____

E-mail _____

If any, please list any limitations to this consent.

Owner signature
Date:

**EMAIL COMMUNICATION AUTHORIZATION
RIGHT OF WAY BUREAU**

Project _____
Project Number _____
Owner Name _____
Parcel(s) _____
Property Address _____

The Right of Way Bureau (“ROW”) provides property owners with notices by mail. However, if you so elect, you may exercise the option to receive correspondence from ROW via email. In order to confirm your election of this option, please provide your email address and authorization for electronic correspondence below.

Would you like to receive communications from MassDOT via email?

Yes, I would like to receive communications from MassDOT via email.

No, I prefer to receive communications from MassDOT by mail only.

Your email address on file is _____

Is this information correct?

Yes

No, the correct email address is _____

If you have any questions or if assistance is required, please contact your ROW agent.

Owner signature

MassDOT ROW Bureau Electronic Communication Procedure.

Property owners impacted by a MassDOT acquisition, may elect to receive notices by electronic delivery in lieu of certified or registered first class mail. Property owners must fill in and sign the Email Contact Authorization (ECA) form to authorize email communication from MassDOT. To do so, ROW staff must adhere to the following process to ensure compliance with Title 49 CFR 24.5.

- 9) The ECA must be sent utilizing the EForms software. By doing so, the case information will be automatically filled in the ECA, and automatically sent out, via Adobe Sign, to the property owner's email on file.
- 10) ROW agents will be automatically notified when the ECA has been signed and approved. ROW agents can check the status of their Adobe Sign agreements on our internal SharePoint site.
- 11) Upon receipt of the Adobe Sign Agreement by the property owner, a received timestamp is automatically added to our internal record keeping system.
- 12) Reminders of the pending agreement will be automatically sent out weekly until signed.
- 13) Unsigned requests will automatically expire after 2 months.
- 14) When signed, the property owner's responses, an electronic copy of the signed agreement, and an agreement certification will be automatically saved to the Case folder. This signed electronic copy of the document will be locked from any further modifications.
- 15) If the property owner provides a different email address in their ECA, or wish to change their email address on file after it has been authorized, a new ECA form must be sent to this new email address.
- 16) Upon receipt of a signed ECA, property owners can receive fill out and sign Property Interview Record (PIR) and other regular correspondence, forms and documents from MassDOT via email.

EXHIBIT 4-1 APPRAISAL CONTACT LETTER



Charles D. Baker, Governor
Karyn E. Polito, Lieutenant Governor
Stephanie Pollack, Secretary & CEO
Jonathan L. Gulliver, Highway Administrator



«Print Date»

«Contact Name»

«Email»

«Owners»

«Mailing Address»

«Mailing City State Zip»

«Co Owners»

«City»

«Project Name»

Project #«Project Number»

Parcel(s): «Parcel List»

Property Address: «Property Address»

Dear Property Owner:

The purpose of this letter is to notify you that MassDOT – Highway Division will be initiating the appraisal process in reference to the above-mentioned project. I have been directed to provide an appraisal of the parcel(s) to be acquired from your property.

Over the next few weeks, I will be conducting inspections of the properties affected by this project and meeting onsite with property owners. If you wish to accompany me on the inspection of your property, please contact me at your convenience.

Sincerely,

«Appraiser»

MassDOT Right of Way Bureau

«Appraiser Phone»

«Appraiser Email»

Certified Mail No. «Certified Mail Number»



Charles D. Baker, Governor
Karyn E. Polito, Lieutenant Governor
Stephanie Pollack, Secretary & CEO
Jonathan L. Gulliver, Highway Administrator



Appraiser's Affidavit

I, «Appraiser», HEREBY CERTIFY:

that on «Appraisal Value Date» I afforded the property owner or the owners' representative

the opportunity to accompany me on my inspection of the property located at:

«Property Address», «City», MA

Owner:

Appraiser:

Signature

Signature

Owner's Representative:

Appraiser:

Signature

Signature



MassDOT Restricted Appraisal Report Format (Staff Only)

1. **Cover Page**
 - City/town, project, owner's name, owner's mailing address, property location, federal aid project number (if applicable), layout number, parcel numbers (including area and interest acquired).
2. **Table of Contents**
3. **Introduction - Summary of Salient Facts and Conclusions**
 - The Objective and Purpose of the Appraisal, Client and Other Intended Users, Competency of the Appraiser, Present Use of Property, Owner of Record, 5-Year Sale/Transfer, Brief Description of Property, Property Rights Appraised, Parts to be Acquired, Zoning, Effective Date of Valuation, Highest and Best Use Before Acquisition, Highest and Best Use After Acquisition, Valuation Date and Conclusion
4. **Scope of the Appraisal**
5. **Estimated Exposure Time**
6. **Definition of Market Value**
7. **Property Rights Appraised**
8. **Date of the Value Estimate and Property Inspection**
9. **Assumptions and Limiting Conditions**
10. **Extraordinary Assumptions and Hypothetical Conditions**
11. **Municipal Data; Location and Neighborhood**
12. **Transportation Project Overview**
13. **Project Influence**
14. **Grantor, Title, and Utilities Data**
15. **Property Assessment and Real Estate Tax Liability**
16. **5-Year Sales History**
17. **Zoning and Restrictions**
18. **Description of Land and Improvements (Before Acquisition)**
19. **Photographs**
 - Properly Identified, Direction Taken, Date Taken, and by whom
20. **Proposed Right of Way Plan (Sketch)**
21. **Description of Parcels to be Acquired (Land and Improvements), Effect of Taking and the Proposed Construction on Remainder Property, Work Included in Contract; In Lieu of Damages**
22. **Highest and Best Use Analysis**
23. **Description of Land and Improvements (After Acquisition)**
24. **Analysis of Value Cost to Cure, Correlation of Value, Explanation of Special Benefits (if applicable)**
25. **Reconciliation, and Final Estimate of Damages**
26. **Certificate of the Appraiser (USPAP)**

Addenda and Exhibits

27. **Subject Deed**
28. **Comparable Sale Location Map**
29. **Comparable Sale Data Sheet**
 - Photo, Sketch, Narrative Analysis of Sale/Rental
30. **Appraiser's Contact Letter**
 - Mailed Certified Mail with Returned Receipt
31. **Affidavit of Appraiser**
32. **Other Pertinent Exhibits**
33. **Allocation of Damages**



MassDOT Appraisal Report Format

1. **Cover Page**
 - City/town, project, owner's name, owner's mailing address, property location, federal aid project number (if applicable), layout number, parcel numbers (including area and interest acquired).
 2. **Table of Contents**
 3. **Transmittal Letter (Fee Only)**
 4. **Introduction - Summary of Salient Facts and Conclusions**
 - The Objective and Purpose of the Appraisal, Client and Other Intended Users, Competency of the Appraiser, Present Use of Property, Owner of Record, 5-Year Sale/Transfer, Brief Description of Property, Property Rights Appraised, Parts to be Acquired, Zoning, Effective Date of Valuation, Highest and Best Use Before Acquisition, Highest and Best Use After Acquisition, Valuation Date and Conclusion
 5. **Scope of the Appraisal**
 6. **Estimated Exposure Time**
 7. **Definition of Market Value**
 8. **Property Rights Appraised**
 9. **Date of the Value Estimate and Property Inspection**
 10. **Assumptions and Limiting Conditions**
 11. **Extraordinary Assumptions and Hypothetical Conditions**
 12. **Municipal Data; Location and Neighborhood**
 13. **Transportation Project Overview**
 14. **Project Influence (Before)**
 15. **Grantor, Title, and Utilities Data**
 16. **Property Assessment and Real Estate Tax Liability**
 17. **5-Year Sales History**
 18. **Zoning and Restrictions**
 19. **Property Plan**
 20. **Description of Land and Improvements (Before Acquisition), Floor Plans and Dimensions of Structure (if applicable)**
 21. **Photographs**
 - Properly Identified, Direction Taken, Date Taken, and by whom
 22. **Proposed Right of Way Plan (Sketch)**
 23. **Description of Parcels to be Acquired (Land and Improvements), Effect of Taking and the Proposed Construction on Remainder Property, Work Included in Contract; In Lieu of Damages**
 24. **Highest and Best Use Analysis (Before/After)**
 25. **Description of Land and Improvements (After Acquisition)**
 26. **Valuation Approaches to Value (Sales Comparison, Income Approach, and Cost Approach)**
 27. **Analysis of Value Cost to Cure, Correlation of Value, Explanation of Special Benefits (if applicable)**
 28. **Reconciliation, and Final Estimate of Damages**
 29. **Certificate of the Appraiser (USPAP)**
- Addenda and Exhibits**
30. **Subject Deed**
 31. **Comparable Sales/Rentals Location Map**
 32. **Comparable Sales/Rentals Data Sheets**
 - Photo, Sketch, Narrative Analysis of Sale/Rental
 33. **Appraiser's Contact Letter**
 - Mailed Certified Mail with Returned Receipt
 34. **Affidavit of Appraiser**
 35. **Other Pertinent Exhibits**
 36. **List of Non-Compensable (Personal) Property (if applicable)**
 37. **Economic Rental for Property Management Purposes (if applicable)**
 38. **Allocation of Damages**
 39. **Qualifications of the Appraiser**

EXHIBIT 4-5 LETTER OF ASSIGNMENT



<Date>

<Sent Via>

City/Town: <City/Town>

Project: <Project Name>

Project No.: <XXXXXX>

Letter of Assignment

<Appraiser>

<Appraisal Firm>

<Street Address>

<City/Town, Zip Code>

Dear <Appraiser>:

Under authorization of and in accordance with the terms of your contract, you are hereby assigned to submit appraisal reports for the proposed total/partial acquisition(s) in relation to the above referenced project in <City/Town>. All information needed to perform this assignment was either sent to you already or will be sent when available.

Payment will be in accordance with your proposal given by email on <Date Received> in the amount of \$<Fee Amount> (<Written Fee Amount>). The completion of this assignment is not to exceed <XX> days starting <Assignment Commencement Date>. Delivery must be received in this office no later than <Assignment Completion Date>.

If there are any questions or if additional information is needed, please call <Appraisal Administrator Name>, Right of Way/Appraisal Administrator at (XXX) XXX-XXXX.

Sincerely,

<Director Name>, Director
Right of Way Bureau
Cc: file

EXHIBIT 4-6 REVIEW APPRAISER'S CHECKLIST

Appraiser:					
Review Appraiser:			Field reviewed:	Yes:	No:
Type of takings:	fee interest taking(s),	permanent easement(s), and	temporary easement(s)		

Compliant?		COMPLIANCE CHECKLIST
Yes	No	
		1. Owner's name; owner's mailing address; address of property
		2. Project number; Layout number; Federal Aid Project Number (if applicable)
		3. Letter of transmittal, dated and signed (fee appraisal only)
		4. Purpose of appraisal; property rights appraised; extraordinary assumptions and/or hypothetical conditions
		5. Estimated exposure time/jurisdictional exception; definition of market value; scope of work; effective date of value and date of appraisal report
		6. Description of location and neighborhood, and neighborhood influence; market analysis
		7. Grantor, title abstract, five-year sales history, and known and observed encumbrances
		8. Photographs properly identified, date taken, and by whom
		9. Description of entire property; present use; utilities; floor plans of structures; dimensions and areas (if applicable); assessment
		10. Zoning and land use restrictions
		11. Highest and best use of property as of the date of value (before the taking(s))
		12. Land valuation – comparable sales analysis
		a. Comparable sales data form with detailed information, including:
		i. Photo and sketch
		ii. Description of relevant physical, legal and economic factors
		iii. Parties to the transaction, and source and method of financing
		iv. Verification with party involved with the transaction
		b. Narrative analysis of sales
		c. Explanation of adjustments
		d. Map or sketch showing location of sales
		13. Valuation with improvements – comparable sales analysis (if applicable)
		a. Comparable sales data form with detailed information
		b. Narrative analysis of sales
		c. Explanation of adjustments
		d. Map or sketch showing location of sales
		14. Overview of the transportation project; description of parcels to be acquired; work in lieu of damages
		15. Plan showing all parcels to be acquired
		16. Description of remaining property:
		a. Effect of layout and construction on remainder
		b. Highest and best use after the taking(s)
		c. Special benefits to remainder; if any, justify
		17. Analysis of value
		a. Value of the part(s) taken, as part of the whole
		b. Value of site and/or building improvements taken, if any
		c. Value of severance damage, if any
		d. Value of special benefits, if any
		18. Correlation (reconciliation) and final estimate of damages
		19. Appraiser's certification statement; assumptions and limiting conditions; project influence statement
		20. Subject property deed (complete title report is available on SharePoint)
		21. List of non-compensable (personal) property (if applicable)
		22. Economic rental, for property management purposes (if applicable)
		23. Appraiser contact letter with return receipt; appraiser affidavit properly filled out
		24. Allocation of damages
		25. Math check (by reviewer)

	<i>Appraiser</i>	<i>Reviewer</i>
<i>Final Opinion of Damages:</i>	\$	\$

EXHIBIT 4-7 STATEMENT OF THE REVIEW APPRAISER

I, [review appraiser], as Review Appraiser, hereby certify that:

- It is my opinion that \$ _____ is a reasonable measure of market value and/or damages. I recommend the acceptance and approval of the appraisal report under review as the basis for the establishment of the amount believed to be Just Compensation. This determination is based upon all relevant information that is available, including the appraisal and data submitted by [Appraiser's name], as well as my own observations and calculations. This determination is not based upon additional information that was not available to the appraiser as of the effective date of the appraisal report.
- I understand that the above-stated opinion of market value and/or damages is to be used in connection with a Federal Aid Project.
- I acknowledge the following checked statements:
 - I made a visual inspection of the parcel(s) to be acquired, and the comparable sales relating thereto.
 - I am familiar with the project, and the area, from a recent visit.
- I have no direct or indirect, present or contemplated future, personal interest in the property that is the subject of the appraisal report under review, nor in any benefit from the acquisition of such property; that my immediate family or partner, or any business organization in which I am serving as an officer, director, trustee, partner, or employee, or any person or organization with whom I am negotiating or have any arrangement concerning prospective employment, did not perform, in whole or in part, this appraisal review, and that I, my immediate family or partner, or any business organization in which I am serving as an officer, director, trustee, partner, or employee, or any person or organization with whom I am negotiating or have any arrangement concerning prospective employment, do not have a financial interest in the property which is herein appraised; that I have read the provisions of M.G.L. c. 268A, S. 23, a copy of which is attached to and made a part of this appraisal review report; and that to the best of my knowledge, in carrying out this appraisal review assignment, I have not violated the standards of conduct set forth in said section 23.
- My opinions and determinations have been reached independently, without collaboration or direction.
- My recommendation of acceptance of market value and/or damages includes only items that are compensable under State law and are eligible for Federal reimbursement as herein noted.
- The Appraisal report under review contains adequate relevant data to arrive at an opinion of value. Adjustments to the data appear proper and reasonable. The methods and techniques used in the appraisal are consistent with proper appraisal practices. The analyses, opinions, and conclusions are appropriate and reasonable.
- In my opinion, this report has been prepared in conformity with the *Uniform Standards of Professional Appraisal Practice*, the *Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970*, Massachusetts State Law and any laws, policies, regulations, and procedures applicable to appraisal of right-of-way for such purposes in the Commonwealth of Massachusetts, and MassDOT – Highway Division policy as it relates to the appraisal of right-of-way.
- No person attempted to unduly influence or coerce me in preparing this appraisal review.

Additionally, I certify that, to the best of my knowledge and belief:

- The statements of fact contained in this report are true and correct.
- The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
- I have no present or prospective interest in the property that is the subject of the work under review and no personal interest with respect to the parties involved.

- I have performed no services, as an appraiser or in any other capacity, regarding the property that is the subject of the work under review within the three-year period immediately preceding acceptance of this assignment. [Or state service performed].
- I have no bias with respect to the property that is the subject of the work under review or to the parties involved with this assignment.
- My engagement in this assignment was not contingent upon developing or reporting predetermined results.
- My compensation for making this appraisal review is not based on the amount of the opinion of value.
- My compensation is not contingent on an action or event resulting from the analyses, opinions, or conclusions in this review or from its use.
- My compensation for completing this assignment is not contingent upon the development or reporting of predetermined assignment results or assignment results that favor the cause of the client, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal review.
- My analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the *Uniform Standards of Professional Practice*, 49 CFR 24.104, and MassDOT requirements, regulations and procedures.
- I have made a personal inspection of the subject of the work under review.
- No one provided me significant appraisal or appraisal review assistance.

[Review Appraiser] MA Certified General Real Estate Appraiser # _____		Date

Attachment: Appraisal Report by [Appraiser's name] with a signature and transmittal date of _____, of property owned by _____ located at _____, _____, MA, to be affected by the proposed acquisition(s) identified as Parcel IDs _____.

EXHIBIT 4-8 REVIEWING APPRAISER'S COMMENTS AND ESTIMATE

Purpose of the Appraisal Review. The purpose of this appraisal review is to establish the amount of Just Compensation for the property rights conveyed through the proposed acquisition of ____ fee interest taking(s), ____ permanent easement(s), and ____ temporary easement(s).

The function or intended use of this appraisal review report is for internal decision making by MassDOT (the client) and its regulatory partners. The information contained in this appraisal review report is specific to the needs of the client and for the intended use stated herein. The review appraiser is not responsible for unauthorized use of this appraisal review report.

Identification of the Work under Review.

1. The F.A. Project number is NFA.
2. The subject of this appraisal review is the [appraisal report] report by [appraiser's name] with an effective date of value of _____ and a signature and transmittal date of the appraisal report of _____.
3. The property that is the subject of the appraisal report under review is the property owned by _____ located at _____, MA.
4. The subject property is situated within [city]'s _____ zoning district. The subject property also lies in the _____ overlay district.
5. The subject property will be affected by the proposed acquisition(s) identified as Parcel IDs _____.
6. The temporary easements taken throughout the proposed project are for a ___-year period.

Scope of the Appraisal Review. The review process included, but was not limited to the following:

1. Pre-work consultation with the appraiser regarding basic specifications, appraisal instructions, and review procedures.
2. Site inspections of the subject property and the comparable sales used by the appraiser.
3. Review of the Right of Way plans, legal description, deed, and property field card for the subject property and all the comparable sales.
4. A complete reading of the appraisal report identified.
5. An analysis as to the adequacy and relevance of the data used and the propriety of any adjustments made.
6. An analysis as to whether the appraisal methods and techniques used are appropriate.
7. An analysis as to whether the analyses, opinions or conclusions in the appraisal being reviewed are credible and appropriate.
8. An analysis of the data contained in the appraisal report and a mathematical check of the calculations.
9. Consultation with the appraiser with requests for clarification, corrections and/or revisions.
10. An analysis as to whether the appraisal report conformed to applicable federal and state laws, standards, and guidelines, including the *Uniform Standards of Professional Practice*, 49 CFR 24.104, and MassDOT requirements, regulations and procedures.

Review Findings and Conclusions. Based on my analysis of the [appraisal report] that is the subject of this review, I conclude:

1. The appraisal report reflects the fair market value of the property to be acquired and provides a reasonable opinion of Just Compensation.
2. The appraisal analyses and report have been made in accordance with accepted appraisal techniques and the applicable approaches to value have been used. The appraiser has relied upon the sales comparison approach to conclude an opinion of land value, which is considered reasonable and well supported by the sales data. Additionally, the appraiser has relied on the cost approach to determine the value of any site improvements taken, which is considered reasonable and well supported by the cost data.
3. The appraisal report is in compliance with applicable federal and state laws, standards, and guidelines.
4. The appraisal report contains sufficient documentation to substantiate the opinions and conclusions stated therein.
5. There will be no apparent change in access, overall utility, or highest and best use as a result of the proposed taking(s). [Or state changes to access, utility and/or highest and best use.]
6. There will be no uneconomic remnant as a result of the proposed taking(s).
7. The appraiser has exhibited competency and has performed appropriate due diligence.
8. The appraiser has valued the real property properly; and therefore, I accept and approve the appraisal report as a reasonable measure of Just Compensation.

Final Determination of Damages

Recommended Appraisal is accepted and approved as the basis for the establishment of the amount believed to be Just Compensation _____

Accepted Appraisal meets all requirements, but not selected as recommended _____

Not accepted (Include reason in comments) _____

	Appraiser	Reviewer
<i>Value Before:</i>	\$ _____	\$ _____
<i>Value After:</i>	\$ _____	\$ _____
<i>Final Opinion of Damages:</i>	\$ _____	\$ _____
<i>Date of Appraisal Review:</i>	_____	
<i>Reviewing appraiser:</i>	_____	

[Review appraiser's name], MA CGREA # _____

EXHIBIT 4-9 JUST COMPENSATION SUMMARY REPORT



Right of Way Bureau
 10 Park Plaza, Room 6160
 Boston MA 02116-3973

JUST COMPENSATION SUMMARY REPORT

Information included in this Summary Report is provided to the owner of real property who has interests in property acquired or to be acquired and shows (as required by Title III, Section 301 (3) of Public Law 91-646 “Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970”) the basis for the amount established as Just Compensation.

Owner’s Name(s):	«Owners»		
Mailing Address:	«Mailing Address», «Mailing City State Zip»		
City/Town:	«City», Massachusetts		
F.A. Project #:	NFA		
Project File #:	«Project Number»		
Layout #:	«Layout Number»		
Property Location:	«Property Address», «City», MA		
Assessor’s Identification:	AM/B/L «Map Block Lot»		
Property Description:	The property is a «Land Area» SF (ac.) parcel with a present use as «Present Use». «Improvements Description»		
Taking(s) / Acquisition(s):	Parcel	Area	Interest to be acquired
	«Vertical Parcels»	«Vertical Areas»	«Vertical Types»

- (1) Separately held interest in the real property not being acquired in whole or in part (if applicable):
«Separately Held Interest»
- (2) Buildings, structures, and other improvements, including fixtures, trade fixtures, and removable equipment in the building, which are considered to be part of the real property for which the offer of Just Compensation is made:
«Site Improvements Taken»
- (3) Real property improvements, including fixtures not owned by the owner of the land (if none, so state):
«Improvements Owned By Other»
- (4) Types, and approximate quantity, of personal property located on the premises that is not being acquired, where the owner and/or tenant(s) are eligible for a Relocation Payment to relocate the personal property located on the premises being acquired (if not eligible, so state):
«Site Improvements Relocated»
- (5) The Department's determination of Just Compensation is based on the following:
- (A) The market value of the property.
 - (B) Just Compensation is not less than the approved appraisal of land damages, based on the interest acquired.
 - (C) Just Compensation disregards any decrease or increase in the market value of the property prior to acquisition caused by the project for which the property is being acquired.
 - (D) In the case of separately held interests in the real property, the apportionment of the total Just Compensation for each of those interests has been considered.
- (6) Estimate of value: \$ _____
- (7) Damages to the remaining real property (if none, so state): \$ _____
- (8) Final estimate of value: \$ _____
- (9) The amount of Just Compensation has been established using acceptable principles applicable to the appraisal of real estate, by considering the three approaches to value, namely the cost approach, the sales comparison approach, and the income approach.

EXHIBIT 4-11 DOCKET OF DEPARTMENT REAL ESTATE APPRAISAL REVIEW BOARD

MASSDOT HIGHWAY DIVISION

RIGHT OF WAY BUREAU

DOCKET OF DEPARTMENT REAL ESTATE APPRAISAL REVIEW BOARD

CITY: _____ DATE OF MEETING: _____ SHEET ___ OF ___

LAYOUT NO: _____ CODE NO: _____

PARCEL(S)	OWNER(S)	APPRAISER(S)	REVIEW APPRAISER(S)	REVIEW BOARD
<u>CITY/TOWN</u> PARCEL(S)				

EXHIBIT 4-12 REAL ESTATE REVIEW BOARD RECOMMENDATION



**RIGHT OF WAY BUREAU
REAL ESTATE APPRAISAL REVIEW BOARD RECOMMENDATION**

Highway Administrator
Mass DOT Highway Division
10 Park Plaza
Boston, MA. 02116-3973

RE: Town:
Owner:
Parcel No.:
F.A.P. No.:

Dear Administrator:

We, the undersigned, Members of the Massachusetts Real Estate Review Board, have reviewed the appraisal reports and the recommendation of the Department’s Review Appraiser submitted to us by the Right of Way Bureau in connection with the eminent domain taking for highway purposes of the parcel(s) identified above.

In the process of arriving at value estimates, it is customary to consider three approaches: depreciated replacement, capitalized income, and market comparisons. The Review Board gives consideration to all information contained in such reports as are submitted to it, correlating such information and arriving at a composite opinion of the highest price which the Mass DOT - Highway Division of the Commonwealth of Massachusetts should pay for a specific property, unless ordered otherwise by some court of jurisdiction.

We have concluded that the Mass DOT Highway Division’s award should not exceed \$ _____ for the parcel(s), as of date of taking, plus such interest as provided by law from date of recording of the order of taking to date of payment, and pro rata amount of local real estate property taxes for the balance of the calendar year. Unless otherwise noted, the maximum amount recommended by the Board represents the total value of the parcel(s).

Remarks: Total Taking; No Severance Damages included in the above amount.

Land \$
Buildings \$
Other Improvements \$
Total \$

DATE:

SIGNED:

EXHIBIT 8-1 W-9 REQUEST FOR TAX PAYER IDENTIFICATION

Printed

Form W-9 (Massachusetts Substitute W-9 Form) Rev. April 2009

Request for Taxpayer Identification Number and Certification

Completed form should be given to the requesting department or the department you are currently doing business with.

Please print or type

Name (List legal name, if joint names, list first & circle the name of the person whose TIN you enter in Part I-See Specific Instruction on page 2)

Business name, if different from above. (See Specific Instruction on page 2)

Check the appropriate box: Individual/Sole proprietor Corporation Partnership Other

Legal Address: number, street, and apt. or suite no. Remittance Address: if different from legal address number, street, and apt. or suite no.

City, state and ZIP code

Phone # () Fax # () Email address:

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instruction on page 2. For other entities, it is your employer identification number (EIN). If you do not have a number, see How to get a TIN on page 2. Note: If the account is in more than one name, see the chart on page 2 for guidelines on whose number to enter.

Social security number OR Employer identification number

Vendors: Dunn and Bradstreet Universal Numbering System (DUNS)

DUNS

Part II Certification

Under penalties of perjury, I certify that:

- 1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Services (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am an U.S. person (including an U.S. resident alien).
4. I am currently a Commonwealth of Massachusetts's state employee: (check one): No Yes If yes, in compliance with the State Ethics Commission requirements.

Certification instructions: You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply.

Sign Here Authorized Signature Date

Purpose of Form

A person who is required to file an information return with the IRS must get your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to give your correct TIN to the person requesting it (the requester) and, when applicable, to:

- 1. Certify the TIN you are giving is correct (or you are waiting for a number to be issued).
2. Certify you are not subject to backup withholding

If you are a foreign person, use the appropriate Form W-8. See Pub 515, Withholding of Tax on Nonresident Aliens and Foreign Corporations.

What is backup withholding? Persons making certain payments to you must withhold a designated percentage, currently 28% and pay to the IRS of such payments under certain

conditions. This is called "backup withholding." Payments that may be subject to backup withholding include interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

If you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return, payments you receive will not be subject to backup withholding. Payments you receive will be subject to backup withholding if:

- 1. You do not furnish your TIN to the requester, or
2. You do not certify your TIN when required (see the Part II instructions on page 2 for details), or
3. The IRS tells the requester that you furnished an incorrect TIN, or
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends only), or

5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See the Part II instructions on page 2.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of Federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Name. If you are an individual, you must generally enter the name shown on your social security card. However, if you have changed your last name, for instance, due to marriage without informing the Social Security Administration of the name change, enter your first name, the last name shown on your social security card, and your new last name.

If the account is in joint names, list first and then circle the name of the person or entity whose number you enter in Part I of the form.

Sole proprietor. Enter your individual name as shown on your social security card on the "Name" line. You may enter your business, trade, or "doing business as (DBA)" name on the "Business name" line.

Limited liability company (LLC). If you are a single-member LLC (including a foreign LLC with a domestic owner) that is disregarded as an entity separate from its owner under Treasury regulations section 301.7701-3, enter the owner's name on the "Name" line. Enter the LLC's name on the "Business name" line.

Caution: A disregarded domestic entity that has a foreign owner must use the appropriate Form W-8.

Other entities. Enter your business name as shown on required Federal tax documents on the "Name" line. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on the "Business name" line.

Part I - Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box.

If you are a **resident alien** and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see **How to get a TIN** below.

If you are a **sole proprietor** and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are an LLC that is **disregarded as an entity** separate from its owner (see **Limited liability company (LLC)** above), and are owned by an individual, enter your SSN (or "pre-LLC" EIN, if desired). If the owner of a disregarded LLC is a corporation, partnership, etc., enter the owner's EIN.

Note: See the chart on this page for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get **Form SS-5**, Application for a Social Security Card, from your local Social Security Administration office. Get **Form W-7**, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN or **Form SS-4**, Application for Employer Identification Number, to apply for an EIN. You can get Forms W-7 and SS-4 from the IRS by calling 1-800-TAX-FORM (1-800-829-3676) or from the IRS's Internet Web Site www.irs.gov.

If you do not have a TIN, write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments.

The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note: Writing "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

Part II - Certification

To establish to the paying agent that your TIN is correct or you are a U.S. person, or resident alien, sign Form W-9.

For a joint account, only the person whose TIN is shown in Part I should sign (when required).

Real estate transactions. You must sign the certification. You may cross out item 2 of the certification.

Dunn and Bradstreet Universal Numbering System (DUNS) number requirement –

The United States Office of Management and Budget (OMB) requires all vendors that receive federal grant funds have their DUNS number recorded with and subsequently reported to the granting agency. If a contractor has multiple DUNS numbers the contractor should provide the primary number listed with the Federal government's Central Contractor Registration (CCR) at www.ccr.gov. Any entity that does not have a DUNS number can apply for one on-line at www.DNB.com under the DNB D-U-N Number Tab.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to give your correct TIN to persons who must file information returns with the IRS to report interest, dividends, and certain other income paid to you, mortgage interest you paid, the acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA or MSA. The IRS uses the numbers for identification purposes and to help verify the accuracy of your tax return. The IRS may also provide this information to the Department of Justice for civil and criminal litigation, and to cities, states, and the District of Columbia to carry out their tax laws.

You must provide your TIN whether or not you are required to file a tax return. Payers must generally withhold a designated percentage, currently 28% of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to a payer. Certain penalties may also apply.

What Name and Number to Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, the first individual on the account ¹
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor ²
4. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee ¹
b. So-called trust account that is not a legal or valid trust under state law	The actual owner ¹
5. Sole proprietorship	The owner ³
For this type of account:	Give name and EIN of:
6. Sole proprietorship	The owner ³
7. A valid trust, estate, or pension trust	Legal entity ⁴
8. Corporate	The corporation
9. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
10. Partnership	The partnership
11. A broker or registered nominee	The broker or nominee
12. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity

¹ List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

² Circle the minor's name and furnish the minor's SSN.

³ You must show your individual name, but you may also enter your business or "DBA" name. You may use either your SSN or EIN (if you have one).

⁴ List first and circle the name of the legal trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.)

Note: If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

If you have questions on completing this form, please contact the Office of the State Comptroller. (617) 973-2468.

Upon completion of this form, please send it to the Commonwealth of Massachusetts Department you are doing business with.

EXHIBIT 8-2 ELECTRONIC FUNDS TRANSFER SIGN UP



COMMONWEALTH OF MASSACHUSETTS

OFFICE OF THE COMPTROLLER
Electronic Funds Transfer Sign Up Form

This form should be sent to a department with whom you do business.

Request type must be checked: [] Initial Request [] Changing Existing Account [] Closing Account

I _____, hereby certify that the account/s indicated on this form is under my direct control and access; therefore, I authorize the State Treasurer as fiscal agent for the State of Massachusetts to initiate, change or cancel credit entries to that account/s as indicated on this form. For ACH debits consistent with the International ACH Transaction (IAT) rules check one:

- [] I affirm that payments authorized hereunder are not to an account that is subject to being transferred to a foreign bank account.
[] I affirm that payments authorized hereunder are to an account that is subject to being transferred to a foreign bank account.

This authority is to remain in full force and effect until the Office of Comptroller has received written notification, from either me or an authorized officer of organization of the account's termination in such time and in such a manner as to afford CTR a reasonable opportunity to act upon it.

VENDOR BANK INFORMATION

Vendor Bank Name: _____
Vendor Bank Transit Number (ABA): _____
Vendor Bank Account Number: _____
Account Type: _____

Filling out this field is a requirement for changing account number

Vendor Bank Old Account Number: _____
Account Type: _____

VENDOR INFORMATION

Vendor Tax Identification Number (TIN): _____
Vendor/Business Name: _____
Vendor Contact Name: _____
E-mail: _____
Telephone: _____
Address: _____
City: _____ State: _____ Zip: _____

This authorization will remain in effect until either canceled in writing or an updated form changing information is sent to the Department you currently do business with.

AUTHORIZED SIGNATURE: _____
Print Name: _____ Title: _____ Date: _____

Form forwarded to Commonwealth Department: _____
Attached voided check here:



EXHIBIT 9-1 RELOCATION PLANNING

The relocation plan described herein will be developed, per 49 CFR; based on the complexity and nature of the displacing activity and Massachusetts General Law (M.G.L.) 79A Section 4; when the number of displaces along a project exceeds 6 dwellings or business units.

49 CFR, 24.205 Relocation planning, advisory services, and coordination.

(a) **Relocation planning.** During the early stages of development, an Agency shall plan Federal and federally assisted programs or projects in such a manner that recognizes the problems associated with the displacement of individuals, families, businesses, farms, and nonprofit organizations and develop solutions to minimize the adverse impacts of displacement. Such planning, where appropriate, shall precede any action by an Agency which will cause displacement, and *should be scoped to the complexity and nature of the anticipated displacing activity* including an evaluation of program resources available to carry out timely and orderly relocations. Planning *may* involve a relocation survey or study, which may include the following:

- 1) An estimate of the number of households to be displaced including information such as owner/tenant status, estimated value and rental rates of properties to be acquired, family characteristics, and special consideration of the impacts on minorities, the elderly, large families, and persons with disabilities when applicable.
- 2) An estimate of the number of comparable replacement dwellings in the area (including price ranges and rental rates) that are expected to be available to fulfill the needs of those households displaced. When an adequate supply of comparable housing is not expected to be available, the Agency should consider housing of last resort actions.
- 3) An estimate of the number, type and size of the businesses, farms, and nonprofit organizations to be displaced and the approximate number of employees that may be affected.
- 4) An estimate of the availability of replacement business sites. When an adequate supply of replacement business sites is not expected to be available, the impacts of displacing the businesses should be considered and addressed. Planning for displaced businesses which are reasonably expected to involve complex or lengthy moving processes or small businesses with limited financial resources and/or few alternative relocation sites should include an analysis of business moving problems.

M.G.L. Part 1, Title X111, Chapter 79A, Section 4

At the time of the submission of an application for public approval or funding for a project involving the displacement of more than five dwelling or business units, the displacing agency shall submit to the bureau of relocation a relocation plan. The relocation plan shall show the names and addresses of all occupants to be displaced; the number of individuals, families, and business concerns to be displaced; the date on which such displacement will begin; the needs of the displaced occupants for relocation assistance; the availability of safe and sanitary housing, commercial buildings or sites within the means of occupants to be displaced; a program for their relocation; and a demonstration in accordance with bureau regulations that the relocation agency has coordinated the plan with other planned or proposed land acquisitions in the city or town which may affect the carrying out of the relocation program.

In the case of the displacement of the occupants of less than six dwelling or business units, the displacing agency shall not be required to submit any such relocation plan, but shall provide a relocation assistance program, as set forth in section six and shall pay any such displaced occupant relocation payments, as set forth in section seven.

Relocation Planning Process

Relocation planning begins in the early stages of project development and is the responsibility of the Relocation Section. This function includes preparation of the Conceptual Stage Relocation Program prior to corridor public hearings; preparation of ROW Stage Project Relocation Program and ROW Bureau presentations at corridor and design public hearings.

A Consultant will complete the Conceptual Stage of Relocation Planning. The Relocation Administrator advises the consultant on its detailed work program and monitors the progress and quality of technical work; technical assistance is provided, as necessary. It is the responsibility of the consultant to maintain continuing contact with the Relocation Administrator and to advise on progress of the project and any difficulties encountered. One objective of relocation planning is to assure that the location and design engineering alternatives being considered are sensitive to potential right of way problems.

During project development, the Consultant will contact persons potentially displaced by certified mail. The consultant will discuss the ROW relocation process. The consultant is required to present a description of project alternatives and findings, of the relocation analysis to date, and to respond to pertinent questions. A meeting with each potential Displacee will be made available at a time and place of the Displacee's choosing. If a displacee agrees to be interviewed, options will include an in-person meeting or video chat (i.e.: Microsoft Teams, Zoom, Go to Meeting, Google Meet).

Prior to the corridor public hearings, the consultant submits a draft report on the Relocation Needs and Resources to the Relocation Administrator. The consultant may be instructed to perform additional work as required. When the consultant's report is complete, the findings are reviewed by the Right of Way Bureau's Relocation section.

Copies of the Conceptual Stage Relocation plan is circulated through the Right of Way Bureau and others MassDOT departments as appropriate. The plan serves as a basis for further field work and as orientation to potential problems that might arise at the corridor public hearing or thereafter.

The Projects Administrator is responsible for coordinating ROW personnel who will be attending public hearings. When relocation is involved, the Relocation Administrator will assign a person from the Relocation section to attend and be prepared to address relocation questions from attending property owners. If a representative from the Relocation Section attends the public hearing, the Relocation Administrator receives a written report from the relocation section representative that was in attendance.

After location approval of the right of way, interviews will be conducted with each household and business to be displaced. The Relocation Administrator and/or the Relocation Supervisor, will assign a Relocation Agent to conduct the interviews. Projects and Relocation personnel should team up when making residential and business contacts.

The residential relocation interview process obtains information on family composition, employment income, housing and neighborhood characteristics, relocation-housing preferences

and any special circumstances affecting relocation. A preliminary survey of housing needs and preferences is completed at the interview.

The business relocation interview process obtains information on business type, employment characteristics, license/permit and zoning requirements, operating costs, space/structure/location needs and/or requirements, business relocation preferences and any special circumstances affecting relocation. A commercial site occupant record is completed. To minimize the potential economic harm to a displaced business as well as maximize the likelihood of their remaining within the affected community, the assigned relocation agent, consults with the business being impacted, on all reasonable alternatives under consideration. The consultation process is initiated at the earliest practical time and continues throughout the planning and acquisition phases of the project. The assigned relocation agent explores all possible relocation resources which may be available to a business.

The results of early consultations with relocatees, as well as assistance which has been or will be furnished, are documented in the Conceptual Relocation Plan. Advanced acquisition of properties is encouraged where appropriate hardship circumstances are documented, such as loss of patronage, increased operating costs due to lengthy project cycles, or, limited available inventory of alternate replacement properties.

An analysis of relocation needs is prepared from information obtained in the interviews. This analysis is the basis for an inventory of comparable replacement housing. To estimate the number of comparable replacement dwellings that will be available for displaced persons, research is conducted on past, present and potential future inventory. Anticipated resources are correlated with relocation needs, lead-time is estimated for completion of relocation activities, and requirements of the relocation assistance program identified. These components are incurred in the ROW Stage Relocation Plan.

The Relocation Plan is a blueprint of relocation needs and anticipated problems and is intended to be a basis for relocation assistance efforts. When the Conceptual Stage Relocation Program Plan, Right of Way Stage Relocation Plan, or later casework, indicates that available relocation resources may not be adequate to provide comparable replacement dwellings for each household to be displaced, last resort housing is implemented to resolve the situation.

EXHIBIT 9-2 PRELIMINARY HOUSING NEEDS INTERVIEW FORM

PRELIMINARY SURVEY OF HOUSING NEEDS AND PREFERENCES

CITY/TOWN: _____ ROUTE: _____ LAYOUT NO: _____

PARCEL NUMBER: _____

I. IDENTIFICATION:

NAME, HEAD OF HOUSEHOLD _____.

ADDRESS: _____

CODE: FAMILY INDIVIDUAL JOINT HOUSEHOLD

II. HOUSEHOLD COMPOSITION

NAME	MARITAL STATUS	RELATION TO HSHLD. HD.	AGE	VETERAN STATUS	EMPLYD	NAME & GRADE OF SCHOOL
1. (HEAD)	_____	_____	_____	_____	_____	_____
2.	_____	_____	_____	_____	_____	_____
3.	_____	_____	_____	_____	_____	_____
4.	_____	_____	_____	_____	_____	_____
5.	_____	_____	_____	_____	_____	_____
6.	_____	_____	_____	_____	_____	_____
7.	_____	_____	_____	_____	_____	_____

III. EMPLOYMENT

HEAD OF HOUSEHOLD--STATUS: EMPLOYED RETIRED BASIS: FULL TIME SEASONAL
DISABLED UNEMPLOYED PART TIME IRREGULAR

TYPE OF WORK OF HOUSEHOLD MEMBERS

NAME _____ TYPE OF WORK NAME AND ADDRESS OF EMPLOYER

IV. HOUSEHOLD INCOME (MONTHLY)

TYPE	AMOUNT HEAD HOUSEHOLD	AMOUNT SPOUSE	OTHERS (NAME)
EMPLOYMENT			
GROSS MONTHLY WAGES			
SELF-EMPLOYED INCOME			
NON-EMPLOYMENT			
INTEREST, DIVIDENDS			
MONTHLY WITHDRAWAL FROM SAVINGS TO MEET EXPENSES			
PENSIONS, SOCIAL SECURITY, INSURANCE PAYMENTS, V.A., DISABILITY, ECT.			
PUBLIC ASSIST. (SPECIFY)			
OTHER (I.E RENTAL INCOME)			
TOTAL MONTHLY INCOME (ALL SOURCES)			

PRESENT HOUSING _____

TYPE OF STRUCTURE (1F, 2F, 3F, ETC.) _____ FLOOR ____ | TENANT _____

NUMBER OF ROOMS: _____ SUBTENANT _____

OWNER: _____

NUMBER OF BEDROOM _____ PORCHES, OTHER AMENITIES _____

FIREPLACE, _____ DEN, _____ PATIO, ETC, APPROX. SF LIVING SPACE _____

TENANT: _____

MONTHLY RENT PAYMENT: _____ PAID TO _____

INCLUDES	YES	NO	COST
HEAT			
ELECTRICITY			
GAS			
WATER			
MAINTENANCE SERVICE			
GROSS MHTLY HOUSING CST.			

OWNER

ITEM	AMOUNT		
BALANCE OF MORTGAGE			
MONTHLY MORTGAGE PAYMENT			
PRINCIPAL			
INTEREST			
TAXES			
INSURANCE (ESCROW)			
TOTAL			
GROSS MONTHLY HOUSING COST			

VI. PRESENT NEIGHBORHOOD

NO. OF YEARS LIVED IN PRESENT HOME _____ NO. OF YEARS IN NEIGHBORHOOD _____

NO OF YRS. IN SAME COMMUNITY _____

PREVIOUS ADDRESS: _____

RELATIVES NEARBY: _____

FRIENDS NEARBY: _____

PARTICIPATION IN COMMUNITY GROUPS: _____

NEIGHBORHOOD ASSETS: _____

NEIGHBORHOOD LIABILITIES: _____

IS THERE A CHARACTERISTIC OF THIS NEIGHBORHOOD THAT IS PARTICULARLY IMPORTANT TO YOU? _____

ADDITIONAL COMMENTS

VII. REHOUSING PREFERENCES

TYPE OF HOUSING DESIRED: _____

PREFER TO OWN _____ PREFER TO RENT _____

PUBLIC OR PUBLICLY ASSISTED

PRIVATE RENTAL

PRIVATE SALES

APPEAR ELIGIBLE Y or N	APARTMENT	1 FAMILY, 2 FAMILY, 3 FAMILY, MULTI UNIT, OTHER
FAMILY	LT. HOUSEKEEPING	
ELDERLY	ROOM	
PARTICULAR PROJECT PREFERRED	OTHER	
EVER APPLIED BEFORE, RESULT	STRUCTURE TYPE 1F, 2F, 3F, MULTI UNIT, OTHER	
PUBLICLY ASSISTED SALES HOUSING DESIRED (IF AVAILABLE)	FLOOR PREFERRED	

TRANSPORTATION:

OWN AUTO _____

MEANS OF TRANSPORTATION TO WORK _____

SCHOOLS _____ SHOPPING _____ OTHER _____

NEED TO BE WITHIN WALKING DISTANCE OF ANY PARTICULAR FACILITIES

LOCATION PREFERENCES (RANK 1ST, 2ND, 3RD, ETC.) COMMENTS

SAME NEIGHBORHOOD

OTHER NEIGHBORHOOD

ANY IN SAME CITY OR TOWN

OTHER COMMUNITY

ANY SPECIAL NEED OR PREFERENCE FOR A PARTICULAR LOCATION

VIII. MISCELLANEOUS

BEST TIME TO CONTACT RELOCATEE: _____

ANY SPECIAL NEEDS TO BE CONSIDERED (E.G., ill health, day care, need for first floor dwelling, etc.)

IMPORTANT CHURCH OR ORGANIZATION AFFILIATION: _____

--

DOES SERVICE REFERRAL APPEAR TO BE NEEDED? WHAT KIND(S)

REMARKS BY INTERVIEWER

OTHER HOUSEHOLD MEMBERS PRESENT _____

EXHIBIT 9-3 PRELIMINARY SURVEY OF BUSINESS NEEDS AND OCCUPANT
FORM

PRELIMINARY SURVEY OF BUSINESS NEEDS

PROJECT NO.: _____ F.A.P. _____

OWNER: _____

CLAIMANT: _____

PROPERTY ADDRESS: _____

CITY/TOWN: _____

PARCEL (S). _____

CLAIMANT STATUS: _____ DATE OF OCCUPANCY: _____

CLAIMANT MAILING ADDRESS: _____

TELEPHONE #: BUSINESS: _____ - CELL: _____

TYPE OF BUSINESS: _____

WHAT IS TO BE MOVED: _____

LOCATION PREFERENCE: _____

NO. OF OCCUPANTS / EMPLOYEES: _____

AREA / SPACE REQUESTED: _____

BENEFITS EXPLAINED: _____ BROCHURE OPTIONS EXPLAINED _____

ASSIGNMENT OF FUNDS REQUESTED: _____

MORTGAGE ASSISTANCE REQUESTED: _____

AUTHORIZED REPRESENTATIVE: _____

ADDRESS, _____ PHONE # _____

EXHIBIT 9-4 RELOCATION BROCHURE



RESIDENTIAL RELOCATION BROCHURE

RIGHT OF WAY BUREAU

(Revised 05/01/2024)

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INTRODUCTION

The purpose of this brochure is to provide a brief outline of relocation benefits available to individuals and families (collectively displacee) as a result of a Mass DOT Highway Division (herein The Division) project. These relocation benefits are provided pursuant to Public Law 91-646 Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended (49 CFR Part 24), Massachusetts General Laws, Ch. 79, 79A, and 81 §7J, and Massachusetts Regulation 760 CMR Part 27.

Since each displacee will have relocation issues that are unique to their residential situation which may not be able to be addressed in this brochure, a Relocation Agent(s) will be assigned to each displacee.

It is important that each displacee establish a close working relationship with the Relocation Agent(s) to ensure compliance with the relocation regulations and to facilitate reimbursement of relocation expenses.

Prior to the Division's eminent domain acquisition of the displacee's property, each displacee will be contacted and interviewed by a Relocation Supervisor and/or Relocation Agent(s). During the meeting the displacee should inform the Relocation staff of all their relocation needs so that the Relocation Agent(s) can fully assist in the relocation process and ensure that Federal and/or state rules, regulations and guidelines have been met.

The Relocation Agent(s) will assist each displacee with their relocation to a new residence. Some of the services available through the Relocation Agent(s) may include (when applicable):

Lists of available residential properties being offered for sale and/or lease, which may be considered as alternative sites.

Site maps and other pertinent information on available properties and services offered by city, state and federal agencies.

If needed, transportation to view replacement housing alternatives.

Displacees are allowed to continue to occupy the acquired property for at least four (4) months after receiving a Notice to Vacate from The Division. The Notice to Vacate is not sent until after The Division has acquired the property by eminent domain.

Please visit the Massachusetts Department of Transportation website for more information about projects in your community at www.massdot.state.ma.us

Please visit the Federal Highway Administration website, where the Federal Regulations referred to herein can be found in their entirety, at www.fhwa.dot.gov/realestate

ALWAYS MAINTAIN CONTACT WITH THE RELOCATION AGENT(S) ASSIGNED TO YOU.

I. DEFINITIONS

Decent, Safe and Sanitary Dwelling:

The term decent, safe and sanitary dwelling means a dwelling which meets local housing and occupancy codes. However, any of the following standards which are not met by the local code shall apply unless waived for a good cause by the Federal Agency funding the project:

Be structurally sound, weather tight and in good repair; Contain a safe electrical wiring system that is adequate for lighting and other devices; Contain a heating system capable of sustaining a healthy temperature (of approximately 70 degrees) for a displaced person, except in those areas where local climatic conditions do not require such a system; Be adequate in size with respect to the number of rooms and area of living space needed to accommodate the displaced person. The number of persons occupying each habitable room used for sleeping purposes shall not exceed that permitted by local housing codes or, in the absence of local codes, the policy of the displacing Agency. In addition, the displacing Agency shall follow the requirements for separate bedrooms for children of the opposite gender included in local housing codes or in the absence of local housing codes, the policies of such Agencies.

There shall be a separate, well-lit and ventilated bathroom that provides privacy to the user and contains a sink, a bathtub or shower stall, and a toilet, all in good working order and properly connected to appropriate sources of water and to a sewage drainage system. In the case of a housekeeping dwelling, there shall be a kitchen area that contains a fully usable sink, properly connected to a potable hot and cold water and to a sewage drainage system, and adequate space and utility service connections for a stove and refrigerator; contains unobstructed egress to safe, open space at ground level; and For a person with a disability, be free of any barriers which would preclude reasonable ingress, egress or use of the dwelling by such a displaced person.

Comparable Dwelling:

The term comparable replacement dwelling means a dwelling which is:

Decent, safe and sanitary; Functionally equivalent to the displacement dwelling. The term functionally equivalent means that it performs the same function, provides the same utility, and is capable of contributing to a comparable style of living. While a comparable replacement dwelling need not possess every feature of the displacement dwelling, the principal features must be present. Generally, functional equivalency is an objective standard, reflecting the range of purposes for which the various physical features of a dwelling may be used. However, in determining whether a replacement dwelling is functionally equivalent to the displacement dwelling, the Agency may consider reasonable trade-offs for specific features when the replacement unit is "equal to or better than" the displacement dwelling. Adequate in size to accommodate the occupants; In an area not subject to unreasonable adverse environmental conditions.

In a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities and commercial and public facilities, and reasonably accessible to the person's place of employment; On a site that is typical in size for residential development with normal site improvements, including customary landscaping. The site need not include special improvements such as outbuildings, swimming pools, or greenhouses. currently available to the displaced person on the private market.

However, a comparable replacement dwelling for a person receiving government housing assistance before displacement may reflect similar government housing assistance, and within the financial means of the displaced person.

A replacement dwelling purchased by a homeowner in occupancy at the displacement dwelling for at least 180 days prior to initiation of negotiations (90-day homeowner) is considered to be within the homeowner's financial means if the homeowner will receive the full price differential, increased mortgage interest and incidental, plus any additional amount required to be paid under replacement housing of last resort.

A replacement dwelling rented by an eligible displaced person is considered to be within his or her financial means if, after receiving rental assistance under this part, the person's monthly rent and estimated average monthly utility costs for the replacement dwelling do not exceed the person's base monthly rental for the displacement dwelling.

For a displaced person who is not eligible to receive a replacement housing payment because of the person's failure to meet length-of-occupancy requirements, comparable replacement rental housing is considered to be within the person's financial means if an Agency pays that portion of the monthly housing costs of a replacement dwelling which exceeds 30 percent of such person's gross monthly household income or, if receiving a welfare assistance payment from a program that designates amounts for shelter and utilities, the total of the amounts designated for shelter and utilities. Such rental assistance must be paid as replacement housing of last resort.

Displaced Person:

The term displaced person means any person who moves from the real property or moves his or her personal property from the real property (this includes a person who occupies the real property prior to its acquisition, but who does not meet the length of occupancy requirements of the Uniform Act) as a direct result of a written notice of intent to acquire, the initiation of negotiations for, or the acquisition of, such real property in whole or in part for a project.

II. ELIGIBILITY FOR RELOCATION PAYMENTS

DO NOT MOVE BEFORE THE INITIATION OF NEGOTIATIONS. MOVING PRIOR TO THE INITIATION OF NEGOTIATIONS MAY JEOPARDIZE YOUR ELIGIBILITY FOR RELOCATION BENEFITS.

Eligibility for relocation payments for both the owner and any tenants begins on the date of the Initiation of Negotiations between the owner of the acquired property and The Division. The Initiation of Negotiations is the date upon which delivery occurs of the initial written offer of just compensation by the Agency (The Division) to the owner or the owner's representative to purchase the real property for the project or the date on a notice of intent to acquire presented to the owner and/or tenant.

If the The Division identifies buildings, structures and/or other improvements (including removable buildings, equipment, and trade fixtures) which are considered to be part of the real property for which the offer of just compensation is made, a statement shall identify any separately held ownership interest in the property (e.g. a tenant-owned improvement), and so indicate that such interest is not covered by the offer.

An item will only be classified as a tenant-owned improvement if both the fee owner and tenant-owned improvement owner agree to this classification or if the lease indicates a tenant-owned improvement designation. In these instances, if the fee owner disclaims all interest in the tenant-owned improvements, then The Division will inform the fee owner and tenant of their individual interests and submit separate offers to the parties involved.

III. ELIGIBLE RELOCATION PAYMENTS

The Relocation Agent(s) will obtain two estimates from professional moving companies.

Moving Expenses

Moving expenses are limited to 50 miles unless the displacee obtains a written authorization from the Division for the cost of reimbursement to move beyond 50 miles.

All tenants and owner-occupants are eligible for moving expenses.

It is the responsibility of the displacee to choose the moving method that best suits their needs. If a displacee owns or rents a residential dwelling, occupies the dwelling on the eligibility date and the property is subsequently acquired, then the displacee is eligible for one of the following three moving payments:

Commercial Move

Moves performed by a professional mover. A displacee may choose any moving company, including the MassDOT winning bidder, to complete the move. The reimbursement amount will be based on the lowest responsible estimate.

Self-Move

May be performed by the displaced person in one or a combination of the following methods:

1. Fixed Residential Moving Cost schedule described in 49 CFR, 24.302
2. Actual cost move supported by receipted bills for labor and equipment

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3. Moving cost estimate prepared by a qualified agency staff person
4. Commercial mover estimate based on the lower of two bids from a commercial mover

Replacement Housing Payments

A replacement housing payment is a relocation benefit that a displacee may be entitled to for the purpose of supplementing some of the increased costs about their new living arrangement that may be caused by the taking. The amount that the displacee is entitled to under this benefit is determined by whether the displacee is an owner or a tenant and by the length of time a displacee has resided at that location prior to the eligibility date.

If the displacee is an owner-occupant for not less than 90 days:

A displaced person is considered an owner-occupant for not less than 90 days if the person has actually owned and occupied the displacement dwelling for not less than 90 days immediately prior to the initiation of negotiations and purchases and occupies a decent, safe and sanitary replacement dwelling within 1 year after the later of the following dates (may be extended by MassDOT for good cause):

- (1) The date the displacee received final payment for the displacement dwelling or, in the case of condemnation, the date the full amount of the estimate of just compensation is deposited in court
- (2) The date the displacing agency's obligation is met (according to 49 CFR, Part 24, Section 204(a))

A replacement housing payment for an owner-occupant not to exceed \$41,500. That amount is the sum of the following three benefits:

Cost Differential

The cost differential payment is a supplemental payment which is the difference between the amount paid for a displacee's dwelling, and the amount the displacee paid for a decent, safe and sanitary comparable replacement dwelling.

Interest Rate Differential

The interest rate differential payment is provided to offset an increase in mortgage payments on a displacee's new property as a result of any increase in the interest rate. The payment is determined by the difference in the interest rates, and the subsequent increase in the cost of the mortgage, based on the acquisition amount (not replacement amount).

Incidental Expenses

The incidental expense payment is made for actual verified expenses that are a result of procuring a new mortgage for the replacement dwelling. Eligible items for reimbursement may include:

Legal, closing, and related costs, including those for title search, preparing conveyance instruments, notary fees, preparing surveys and plats, and recording fees;

Appraisal, lender, FHA, or VA application fees; Loan origination or assumption fees that do not represent prepaid interest; Professional home inspection, certification of structural soundness and termite inspection; **Credit report**; Owner's and mortgagee's evidence of title, title insurance; **Escrow agent's fee**; State revenue or documentary stamps, sales or transfer taxes; and/or

Other costs as The Division determines to be incidental to the purchase.

If an owner-occupant for not less than 90 days decides not to purchase a dwelling, but instead to rent a decent, safe and sanitary dwelling, they are eligible for a rental assistance payment based on a determination of market rent for the acquired dwelling compared to a comparable rental dwelling available on the market. The difference, if any, shall be multiplied by 42, however the amount of this rental assistance payment shall not be greater than what could have been received if they had purchased a replacement dwelling.

Appraisal. lender. FHA. or VA application fees

Loan origination or assumption fees that do not represent prepaid interest;

Professional home inspection, certification of structural soundness and termite inspection.

Credit Report

Owner's and mortgagee's evidence of title, title insurance;

Escrow agent's fee; State revenue or documentary stamps, sales or transfer taxes; and/or other costs as The Division determines to be incidental to the purchase.

If an owner-occupant for more than 90 days decides not to purchase a dwelling, but instead to rent a decent, safe and sanitary dwelling, they are eligible for a rental assistance payment based on a determination of market rent for the acquired dwelling compared to a comparable rental dwelling available on the market. The difference, if any, shall be multiplied by 42, however the amount of this rental assistance payment shall not be greater than what could have been received if they had purchased a replacement dwelling.

If the displacee is an owner-occupant for less than 90 days:

A displaced person is considered an owner-occupant for less than 90 days if the person has owned and occupied the displacement dwelling for less than less than 90 days immediately prior to the initiation of negotiations and purchases and occupies a decent, safe and sanitary replacement dwelling. For an owner-occupant for less than 90 days, there is not a replacement housing payment benefit available.

If the displacee is a tenant of not less than 90 days:

A displaced person is considered a tenant of not less than 90 days if the person has lawfully and occupied the displacement dwelling for not less than 90 days immediately prior to the initiation of negotiations and rents or purchases, and occupies a decent, safe and sanitary replacement dwelling.

A replacement housing payment for a tenant of not less than 90 days is not to exceed \$9,250. The amount of the payment is determined by comparing the actual rent that was being paid by the displacee at the acquired property and the rent the displacee would have to pay for a comparable rental dwelling available on the market. The difference, if any, shall be multiplied by 42 and that amount not to exceed \$9,250.

If the displacee opts to purchase a decent, safe and sanitary dwelling, the entire amount they are eligible for can be used as a down payment assistance payment.

If the displacee opts to rent a decent, safe and sanitary dwelling, the replacement housing payment they are entitled to shall be 42 times the amount obtained by subtracting the base monthly rental for the displacement dwelling from the monthly rent for a decent, safe and sanitary replacement dwelling actually occupied by the displaced person, not to exceed the maximum amount allowed as the replacement housing supplement determined by The Division or \$9,250.

If the displacee is a tenant for less than 90 days:

A displaced person is considered a tenant for less than 90 days if the person has lawfully and occupied the displacement dwelling for less than 90 days prior to the initiation of negotiations and rents, or purchases, and occupies a decent, safe and sanitary replacement dwelling.

For a tenant for less than 90 days, there is no replacement housing payment benefit available.

Please note that the above guidelines are only for acquisitions that contain an actual dwelling upon them. If the land taken contains a mobile home, the requirements are different; please consult a Relocation Agent(s) to assist you with eligibility regarding displacees residing in a mobile home.

IV. REPLACEMENT HOUSING PAYMENT OF LAST RESORT

A replacement housing payment of last resort may be available whenever a project cannot proceed on a timely basis because there is no available comparable decent, safe and sanitary housing within a reasonable proximity to the area where property is being acquired and/or within the monetary limits for owners or tenants.

At no time can a displaced person who chooses to rent a decent, safe and sanitary dwelling be forced to expend more than 30% of the displaced person's average monthly

gross household income, as evidenced by documentation from the displacee. The displacee's average gross monthly income will be taken into consideration when determining eligibility for a replacement housing payment.

V. INELIGIBLE MOVING AND REPLACEMENT HOUSING PAYMENT EXPENSES

No moving or replacement housing payment will include any of the following, either in part or in full:

- ◆ The cost of moving any structure or other real property improvement
- ◆ Interest on a loan to cover moving expenses
- ◆ Personal injury
- ◆ Any legal fee or other cost for preparing a claim for a relocation payment or for representing the claimant before The Division
- ◆ Costs for storage of personal property on real property already owned or leased by the displacee
- ◆ Interest costs of a personal loan; and/or
- ◆ Any other item that The Division reasonably deems to be ineligible.

VI. FILING A RELOCATION CLAIM

Any claim for reimbursement of a relocation payment shall be supported by detailed invoices and copies of cancelled checks. If the Division disproves all or part of a payment claimed or refuses to consider the claim on its merits, it shall promptly notify the claimant in writing of its determination and the procedures for appealing that determination.

All claims for which a relocation payment shall be filed with the Division no later than 18 months after:

- A. For tenants - the date of displacement
- B. For owners - the date of displacement or the date of the final payment for the acquisition of the real property, whichever is later.

After the Relocation Agent(s) completes the displacee's claim, it is presented to The Division's relocation section head for review. It is then forwarded to the Director and Deputy Director of the Right of Way Bureau with a recommendation for payment. Once the documentation and amount of the payment have been approved, it is then forwarded to the Division's Fiscal Management section and payment is made after the check is issued by the State Treasurer's Office.

In every step of the relocation process, it is strongly recommended that the displacee obtain and retain all cancelled checks (copies of both the front and back), receipts, invoices, daily sign-in sheets, bills of work and/or labor, lease(s), auction/trade-in costs, copies of advertisements, and other documentation relating to relocation-related transactions.

APPROVED RELOCATION COSTS WILL NOT BE FORWARDED FOR PAYMENT UNTIL AFTER A PROPERLY COMPLETED TAXPAYER IDENTIFICATION FORM (I.R.S. FORM W-9) IS RECEIVED FROM THE DISPLACEE.

Payments pursuant to a relocation claim are not considered to be Federal Financial Assistance.

VII. HAZARDOUS MATERIAL DISPOSAL

Disposal of hazardous and/or flammable material is not an eligible relocation expense. Therefore, the displacee is reminded that any material that could be considered hazardous material should be removed. The relocation cost will be included in the actual moving expense category, if moved to the replacement location. However, if the Division is required to dispose of any of this material, the cost of the disposal may be subtracted from the actual, reasonable moving and related expense portion of the claim.

VIII. PAYMENT PROCEDURE

After the Relocation Agent(s) completes the displacee's claim package, it is presented to the Relocation Administrator for review. After the Administrator's review, the documentation for the payment is then presented to the Director and Deputy Director of the Right of Way Bureau for approval. Once approved it is forwarded to the Finance section of the Right of Way Bureau. Payment is made after a check is issued by the State Treasurer's Office. If there is an ineligible cost submitted, the displacee is provided with written notification and explanation of why the submitted costs were deemed ineligible.

APPROVED RELOCATION COSTS WILL **NOT** BE FORWARDED TO THE FISCAL MANAGEMENT SECTION (AND THUS PAYMENT CANNOT BE MADE TO THE DISPLACEE) UNTIL *AFTER* A PROPERLY COMPLETED TAXPAYER IDENTIFICATION FORM (I. R. S. FORM W-9) IS RECEIVED FROM THE DISPLACEE.

IX. APPEAL PROCEDURE

If a displacee has been denied a relocation payment, or if a displacee believes payment should be in a greater amount than was approved by the Administrator, then the displacee should file an appeal with the Division Hearing Officer designated by the Division Administrator to review appeals:

**Administrative Law Judge
MassDOT Highway Division
10 Park Plaza
Boston, MA 02116**

An appeal should be submitted in the following form:

This letter serves as an appeal of the amount I recently received as a relocation payment, related to a land taking made on Date in the City/Town of _____ Please contact me at the below address:

Name: _____

Address: _____

Phone No.: _____

After the Division Hearing Officer hears the appeal and makes a decision regarding a claim, if the displacee is not satisfied with that decision, a further appeal may be made to the Department of Housing and Community Development Bureau of Relocation. A request for a review of the appeal decision made by the the Division Hearing Officer may be submitted to:

**Director
Department of Housing and Community Development
Bureau of Relocation
100 Cambridge Street, Suite 300
Boston, MA 02114**

In addition, if at any time during the relocation process a displacee feels that they are not receiving all the benefits that they are entitled to under the Federal and State laws, the displacee may contact the Director at the Bureau of Relocation at 617-573-1408.

X. CONCLUSION

In conclusion, the Relocation Section at the MassDOT Highway Division is dedicated to making this as smooth of a transition as possible. We are committed to ensuring that you receive all benefits that you are eligible for under Federal and/or State law. Please remember that it is important for each displacee to establish a close working relationship with your Relocation Agent(s) to ensure compliance with the relocation regulations and to facilitate reimbursement of relocation expenses. The Division looks forward to a successful and timely relocation of your family.

EXHIBIT 9-5 ELIGIBILITY LETTER

LOCATION:
PROJECT:
PARCEL NO:

ELIGIBILITY LETTER

Dear _____

You are hereby notified that the eligibility date for your relocation benefit is _____ in accordance with the acquisition of your property.

In correlation with the Federal Register 49 CFR, Part 24, Section 24.401 Replacement Housing Payments, you are also notified that the computed amount to which you may be eligible for the purchase of a replacement dwelling is \$ _____, plus incidental expenses and interest differential, if applicable.

This replacement housing supplement has been established after reviewing a number of comparable dwellings available on the market at this time. The comparables considered are selected from the neighborhood in which your acquired dwelling is located, or from a similar nearby neighborhood where housing costs are generally the same or higher. The comparables that were considered include the following:

1. _____, Room Count ____ BR ____ BATHS ____
This home has a living area of _____ sq. ft and lot size of _____ sq.ft.
Amenities include: _____
2. _____, Room Count ____ BR ____ BATHS ____
This home has a living area of _____ sq. ft and lot size of _____ sq.ft.
Amenities include: _____
3. _____, Room Count ____ BR ____ BATHS ____
This home has a living area of _____ sq. ft and lot size of _____ sq.ft.
Amenities include: _____

The following comparable was determined to be the most similar and, therefore, was utilized in computing the upper limit of the replacement housing supplement: _____.

***IF A COMPARABLE IS NOT INSPECTED BY THE RELOCATION SECTION, THE REASON WILL BE STATED HERE.**

A copy of the Massachusetts Department of Transportation (MassDOT) Highway Division. Residential Relocation Brochure is included with this notice. This brochure will provide you with an explanation of all your options and benefits, including eligible incidental benefits and the interest differential payment, if applicable and the requirements and documentation necessary to be reimbursed for same.

Sincerely,

John Deleire, Director
Right of Way Bureau

(X/XX/20XX)

MR./MS. (NAME OF PERSON RECEIVING LETTER)
(THEIR WORK TITLE)
(ADDRESS)

Re: CITY/TOWN –NAME OF PROJECT –
PROJECT FILE No.XX

Dear Mr. XXXXX:

The Right of Way Bureau of the Massachusetts Department of Transportation Highway Division has been informed that the above proposal has received Departmental approval as a Federal Aid Project.

Accordingly, as a Federal Aid Project, a secured right of way is required to satisfy design, construction and future maintenance obligations for this project. Your community must acquire any and all rights in private or public lands necessary for this project to be undertaken, and your community is responsible for all of the costs and effort associated with such acquisitions. Your community must also adhere to all applicable federal and state laws and regulations relating to such acquisitions.

Please note that your community may acquire these necessary rights in land through the exercise of the right of eminent domain, by purchase or by donation. If your community has a town meeting form of government, please note the enclosed document concerning Town Meeting approval.

The Commonwealth is responsible for monitoring the acquisition activities of all local acquiring agencies on Federal Aid Projects. Therefore, it is advisable that the Right of Way Bureau and your municipality work closely together during the entire acquisition process. This association will enable your community to expedite the acquisitions while ensuring that federal and state requirements are met.

Please designate a municipal ROW representative to work with the Community Compliance section of the Right of Way Bureau. The Right of Way Bureau will provide brochures and sample forms, as well as provide guidance and advisory services to your community throughout this process. The scope of the right-of-way activity will determine the need or requirement for right-of-way plans, so please have your municipal ROW representative review the enclosed guidelines.

The Right of Way Bureau is looking forward to working with your community on this project. If you have any questions please feel free to contact (YOUR NAME), Community Compliance Officer, at (XXX) XXX-XXXX. (YOUR #)

Sincerely,

Pamela Marquis
Community Compliance Administrator

Federal Aid Acquisition Guide for Property Owners

INTRODUCTION

The purpose of this Guide is to summarize the land acquisition process, including eminent domain, for owners of properties affected by public transportation projects the construction of which is partially or wholly funded by federal funds. The term eminent domain and the process itself may be intimidating to some property owners. The objectives of this Guide are to:

- Explain the land acquisition process.
- Explain the eminent domain procedure.
- Inform property owners of their rights.
- Address property owner concerns and inform them that they have a voice in the process.
- Answer the most frequently asked questions about the process.

THE LAND ACQUISITION PROCESS

Frequently, when the construction, relocation or modification of a bridge, road, rail trail, scenic byway, or other transportation facility is determined necessary for a public purpose, the municipality in which the facility is located is required by federal law to acquire property rights from private property owners. There are several ways in which a municipality may obtain the necessary property rights for the construction of a project. In most cases, either Town Meeting or a City Council has authorized the acquisitions. The property rights may be obtained voluntarily, through a certificate of donation, or through the process of eminent domain, where the municipality obtains an appraisal and review appraisal of the property value and pays just compensation in accordance with the value determined by the appraisal process.

The land acquisition process commences with the development of a design for the project, and a public hearing held by MassDOT. MassDOT public hearings are held to obtain public input in governmental decision-making and provide a forum for the exchange of ideas during the official presentation of a proposed project. Project information, including design plans, are made available to attendees at the public hearing. Members of the public have the opportunity to comment on the proposal being presented. A ROW Community Compliance Officer is in attendance at the public hearing to discuss potential impacts to property owners. All comments are carefully considered before the determination of the final design for a project is made.

After the public hearing, the design of the project is finalized and preliminary right-of-way plans are advanced to the next design stage. The right-of-way plans show the properties that will be impacted by the proposed project, and what property rights the municipality may need to acquire for the construction and maintenance of the project.

When right-of-way plans are sufficient for ROW acquisition purposes, the municipality's Right of Way Representative will contact each affected property owner by way of a Letter of Intent sent certified mail

return receipt requested. The letter of intent will explain the project and how it impacts the addressee's property and the owner's rights throughout the acquisition process. The letter will also include a sketch of the affected area of the property with an explanation of how the area is affected by the project, a copy of this Guide, and a request to arrange a meeting. At this meeting, a representative of the municipality will show the owner the right-of-way plans, discuss the potential impacts, and explain that they are entitled to an appraisal, review appraisal, and just compensation. Property owners will also be informed that they will be afforded the right to accompany the appraiser during the appraisal inspection.

The right-of-way plans illustrate the property rights to be acquired for the project. There are different types of acquisitions that may impact the owner's property. The municipality's Right of Way Representative will explain the different types of acquisitions, and explain how the property will be affected by the project being proposed.

Property owners may opt to donate the property interests necessary for the project's construction. Donation, however, is not required. To facilitate a donation the municipality must explain the acquisition process and inform the property owner of their right to have the municipality appraise their property, the right to accompany the appraiser, the right to a review appraisal, and the right to just compensation for their property. The property owner may waive their rights to an appraisal, review appraisal, and just compensation if they wish to donate and sign a Certificate of Donation stating that they waive their aforementioned rights. Certificates of Donation must be signed by mortgagees and lenders, if applicable. In order to comply with the Federal Uniform Act, there can be no attempt by the municipality or its representatives to coerce property owners into reaching an agreement.

When the acquisition of property rights requires an appraisal and review appraisal, the municipality will hire and assign a licensed Massachusetts Certified General Appraiser and a licensed Massachusetts Certified General Review Appraiser to assist in determining the amount of just compensation an owner will be paid. The Appraiser will contact the owner, and will welcome any information the owner can provide regarding the property. The assigned Appraiser must offer the property owner an opportunity to accompany them during the inspection of the impacted property.

Completed appraisals and review appraisals must comply with 49 CFR 24. Upon completion, the appraisals and review appraisals will be delivered to MassDOT's Community Compliance Officer to be reviewed for consistency with Federal funding requirements.

The municipality will note the amount of just compensation to be paid to each owner based on the valuation prescribed by the review appraisal, and prepare and deliver a written offer for the acquisition of the real property impacted by the proposed project. This offer will be delivered in person by a representative of the municipality, or sent by certified mail return receipt requested, and followed up with contact in person or by telephone.

The written offer will consist of a written summary that includes the following information:

- The amount offered as just compensation.
- The description and location of the property and the interest to be acquired.
- Identification of buildings and other improvements that are considered to be real property.
- The date of the appraisal.

The municipality must allow the property owner a minimum of thirty (30) days to consider the written offer, ask questions, or seek clarification of anything that is not understood, before a meeting is held by the Select Board or City Council to vote upon the property acquisitions and award(s) of damages.

If the owner believes that all relevant material was not considered during the appraisal, they may present such information during this thirty (30) day period. The municipality's Right of Way Representative should contact the property owner again during this time to see if the property owner has any questions or concerns regarding the offer. The municipality will attempt to accommodate reasonable requests that are made up until and during the Select Board or City Council meeting.

After the Select Board or City Council vote on the property acquisitions, award(s) of damages, the Order of Taking, other instruments of conveyance, and the plans, the acquisition documents will be recorded at the appropriate Registry of Deeds.

Property owners will be notified in writing of the acquisition(s) and the award of damages. Payment of the award must be tendered to the affected owners expeditiously after the recording at the Registry of Deeds. Mortgagees and Lenders may be noted on the check along with all property owners

The eminent domain process is as unique and varied as the municipality that implements its procedures; however, those procedures are regulated by Massachusetts General Laws. The acquiring municipality must certify that they have followed the required guidelines to assure consistency when acquiring property for a proposed project.

FREQUENTLY ASKED QUESTIONS

How will owners be contacted?

When a MassDOT construction project is proposed for funding, the municipality accepts the responsibility to acquire the necessary rights for the construction and implementation of that project.

A representative from the municipality will contact each affected owner regarding the proposed impacts to their property. The first instance of contact will be in the form of a letter of intent sent certified mail return receipt requested to each affected property owner. The letter of intent will explain the project, how it affects the addressee's property, the property owner's rights throughout the acquisition process, and a request for a meeting with the property owner. The municipal representative will present the owner with ROW plans and discuss the potential impacts to the property. The meeting may take place in person or by video conference or telephone, whichever is preferred by the property owner. The ROW plans are subject to change up until the time the plans are voted by the Select Board or City Council. The owner will be notified of any changes or revisions impacting their property.

Following the initial contact described above, the property owner will be contacted by a Commonwealth of Massachusetts Licensed Certified General Appraiser. The property owner may, and is encouraged to, accompany the Appraiser and provide that individual with relevant information that will assist them in their valuation of the property. The Appraiser must offer the owner the opportunity to accompany them on the property inspection.

How and when will impacted properties be acquired

Once all of the appraisals have been completed, and reviewed, and the award(s) of damages determined, the affected owners will be presented with a written offer of the amount of just compensation to be awarded. The written offer must be sent certified mailed return receipt requested or presented to affected owners at least thirty (30) days prior to a scheduled meeting of the Select Board or City Council to vote the property acquisitions and award(s) of damages. Once that meeting has occurred, the Order of Taking, describing the parcels to be acquired and the associated awards to be paid, is recorded, along with any relevant plans and instruments, at the appropriate Registry of Deeds. Owners will be notified that their property has been acquired by a "Notice of Taking", which will be sent to them immediately following the recording of the Order of Taking. The municipality has physical possession of the acquired parcels on the date that payment is tendered.

When can I expect payment?

Payment of the award(s) of damages must be tendered expeditiously after recording the Order of Taking at the Registry of Deeds. It should be noted that payment may include lenders and mortgagees.

How much will payment be?

The amount of compensation an affected property owner will be paid is determined via the appraisal process with the Review Appraiser typically establishing the just compensation amount.

What if the property owner is not satisfied with the amount of payment?

A property owner who is not satisfied with the amount of the award of damages may present additional information to be considered by the municipality that could influence the value. If a property owner is still not satisfied with the amount of payment after the order of taking is filed, they may bring a Pro Tanto suit against the municipality for up to three (3) years from the date of the recording of the Order of Taking.

Matters of compensation should be addressed with municipal officials.

Please see link below:

<http://www.fhwa.dot.gov/hep//eqreq.htm#/>

Once the ROW Certificate has been issued, the project is eligible to be advertised for construction.

There are still many steps involved before construction begins. After a project is advertised, construction will not commence until at least four months thereafter, and work may start substantially later, depending on many factors. The property owner is encouraged to contact their municipal officials with questions or concerns regarding the project and the anticipated schedule of activity. The municipality will have specific, updated information as the process advances.

EXHIBIT 11-4 MUNICIPAL GUIDELINES

Massachusetts Department of Transportation/Right of Way Bureau Municipal Guidelines for Right of Way Acquisitions on Federal and State Aid Projects

1. Contact your MassDOT Community Compliance Officer to review acquisition procedures. Review the summary of the land acquisition process outlined in the **Federal Aid Acquisition Guide for Property Owners**. Forms and example documents will be provided by the Community Compliance Officer assigned to your project. These requirements are for ROW Certification and are not legal advice. Please consult your legal counsel.
2. Most towns require **Town Meeting Approval** to acquire land parcels for transportation purposes. Your town counsel and other appropriate officials should review and draft the proposed article for Town Meeting Approval. Right of Way Costs for the proposed project including appraisal fees, sign relocation, awards of damages, recording fees, attorney fees, etc. should also be considered. Submittal of a certified copy of your Town Meeting vote that authorized eminent domain, gift acceptance, etc. on land parcels is a requirement for ROW Certification.
3. Submit **ROW Plans** at each design submission. A ROW Plan Preparation Guide is in the process of being written. Recordable plans will most likely be required even for temporary construction easements. The layout lines defining the existing public layout shall be instrument surveyed to a standard that meets 250 CMR 6.02 and labeled with the document used to establish them. If no document exists to establish the layout in a manner that is acceptable for recording, then the land surveyor shall note that clearly on the face of the base plan. The base plan shall accurately show all existing ground features such as signs and other existing infrastructure and trees, shrubs, and landscaping as well as ground surfaces (e.g. grass, bit. conc., rip rap), etc. Property lines and existing ground features shall be located to a standard that meets or exceeds 250 CMR 6.01.
4. Beginning and end of **Layout Alterations** must be shown on the ROW Plans. If municipalities need Town Meeting Approval for a Layout Alteration, the Layout Plan must be recorded at the appropriate Registry of Deeds within 120 days of the Town Meeting Vote for the Layout Alteration. (Please note: Town Meeting Approval for a Layout Alteration could result in a separate vote from the Town Meeting Approval detailed above in Item #2.) Cities must also record a Layout Plan or Layout Alteration Plan at the appropriate Registry of Deeds. This will be a requirement for ROW Certification.
5. The municipality is responsible for **Encroachments** within the municipal ROW. The municipality determines if the encroachments will be allowed to remain for safety, construction and maintenance of the transportation improvement or if the encroachments will be removed. If the encroachments are to be allowed, a fully executed **Encroachment License** (an agreement between the municipality and the property owner allowing the encroachment to remain) needs to be in place *prior to ROW Certification*. Municipalities should begin the encroachment removal or negotiation of the license with the property owners at the 25% Design submission.
6. **Title Examinations** of properties must be performed and reviewed to determine ownerships and/or rights in the parcel(s) to be acquired by a qualified title examiner. Municipalities should begin the Title Examinations at the 25% Plan Submission and before the Design Public Hearing is held. The title package must be reviewed by the municipality and the designer to ensure the proper owner information is shown on the Parcel Summary Sheet, the Location Plan Sheets and the Property Plan Sheets. The title package

must be reviewed to ensure that all abutter property frontages and all parcels shown on the location plans have the proper geometry per deed and record plan. The title package must be reviewed to ensure that all easements are properly shown. The deed research, easements, abutter information, and frontages based on deed description should be performed by the project surveyor with the title package review being done as a double check. Please make sure *all required changes* from the title package review are included in the next ROW Plan submission. If determined by MassDOT that the municipality has not acquired all required land or rights therein, the municipality shall be responsible for all damages resulting there from, including compensation to private landowners, and contractor claims of any nature. *In such event, MassDOT has the option to withdraw its participation from the project.*

7. The property owner(s) must be informed in writing (**Intent Letter**) of the municipality's interest in acquiring parcels on their property and the basic protections provided to them by law. The **Intent Letter** to the property owner(s) must include the **Federal Aid Acquisition Guide for Property Owners** and the letter must be sent via certified mail with return receipt requested. This is the first required documented contact with affected property owners and should be sent ideally before the Design Public Hearing or within 2 weeks of the Design Public Hearing. A copy of each letter sent to property owners with the mail receipts should be submitted as soon as possible to the assigned Community Compliance Officer.
8. Interview property owner(s) or their representatives and discuss the issues and impacts regarding the property to be acquired. Property owners must again be given the **Federal Aid Acquisition Guide for Property Owners**. Retain notes of the interview for future reference and fill out the **Property Owner Contact Diary** which is required for ROW Certification. Also retain notes for potential appraisal of the property. Severance damage, cost to cure items, and uneconomic remainders may be indicated.
9. Assign a Massachusetts licensed Certified General Appraiser and Certified General Review Appraiser. Use the **LPA (local public agency) Appraisal Function Job Aid** which discusses appraisal scope of work, selecting and appraiser and review appraiser, responsibilities and check list. The 6 page **LPA Appraisal Function Job Aid**, the **Review Appraisal Checklist** and the **Appraiser's Affidavit** must be part of the appraisal report and review appraisal documents.
10. Municipalities are responsible for the ROW costs for the relocation of **Impacted Signs** on private property. The municipality will be responsible for coordinating with property owners the removal of the signs and their base abutments and electrification. Municipalities can obtain three estimates for the cost of relocating the impacted sign and work with the property owner on the sign relocation or have the Appraiser include the cost of relocating the impacted sign in the appraisal report (generally obtained from a qualified sign consultant).
11. The **Just Compensation** is established by the acquiring agency (municipality) and must be established prior to the municipality providing the property owners with a written summary statement (**Written Offer**). The **Written Offer** cannot be less than the just compensation. The property owner must be provided a minimum of *30 days to consider the written offer without coercive actions by the municipality*. The **Federal Aid Acquisition Guide for Property Owners** must be included in the **Written Offer**, sent certified with read receipt. A copy of each letter sent to property owners with the mail receipts should be submitted as soon as possible to the assigned Community Compliance Officer.
12. Prepare, vote and record the Order of Taking, Deed Grants or easements and plan(s), if required, with the appropriate Registry of Deeds. *NOTE: This must be accomplished within thirty (30) days of the vote by City Council or Board of Selectmen or Redevelopment Authority.*
13. Notify owner(s) in writing of the acquisition(s) and the award of damages (**Notice of Taking**). Notify the owner(s) in writing they are required to fill out a W9 in order to receive compensation. *Payment of the*

award must be tendered to the affected property owners immediately after the recording at the Registry of Deeds. Payment must be tendered to the property owner in order to issue the Federal Aid Right of Way Certificate.

14. Gain physical and legal possession of the parcel(s)/structure(s). Municipalities must be in legal and physical possession of the ROW. Municipalities will need to have legal possession by Order of Taking, Deed Grants, or easements and plan(s), if required, with the appropriate Registry of Deeds. Physical Possession will not be obtained until all encroachments are removed or otherwise accommodated to the satisfaction of the parties by having a fully executed license agreement between the municipality and property owner(s), (**Encroachment License, see Item #5**).
15. Complete and submit the required **Property Affidavits** and supporting paperwork (Intent Letter and Written Offer). Completed **Property Owner Contact Diaries** are required for ROW Certification. Forward **Municipal Document Requirement Checklist** based on method of acquisition to MassDOT Community Compliance Officer as soon as possible.

Note: The Eminent Domain procedure is as unique and varied as the Municipality that implements the process. Your procedures are regulated by the Massachusetts General Laws.

EXHIBIT 11-5 MUNICIPAL DOCUMENTATION CHECKLIST

**MASSACHUSETTS DEPARTMENT OF TRANSPORTATION/HIGHWAY
RIGHT OF WAY BUREAU
MUNICIPAL DOCUMENT REQUIREMENT CHECKLIST**

MUNICIPALITY :

PROJECT NAME:

PROJECT NUMBER #

**COPIES OF THE FOLLOWING DOCUMENTS ARE REQUIRED IN ORDER TO ISSUE
A RIGHT OF WAY CERTIFICATE ALLOWING THIS PROJECT TO BE ADVERTISED.**

****Your timely attention and response to this matter is required.****

- 1. Copies of the **Intent Letter** and the **Federal Aid Acquisition Guide For Property Owners** sent to each property owner via certified mail with return receipt requested. This requirement is for all parcels, even ones which will be donated.
- 2. Copies of **Property Owner's Contact Diary** for all parcels: includes all contact with Property Owner(s) by mail, email, phone and in person.
- 3. A certified copy of your **Town Meeting Vote** that authorized eminent domain, gift acceptance, etc. on land parcels.
- 4. A certified copy of your **Town Meeting Vote** that authorized Layout Alterations.
- 5. **Appraisals, Appraisal Review & Appraisal Affidavit Letter** offering owner accompaniment on appraisal inspection. **Appraisal & Review Appraisal Checklist** from **LPA Appraisal Function Job Aid**.
- 6. Written **Just Compensation Report** and **Written Offer** mailed to affected property owners at least 30 days prior to meeting vote and recording at the Registry of Deeds. All paperwork to the property owners must be sent certified mail with return receipt requested.
- 7. The **Order of Taking** as recorded. The book and page or document numbers along with the recording date must be clearly shown on the instrument.

- 8. Copies of the **Notice of Takings** that were mailed to all affected property owners and copies of the notification informing owners they were required to fill out a W9 in order to receive compensation.
- 9. **Plans** as recorded, with plan book/page or document number clearly shown.
- 10. **Layout Alteration Plan** as recorded with plan book/page or document number clearly shown.
- 11. **Deeded Donations** with the book/page or document number and recording date clearly shown.
- 12. A properly executed **Certificate of Donation** with supporting documentation authorizing the donation and an executed **Property Affidavit** from the municipality on all appropriate parcels.
- 13. Properly executed **Rights of Entries** with supporting documentation authoring the donation and an executed **Property Affidavit** from the municipality on affected properties.
- 14. A properly executed **Encroachment License** on all encroachments that have not been removed from the ROW.
- 15. Acknowledgement that **Impacted Signs** on private property have been relocated or acknowledgement that the municipality has made preparations to compensate the property owner for the relocation.
- 16. Acknowledgement that appropriate **Title Examinations** and run downs of properties were performed and reviewed.
- 17. **Property Affidavits** on all parcels.
- 18. Other _____ Please check with your compliance officer regarding documents you will need based on your specific project (Rights of Entry, Donation forms, Eminent Domain or Deed Grants)

EXHIBIT 11-6

City/Town: _____	Fed Aid Number: _____
Owner(s) of Record: _____	
Project: _____	
Assigned Parcel(s) Number: _____ (From ROW plans)	

To: **John DeLeire, Director**
Right of Way Bureau
MassDOT, Highway Division
10 Park Plaza, Room 6160 - Boston, Ma 02116-3973

The Municipality acknowledges to MassDOT that it is their sole responsibility to acquire all land or rights therein which are required for the Project # _____ for the City/Town of _____.

The Municipality represents that it has acquired all land or rights therein which are required for the City/Town of _____ Project # _____ and acknowledges that MassDOT is relying on this representation. If it is subsequently determined by MassDOT that the municipality has not acquired all required land or rights therein, the municipality shall be responsible for all damages resulting there from, including compensation to private land owners and contractor claims of any nature. Furthermore, it is acknowledged that in such event, MassDOT may withdraw from the Project.

This is to certify that all rights in land acquired by the City/Town in connection with the above referenced project were acquired in accordance with the provisions of Title III, Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970 as amended.

With reference to the Act, the following applicable provisions were specifically met:

1. Real property was appraised on _____, before the initiation of the negotiations. The owner or his designated representative was given the opportunity to accompany the appraiser during the inspection of the property. The property owner was given a Federal Aid Acquisition Guide for Property Owners and was given the opportunity to review it.
2. A Review Appraisal was completed on _____.
3. A fair market value of \$ _____ for the acquired property was offered. The owner was provided with a basic summary (a written-statement) for the amount established as just compensation and a Just Compensation Report. The property owner was given a Federal Aid Acquisition Guide for Property Owners and was given the opportunity to review it.
4. The owner was not or will not be required to surrender possession of the subject property before the tender of payment.
5. The owner was not coerced or compelled in any way to agree on the price to be paid for the property and was not left with an uneconomic remnant.
6. Relocation, of residential/commercial occupancy, was not required.

Order of Taking Voted: _____ Recorded: _____

Written Offer Mailed: _____ Payment Tendered: _____

Physical Possession Secured: _____

 Authorized City/Town Official Date

Physical Possession may only be secured after payment (award of damages) has been tendered.

EXHIBIT 11-7 LPA

LPA Appraisal Function Job Aid

Local Public Agency - Appraisal Responsibilities



- Identify and select qualified appraisers -appraiser and review appraiser
- Establish process for reviewing appraisals
- Ensure appraisals are completed and reviewed appropriately - use your review appraiser as a consultant to assist you (using Your Review Appraiser's Checklist at the end of this job aid)
- Review and approve the final appraisal report
- Establish an amount believed to be just compensation

Note: For your first project or a complex project, schedule a pre-appraisal meeting with your State DOT LPA coordinator and your appraisal and acquisition consultants to discuss the issues

Local Public Agency - Valuation Activities

1. Obtain survey and plans
 2. Determine appraisal formats for the following types of acquisitions (and number of appraisals per acquisition)
 - Simple partial acquisitions (strip takings)
 - Simple total acquisitions
 - Complex acquisitions and before/after appraisals
 3. Determine appraiser availability
 - Staff or fee
 - Residential or general qualifications
 4. Identify the appraisal problem and write scope of work, taking into account:
 - Property ownership rights being acquired
 - Property encumbrances and pre-existing easements
 - Need for specialty appraisals (machinery, arborist, etc.)
 - Cost-to-cure situations
 - If partial acquisition, determine if items such as well or septic system is within take area
 5. Determine highest and best use
 - Land viewed as if vacant
 - Contributory value of improvements
 - Possible transitional H&B use
 6. Conduct data collection and analysis
 - Collect and verify data and comparable sales
 - Analyze data in relation to subject property
 7. Prepare Land/Site Valuation
 - Identify the whole property, or larger parcel
 - Identify and address tenant owned improvements
 - Land is valued prior to consideration of improvements
 - Sales comparison approach typically used
 - If improved, identify realty vs. personalty
 - If before/after appraisal, identify additional after acquisition comparables
 - Develop Cost and Income approach, or explain why not applicable
 8. Reconcile separate approaches to value, if appropriate
-

Local Public Agency- General Post-Valuation Activities

1. Help the review appraiser in thoroughly understanding the appraisal report
2. Discuss questions with the negotiator regarding the appraisal and the valuation process
3. Provide needed data to relocation personnel
4. Provide information to property management relating to highest and best use of the property
5. Serve as a resource to property management providing marketing ideas for disposing of the remainder if it is an uneconomic remnant
6. Assist with legal settlements and litigation (these activities may be performed by the appraiser and/or the review appraiser)
 - Consult on potential legal settlements if necessary
 - Appear as an expert witness in legal proceedings if necessary
 - Serve as a team member in helping to analyze a legal settlement
 - Participate in pre-trial conferences and selection of experts
 - Provide consulting regarding strengths and weaknesses of opponent's evidence
 - Discuss the theory of the case with the attorney to insure the adoption of a correct theory
 - Always consult with an attorney when preparing for discovery

- Write answers to questions through written interrogatories
- Produce all documents used in preparing the appraisal
- Identify other experts or resources to complement your testimony

LPA Appraisal Function Job Aid

Appraisal Scope of Work Criteria

- Does the Scope of Work require compliance?
 - Federal and State requirements
 - State DOT FHWA approved right-of-way or appraisal manual
 - The definition of an appraisal in 49 CFR 24.2(a)(3)
 - Does the Scope of Work specify property inspection requirements?
 - Give owner opportunity to accompany appraiser on inspection
 - Inspect neighborhood and project area
 - Inspect interior and exterior of subject improvements
 - Provide level of detail of physical characteristics
 - Does the Scope of Work address the following appraisal content requirements?
 - Property description, including floor plan, dimensions, photographs, location maps
 - Property rights to be acquired
 - Definition of value
 - Date of valuation and date of the report
 - Realty/personalty report
 - Observed or known encumbrances
 - Five-year sales history of the property
 - Highest and best use analysis of present use and zonings
 - Present and analyze relevant market information
 - Consider project influence in the appraisal report
 - Report opinions and conclusions
 - Intended use
 - Intended user
 - Required certification
 - Assumptions and limiting conditions
-

LPA Appraisal Function Duties and Responsibilities – Job Aid

Selecting an Appraiser and a Review Appraiser



Before hiring an Appraiser or a Review Appraiser:

- Consult with your State DOT to ensure both the Appraiser and Review Appraiser meet State DOT qualifications and are State certified or licensed
- Define the appraisal problem and select an Appraiser and a Review Appraiser based on the individual project or the complexity of parcels identified for the acquisition
- Consider the Appraiser and Review Appraiser's past eminent domain experience and quality of services provided to other clients

When selecting an Appraiser or Review Appraiser, check their:

- Education and credentials
- General & Geographic experience
- Property type experience
- Reputation and work ethic
- Court testimony experience
- Prior Agency experience

Appraiser's Responsibilities

- Attend pre-appraisal meetings with LPA
Determine highest and best use and State DOT, if necessary
- Develop scope of work in coordination with LPA
- Write the problem definition
- Prepare a preliminary survey and plan
- Invite owner to property inspection
- Conduct physical inspection of property
- Conduct data collection and analysis
- Prepare land/site valuation
- Consider three approaches to value
- Conduct reconciliation
- Respond to questions/comments from review appraiser
- Submit correction to appraisal report
- Disclose any prior involvement with the subject property in the last 3 years

LPA Appraisal Function Job Aid

Review Appraiser's Responsibilities

Review Appraiser's Pre-Appraisal Responsibilities:

- Participate as a member of the project development team to contribute expertise and improve the process through coordination
- Develop an appraisal complexity analysis
- Select an appraiser for the project
- Participate in pre-appraisal meetings
- Assist the Agency in the development of a scope of work

Review Appraiser Appraisal Responsibilities:

- Ensure appraisal compliance with the contract/assignment
- Communicate effectively with appraiser
- Review appraiser's findings
- Prepare review appraiser's report
- Review owner's appraisals, if applicable
- Recommend just compensation
- Establish just compensation, if Agency employee and authorized by Agency

Review Appraiser's Post-Appraisal Responsibilities:

- Negotiation
 - Assist acquisition agent with complex appraisal issues
- Relocation
 - Prevent double-payments during relocation
 - Provide carve-out calculations
- Property management
 - Establish economic rent
 - Provide data and market trends
- Settlement
 - Provide professional advice
- Litigation
 - Participate as a member of the litigation team (pre-trial conferences, selecting experts, consulting on strengths/weaknesses of evidence)
 - Assist in preparing for discovery (requests for admissions, written interrogatories, motions for producing documents, depositions)
 - Provide evidence consultation (discovering flaws in opponent's appraisal)
- Post-project review
 - Participate in project evaluation
 - Provide input for process improvements
 - Provide appraiser evaluation, to be included in Agency appraiser database

Fee Review Appraiser's Responsibilities

Fee Review Appraiser's should

- Comply with the contract
- Represent the Agency
- Review the requirements in the same manner as for staff
- Prepare estimate of market value for Agency approval

Your Review Appraiser's Checklist

<p>Ensure the Appraisal Complies with the Contract</p> <ul style="list-style-type: none"> <input type="checkbox"/> Does the appraisal comply with the contract? <input type="checkbox"/> Was the contract developed based on the scope of work? (See page 2 of checklist) <input type="checkbox"/> Does the appraisal comply with both Federal and State appraisal requirements? <input type="checkbox"/> Was the appraisal completion schedule and all milestones completion dates met? 	<p>Ensure the Appraisal Addresses the Main Requirements of 49 CFR Part 24</p> <ul style="list-style-type: none"> <input type="checkbox"/> Did the appraiser invite the owner or designated representative to accompany the appraiser on the property inspection? Is this documented? <input type="checkbox"/> What concerns did the property owner or representative express? Are they documented? <input type="checkbox"/> Does the appraisal separately address the tenant-owned improvements? <input type="checkbox"/> Was the tenant-owner given an opportunity to accompany the appraiser on the property inspection? Is this documented? <input type="checkbox"/> Does the appraisal clarify what is compensable and what is non-compensable? <ul style="list-style-type: none"> <input type="checkbox"/> Have damages occurred? <input type="checkbox"/> What was the impact of the taking on the remainder? <input type="checkbox"/> Did you measure the damage? <input type="checkbox"/> Does the report separate the identification of the damages? <input type="checkbox"/> Did you find any non-compensable damages included in the appraisal? <input type="checkbox"/> Did you request appropriate corrections? <input type="checkbox"/> Does the appraisal address all real property affected by the acquisition? <ul style="list-style-type: none"> <input type="checkbox"/> Does the appraisal consider all improvements? <input type="checkbox"/> Does the report appraise these improvements if they are impacted? <input type="checkbox"/> Does the report contain support and/or justification for not appraising the improvements? <input type="checkbox"/> Does the appraisal identify both real and personal property? <ul style="list-style-type: none"> <input type="checkbox"/> Is there a separate personal property report or list within the appraisal report? <input type="checkbox"/> Does the personalty report clearly delineate what the value estimate includes? <input type="checkbox"/> Is there a clear distinction between the personal and the real property? <input type="checkbox"/> If there is a potential uneconomic remnant situation, did the remainder suffer a loss of value? <ul style="list-style-type: none"> <input type="checkbox"/> Did you find all of the necessary data and analysis information in the report? <input type="checkbox"/> Do you need to gather more information before making your determination?
<p>Communicate with the Appraiser</p> <ul style="list-style-type: none"> • To communicate effectively with the appraiser, always remember these three points: • Critique the report and not the person • Solve the problem • Obtain necessary corrections 	
<p>Determine If Appraiser Used Proper Appraisal Methodology</p> <ul style="list-style-type: none"> <input type="checkbox"/> Does the whole property meet the test of unity of use, contiguity, and ownership, and if not, has the appraiser explained the rationale for determining the whole property? <input type="checkbox"/> Is the appraiser's opinion of highest and best use supported by market data? <input type="checkbox"/> Is the market data comparable to the subject, contain sufficient information, and appear to be properly verified? <input type="checkbox"/> Did the appraiser use and apply the three approaches to value correctly or explain the exclusion of one or more of the approaches? <input type="checkbox"/> Are the adjustments supported by market data or based on subjective reasoning? <input type="checkbox"/> Did the appraiser properly address the value of the partial acquisition and remainder? <input type="checkbox"/> Was project influence, if any, applied correctly? <input type="checkbox"/> Does the report use the proper compensation framework (Federal and State rules) for this jurisdiction? <input type="checkbox"/> Were the assumptions and limiting conditions made in the report reasonable? 	

Your Review Appraiser's Checklist

<p>Ensure The Quality And Accuracy Of The Appraisal</p> <ul style="list-style-type: none"> <input type="checkbox"/> Does the appraisal adhere to quality assurance principles? <ul style="list-style-type: none"> <input type="radio"/> Logical? <input type="radio"/> Consistent? <input type="radio"/> Mathematically correct? <input type="radio"/> Grammatically correct? <input type="radio"/> Clearly written? <input type="radio"/> Legally sufficient? <input type="checkbox"/> Does the appraisal contain any common mistakes? <ul style="list-style-type: none"> <input type="radio"/> Improper methodology? <input type="radio"/> Unsupported adjustments? <input type="radio"/> Data inconsistent with opinion of highest and best use? <input type="radio"/> Erroneous zoning assumptions? <input type="radio"/> Compensability issues? <input type="radio"/> Unsupported damage estimates? <input type="radio"/> Math errors? 	<p>Prepare a Review Appraiser's Report</p> <ul style="list-style-type: none"> <input type="checkbox"/> Is the Review Appraiser's Report based on 49 CFR Part 24? <ul style="list-style-type: none"> <input type="radio"/> Is it a written report? <input type="radio"/> Does it identify the appraisal report? <input type="radio"/> Does it document the findings and conclusions? <input type="radio"/> Does it identify damages? <input type="radio"/> Does it include a signed certification stating approved value? <input type="checkbox"/> Did you maintain and develop a comprehensive Review Appraiser's Report? <ul style="list-style-type: none"> <input type="radio"/> Does it discuss the strengths and weaknesses of the appraisal report? <input type="radio"/> Does it maintain a positive approach and avoid negativity? <input type="radio"/> Does it refer to the report and not the person? <input type="radio"/> Does it avoid imposing your opinion instead of the appraiser's?
<p>Verify All Conclusions Are Fully Supported</p> <ul style="list-style-type: none"> <input type="checkbox"/> Did you verify that the appraisal fully supports all conclusions? <ul style="list-style-type: none"> <input type="radio"/> Are the opinions expressed supported by relevant market data? <input type="radio"/> Have you fully evaluated the analysis, data, and conclusions? 	<p>Review Property Owner Appraisals</p> <p>If you received a property owner's appraisal did you ...</p> <ul style="list-style-type: none"> <input type="checkbox"/> Consider the findings? <input type="checkbox"/> Subject it to the same review process?
<p>Review Appraiser's Findings</p> <ul style="list-style-type: none"> <input type="checkbox"/> Not acceptable <input type="checkbox"/> Acceptable- meets all requirements but not selected as recommended or approved <input type="checkbox"/> Recommended -as the basis for the establishment of the amount believed to be just compensation 	<p>Establish Just Compensation</p> <ul style="list-style-type: none"> <input type="checkbox"/> As a Staff Review Appraiser, did you develop and report the amount believed to be just compensation? <input type="checkbox"/> As a Fee Review Appraiser, did you establish an estimate of market value for Agency approval?
<p>Appraisal Review Management Activities</p> <ul style="list-style-type: none"> • Reconcile consistency issues • Reconcile divergent values reconciliation • Provide assistance with project management review 	<p>Sequence for the review of an appraisal report –</p> <p>If you completed your compliance review in a favorable manner, then you accomplished the following:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Reviewed preliminary scope of work <input type="checkbox"/> Read the appraisal <input type="checkbox"/> Checked for compliance with regulations <input type="checkbox"/> Assessed comparability and accuracy of data <input type="checkbox"/> Assessed methodology, judgment, and conclusions <input type="checkbox"/> Assessed quality and accuracy of the report

EXHIBIT 11-8 RIGHT OF ENTRY WITHOUT PREJUDICE

CITY/TOWN
MASSACHUSETTS

RIGHT OF ENTRY - WITHOUT PREJUDICE

Owner(s) of Record: _____

Address: _____

Stations: _____

Parcel Number (ROW Plans) & Square Footage(s): _____

Projects: _____

Permission is hereby given to the above municipality and the Massachusetts Department of Transportation, Highway Division or its duly authorized agents to enter upon my property in connection with the reconstruction of a roadway on the above named project. Plans for this project are located in the Municipal Offices. **A ROW Plans showing the impacts to my property are attached.** The purpose of this Right of Entry is to allow for changes and to carry out the work on my property as out lined below.

This Right of Entry is made of my/our free will. I/we waive my/our right(s) to an appraisal and compensation. I/we have been advised of our rights for just compensation under the provisions of Uniform Act of 1970, as amended. This entry is to be made without prejudice to my rights in settlement of any claims for damages that may hereafter appear. I/we have been given the Federal Aid Acquisition Guide for Property Owners and have reviewed it.

Granted by: _____ / _____
Owner(s)/ Authorized Representative Date
****All Owners of Records must sign****

Recommended by: _____ / _____
Authorized City/Town Official - Title Date

Note: If the subject parcel(s) is/are owned by a corporation, estate, trust, etc., then an appropriate document, authorizing this donation must be attached to this document. Note: An executed Affidavit from the municipality must be attached for this document to be valid for ROW Certification.

EXHIBIT 11-9 APPRAISAL CHECKLIST

CO Appraisal Checklist

Project name and number: _____
<Date>

Right of Way PLAN			
Considerations	Verification	Answer	Notes
Parcel count, Sq. Footage of easements and plan	Verify that the parcel count, and Sq.ft to make sure the appraiser is valuing the most up to date plan		
Term of Temporary Easements	Verify that the appraiser calculates the Temporary Easements for a minimum of a 3 year term, 5 years for TWLR that is the term which the Town is acquiring for.		
APPRAISAL			
Considerations	Verification	Answer	Notes
Scope of Work - Intended use and user	Verify the appraisal meets the appraisal definition in 49 CFR 24., USPAP, 23 CFR 710. Intended use is acquisition for a federal aid project. Intended user is Municipality: DOT :FHWA		
Appraisal and review appraisal	Verify there is a separate appraisal and review appraisal for each property owner.		
Federal Opinion of an appraisal definition	Verify this is included and is greater than what MGL requires.		
Sales History	Verify there is a 5 year sales history which is greater than what MGL requires.		
Description	Verify the description of the real and personal property including any remainder of realty property has an adequate description.		
Highest and Best use	Verify this method of valuation was used.		
Review Appraiser Report			
Considerations	Verification	Answer	Notes
Documentation of Review appraiser findings	Verify the review appraiser reviewed the appraisal reports, findings and recommended values		
Findings must be 1, 2 or 3	<ol style="list-style-type: none"> 1. Not Acceptable 2. Acceptable -meets all requirements 3. Recommended-as the basis for the establishment of the amount believed to be just compensation. 		
Findings and Conclusion.	Verify findings and conclusions are documented and damages are identified		
Approved Value	Verify there is a signed certification of value.		
Considerations	Verification	Answer	Notes
Licensing	Verify the appraiser and review appraiser licenses are up to date. This information will be under the appraiser's signature with license number and expiration date		
Right of property owners	Verify the property owners was given the right to accompany the appraiser on inspection of their property.		
LPA Guide	Verify the 6 page LPA document is included with each appraisal and review appraisal documents.		
Was the appraisal prepared according to the LPA Appraisal Job Aid.	Verify that the appraiser has prepared the appraisal in accordance to the LPA Appraisal Function Guide, either by checklist or a certification statement.		

EXHIBIT 11-10 CERTIFICATE OF DONATION

CERTIFICATE OF DONATION

Owner(s) & Mortgagee(s) of Record: _____

City/Town: _____ Fed Aid Number: _____

Project: _____

Parcel Number (ROW Plans) & Square Footage(s): _____

In Fee: _____ Permanent Easement(s): _____

Temporary Easement(s): _____

Temporary Easement Term(s): (Term must be approved by DOT Right of Way Compliance Administrator and is not to be less than three years from the date of recording at the Registry of Deeds): _____ Years

This is to certify that the above referenced parcel(s) were donated by the owner(s) and mortgagee/lender(s) as provided for in the provisions of Title III, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended.

The conveyance of these parcels will be accomplished by deed or Order of Taking and recorded in the Registry of Deeds.

This donation is made of my/our free will. I/we waive my/our right(s) to an appraisal and compensation. I/we have been given the Federal Aid Acquisition Guide for Property Owners and have reviewed it.

Owner(s)/ Authorized Representative
****All Owners of Records must sign****

Date

Mortgagee/Lender(s) Authorized Representative
****All Owners of Records must sign****

Date

Authorized City/Town Official - Title

Date

Note: If the subject parcel(s) is/are owned by a corporation, estate, trust, etc., then an appropriate document, authorizing this donation must be attached to this document.

Note: An executed Affidavit from the municipality must be attached for this document to be valid for ROW Certification.

EXHIBIT 13-1 OFFER OF JUST COMPENSATION



Charles D. Baker, Governor
Karyn E. Polito, Lieutenant Governor
Stephanie Pollack, Secretary & CEO
Jonathan L. Gulliver, Highway Administrator



«Date»

«Owners»

«Co Owners»

«Mailing Address»

«Mailing City State Zip»

Project #«Project Number»

«City»

«Project Name»

Re: Offer of Just Compensation
Parcel(s): «Parcel List»

The Massachusetts Department of Transportation (MassDOT) Right of Way Bureau proposes the following offer, subject to the Highway Division Administrator's approval, as just compensation for the anticipated impacts to your property.

Offer of Just Compensation:	«Reviewer Award of Damages»
Highway Division Administrator Approval:	«Approval Date»
Recording at Registry of Deeds:	«Recording Date»
Payment scheduled on or before:	«Payment Date»

Payment of the award will be made without prejudice to any additional information you may provide, or to your legal rights. In order to process payment in a timely fashion, you will need to complete and submit a W-9. Our Finance section will contact you directly for this part of the process, and an official Notice of Taking will be sent to you after the Order of Taking has been recorded at the Registry of Deeds. Interest and tax apportionment (if applicable) will be included in the payment.

Please know that if you are not satisfied with the offer, you do have the option to present additional information for our consideration through our Administrative Settlement process.

If you have any questions or concerns regarding this offer, do not hesitate to contact me.

Sincerely,

«Negotiator», Negotiator
MassDOT – Right of Way
«Negotiator Phone»
«Negotiator Email»

Enclosure: Acquisition Guide, Just Compensation Report