

U.S. DEPARTMENT OF TRANSPORTATION
2006 ANNUAL REPORT

IMPLEMENTATION OF THE UNIFORM RELOCATION ASSISTANCE AND
REAL PROPERTY ACQUISITION POLICIES ACT OF 1970, AS AMENDED
June 2007

The United States Department of Transportation (DOT), in its capacity as Lead Agency and in compliance with the Presidential Memorandum of February 27, 1985, submits this report for the 2006 calendar year on the implementation of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (Uniform Act) as amended. The Secretary of Transportation delegated the Lead Agency responsibility to the Administrator of the Federal Highway Administration (FHWA). The Uniform Act applies to all programs or projects undertaken by Federal agencies or with Federal financial assistance that require the acquisition of real property or that cause displacement of any person.

The FHWA is committed to assuring that affected property owners and displaced persons receive the protections required by the Uniform Act. In addition, programs and projects of benefit to the American public continue to be advanced with consideration of every party directly impacted by the Federal Government's programs and projects.

The DOT greatly appreciates the commitment of the FHWA and the actions it has taken in fulfilling its responsibilities as the Lead Agency for implementing the Uniform Act. These responsibilities have been made especially difficult due to the complexity of projects, statutory and regulatory changes, real estate market evolution, funding constraints, and technological innovations. Succession planning for each of these issues must be addressed by a dwindling number of experienced personnel in the public sector real estate workforce.

As Lead Agency, the FHWA's primary responsibilities are to:

- Develop, publish, issue, and maintain the necessary regulations to carry out the provisions of the Uniform Act with all eighteen (18) affected Federal agencies actively involved in developing statutory and regulatory changes
- Provide Uniform Act leadership, and advisory assistance, as well as materials for developing training, for all affected agencies.
- Monitor the implementation and enforcement of the Uniform Act, in coordination with other Federal agencies. In deference to other Federal agencies and to the FHWA staffing limitations, the FHWA's monitoring activities are limited and are currently carried out at the requests of other agencies.
- Perform other duties necessary to assure compliance with the Uniform Act.

Informational meetings are held on a regular basis for all affected Federal agencies to keep them abreast of recent Uniform Act issues. Uniform Act information is kept current and made available to all Federal agencies through the FHWA Web site at:

<http://www.fhwa.dot.gov/realestate/ua/index.htm> and through the FHWA sponsored publications.

The report that follows was prepared by the FHWA. The report discusses key issues addressed by the FHWA in calendar year 2006 that include the ramifications of the Supreme Court's

Kelo v. City of New London, 545 U.S. 469 (2005) decision, congestion mitigation initiatives, technological advances, and the evolution of public sector real estate practice.

Regulation and Guidance

The regulation implementing the Uniform Act, 49 CFR Part 24, was published on January 4, 2005 and became effective February 3, 2005. In 2006, a self-paced tutorial explaining the regulation was made available on the FHWA Office of Real Estate Services' website. The FHWA also developed a real estate acquisition tutorial which was designed for use by local public agencies carrying out real estate acquisitions which are subject to the Uniform Act. This course is also being converted to a web-based format and will be made available in summer 2007.

Twice each year, the FHWA convenes an All Federal Agency Uniform Act Implementation Meeting with seventeen other Federal agencies in Washington, DC. Agency field offices are provided the opportunity to participate via teleconference. The meetings provide forums to discuss the implementation of Uniform Act. This year, attendees discussed the status of the proposed statutory update to the Uniform Act which is being prepared by the FHWA and will be sent to the Office of the Secretary of Transportation and to the Office of Management and Budget in 2007.

Topics at the 2006 All Federal Agency Uniform Act Implementation Meetings also included:

- A discussion of Final Rule, 49 CFR Part 24, implementation and best practices
- Replacement Housing Payment (RHP) calculations
- Government-assisted housing utility cost schedules
- Global settlements
- A discussion of the "Cognizant Agency" provisions of 49 CFR 24.6
- The ramifications of the Kelo decision including state legislative responses and super-compensation
- Uniform Act emergency gulf coast hurricane response and policy development
- How to calculate the appropriate relocation assistance benefits for families or groups containing persons not lawfully present in the US
- A real estate appraisal roundtable provided a forum for the discussion of the following:
 - The status of the FHWA's national appraisal waiver survey and study
 - The development of an electronic appraisal delivery system (multi-state pooled funds project)
 - The progress of the Appraisal Standards Board's development of 3 standardized national examinations for appraisal licensure.

During 2006, the FHWA issued Uniform Act policy and guidance for eminent domain provisions of the U.S. DOT Reauthorization Act of 2006 – "A Safe Accountable, Flexible, Efficient Transportation Equity Act – A Legacy for Users" (SAFETEA-LU).

Strategic Issues

Partnerships

The FHWA actively promotes public-private partnerships (PPPs). Some PPP proposals contain Uniform Act and Title 23 right-of-way components. Private parties may perceive Uniform Act requirements as onerous. The FHWA has worked to ensure that partners establish a process that includes right-of-way accountability, integrity and transparency, where roles, responsibilities, risks, and rewards are clearly defined and understood.

Congestion Mitigation

In 2006, the U.S. Secretary of Transportation announced a department-wide initiative to reduce congestion. The FHWA's Office of Real Estate Services has three Uniform Act related activities underway that significantly contribute to this initiative.

- 1) Right-of-way incentive payments (voluntary) for acquisitions and relocations. This new program's flexibility allows for saving time on acquisitions and relocations for congestion-reducing projects.
- 2) Right-of-way advance acquisition. The FHWA is developing guidance to help State DOTs carry out advance acquisition of right-of-way that will assist in delivering congestion-reducing projects.
- 3) Right-of-way support for access management techniques. The FHWA promoted techniques for congestion relief by decreasing conflict points and increasing the flow of through traffic. The FHWA marketed an access management primer and video called "Safe Access is Good for Business" that explains access management to business owners to enhance their understanding and support of the need for and purpose of congestion reduction projects.

Security Issues

The FHWA participated in a number of right-of-way security related activities. The FHWA held teleconferences on right-of-way airspace security and continues to advise the FHWA's Federal and State partners of further developments in this area.

Border Crossings

In the area of border crossings, the FHWA actively participated in developing guidance for interstate and border crossing projects, as well as providing guidance on property issues on several border crossing projects. Because of the complexity of issues and multi-agency coordination that is involved, this area continues to evolve, with multiple jurisdictional issues, as well as funding and operational concerns.

Research and Professional Practice

The All Federal Agency Uniform Act Implementation Meetings inform agencies of the various Uniform Act resources available on the FHWA website, which is the FHWA's primary means of disseminating information and guidance nationwide. The FHWA Uniform Act website received between 2,500 and 3,000 hits each month during calendar year 2006.

As Lead Agency for the Uniform Act, the FHWA sees challenges ahead for the public sector realty profession. In 2006, the FHWA conducted research into the future needs of public sector real estate to enable the FHWA, other Federal agencies performing real estate acquisition, and their non-federal partners to make strategic decisions about resources. The FHWA's goal is for public sector real estate work to be accomplished as effectively and efficiently as possible. Three different approaches identified trends and developed a short list of critical policies, procedures, tools, technologies, and best practices.

The short list comprised these critical items:

Communication and Visualization	Training
Real Estate Profession	National Environmental Policy Act
Partnerships	23 Code of Federal Regulations (Highways)
Uniform Act Lead Agency	49 Code of Federal Regulations (Uniform Act)
Uniform Act	Real Estate Delivery Model
Think Tank	Real Estate Cost Estimating
Technology	Real Estate Research
Real Estate Integration	

Technology

The FHWA fostered a multi-state sponsored, pooled fund research project led by the Texas DOT for development of an electronic appraisal system. The research team developed a Windows based software platform for an electronic appraisal system which features an integrated statistical process controller to facilitate appraisal review. The end product is now being deployed. It is a tool which enables appraisers to facilitate the paperless preparation, review and sharing of appraisals. The project was completed December 15, 2006.

The FHWA participated in a study to develop key elements needed for integrating geo-spatial technologies into the right-of-way data management process. The result of the first phase of this research is published and the second phase has begun. The FHWA is encouraged by the interest shown by several public agencies in using geo-spatial technology in a variety of real estate/right-of-way applications.

The FHWA determined that there was a need for a software product to assist in providing relocation assistance to individuals, families and businesses displaced as a result of public construction projects. Once developed, this software will address an emerging need to automate relocation benefit calculations that can be used by any agency or their contractor to

implement the requirements of the Uniform Act. This initiative is being developed in cooperation with the American Association of State Highway and Transportation Officials (AASHTO).

Among the reasons for developing the software are the following:

- Institutional knowledge loss due to downsizing, attrition, and retirement
- Increase in projects carried out by local public agencies which require enhanced stewardship and oversight
- Steady or increased numbers of relocations to be carried out over the next several years.

Community of Practice

The FHWA Real Estate Exchange is a community of practice website that allows people with common interests, goals or expertise in the Uniform Act to share their experiences and knowledge, to collaborate on work, to identify and exchange best practices and to advance the state-of-the-art in their field. It provides for a transfer of knowledge within the FHWA, throughout the right-of-way professional community and the affected members of the public to promote better decision-making, spark innovation, and improve the quality of service to the FHWA's customers and partners. This site allows the contribution of thoughts and ideas in an open forum. In 2006, the site was updated to provide improved search functions. An example of this is the forum for owners and displaced persons. This public forum provides a place for anyone to discuss owner and displacee concerns about the effects of a federally funded program or project. The community of practice website averages 500 hits a month.

Cost Estimating

To improve the implementation of the Uniform Act, the FHWA partnered with the National Cooperative Highway Research Program (NCHRP) to co-sponsor a study called "Right-of-Way Methods and Tools to Control Project Cost Escalation". This study will review current State DOT best practices focusing on the right-of-way aspects of cost estimating. A larger NCHRP research project has produced a guidebook on highway cost estimation management and project cost estimation procedures for consistency and accuracy between long-range transportation planning, priority programming, and preconstruction cost estimates. This guidebook provides strategies, methods, and tools to develop, track, and document realistic cost estimates.

The Real Estate Services Professional Development Program

The FHWA Professional Development Program (PDP) provides approximately two years of entry-level career development and "hands-on" work experience. There are twelve (12) discipline options within the program, with real estate services as one of the options. The program is designed to introduce individuals to the technical, administrative, and program management aspects of the FHWA right-of-way and highway beautification responsibilities.

Those who complete the PDP program may be placed in any of the FHWA offices nationwide based on staffing needs. Four right-of-way/environment participants completed the program in 2006. The Office of Real Estate Services provides PDP participants a developmental opportunity to gain a national program perspective in the Headquarters office.

Appraisal Waiver Research

The FHWA acting as Lead Agency has the responsibility to issue regulations necessary to implement the Uniform Act. The purpose of this research was to provide the FHWA with an assessment of the effects and potential impacts regarding the use of the appraisal waiver provision based on the changes that have been made over the past 20 years to determine if the intent of the appraisal waiver provision was being achieved. The national web-based survey, follow-up interviews and analysis present a clear picture; that all but a few State Departments of Transportation consider the appraisal waiver option valuable enough to develop procedures and apply the waiver provision in at least some situations within their acquisition programs. Only three of forty seven responses indicated that their State did not use the appraisal waiver option.

National Appraisal Seminar

The FHWA participated in this national event sponsored by the American Institute of Real Estate Appraisers. This “virtual seminar” provided a forum for representatives of various Federal agencies to exchange information on a range of elements in national program delivery. In addition to the FHWA, other Federal agencies participating included the US Department of the Interior, the Natural Resources Conservation Service, and the US Forest Service. The FHWA briefed participants on the appraisal and appraisal review requirement of the Uniform Act and 49 CFR Part 24. Additional topics addressed during the seminar included scope of work, appraisal research, and eminent domain appraisal best practices.

Domestic Right-of-way and Utility Relocation Scan

In 2006, the FHWA through the National Cooperative Highway Research Program (NCHRP) sponsored a Domestic Scan Pilot Program modeled after the International Technology Scanning Program sponsored by the American Association of State Highway and Transportation Officials (AASHTO). The purpose of the domestic scan program is to identify, review, document, and disseminate innovative practices developed by transportation agencies through the United States.

Fifteen transportation professionals participated in the scan, including nine state departments of transportation real estate professionals along with two consultants who facilitated the scan.

All of the scan participants noted that they found the scan to be extremely valuable in providing opportunities to learn about successful practices. In addition to disseminating findings through a summary and final report, scan participants are actively working to adopt innovative practices and lessons learned from the scan within their own agencies, as well as communicate findings and lessons learned from the scan to their peers at professional meetings and conferences. A follow-up evaluation will examine to the extent to which scan participants have been successful in introducing these practices within their own agencies.

Professional Development

The Uniform Act Professional Certification Program

In October 2005, the FHWA authorized a three year research study based on surveys of employees of Federal agencies, State transportation agencies, local public agencies and private sector firms performing work for public agencies. The research was to determine the support and the need for a Uniform Act certification program which would recognize the professional expertise of real estate personnel performing work in the public sector. The study found there was a need for such a program and indicated the program focus should be based on a mixture of experience, course work, and successful completion of a capstone examination. This study contained a listing of current training courses which would be offered for the professional development of candidates seeking to obtain the certification recognition.

The FHWA and the International Right-of-way Association (IRWA) worked under a partnering agreement with other Federal agencies to determine the viability of developing a detailed training curriculum, implementation strategy, and a marketing program. The FHWA anticipates that the FHWA will continue to strive to provide the highest quality real estate/right-of-way training opportunities.

The ongoing success of the FHWA's formal partnerships with agencies, such as the Department of Housing and Urban Development (HUD), Federal Transit Administration, Federal Aviation Administration, U.S. Army Corps of Engineers, the Bureau of Land Management, and the IRWA, allows these agencies and the IRWA to effectively leverage the FHWA's resources by reducing overlap and duplication of effort.

The FHWA participated in an IRWA Education Summit and provided strategic insight into future education needs for the right-of-way profession. The need for hot-topic workshops, exploration of alternative delivery training methods, and better market research are mirrored in the twelve (12) strategies which emerged from the future needs study mentioned earlier in this report.

An example of cooperation among the FHWA's Federal agency partners and IRWA is the Public Real Estate Education Symposium (PRES). In discussions with the FHWA's Federal partners and IRWA leaders, PRES emerged as the solution to an ongoing challenge – how to most effectively offer a venue for the exchange of information and training with the U.S. right-of-way community involved with the Federal government. Co-sponsored by the FHWA and IRWA, PRES brought together Federal agencies, state and local public agencies, and the private sector for three full days of intense workshops that leverage time, finances and resources for all involved.

Excellence in Right-of-Way Awards.

The FHWA designed this awards program to recognize outstanding innovations that enhance the right-of-way professional's ability to meet the challenges associated with acquiring real property under the Uniform Act for federal-aid highway projects. It is a biennial awards

program that provides a way to honor those who excel in streamlining or improving the real property acquisition process while ensuring that the rights of property owners and tenants are protected.

The awards for 2006 were presented on May 1, 2006, by the FHWA Executive Director Frederick Wright. Awards included Excellence in Right-of-Way Stewardship Award: Minnesota DOT; Excellence in Right-of-Way Innovation Award: Utah DOT; Excellence in Right-of-Way Leadership Award: California DOT and Georgia DOT; Excellence in Right-of-Way Streamlining and Integration Award: Florida DOT; Honorable Mention: Arizona DOT; Excellence in Right-of-Way Technical Specialties Award: Woodrow Wilson Bridge Project; Honorable Mention: South Carolina DOT.

Training

The FHWA conducted a right-of-way education barriers study, which identified and evaluated barriers to the effective use of existing right-of-way training courses by Federal and State right-of-way personnel. The analysis is based on surveys of State right-of-way managers, the FHWA Division realty officers, and select training providers. The final report recommended:

- 1) Training providers should develop more short courses, hot-topic workshops, and explore course delivery by alternative methods.
- 2) Training providers should ascertain needs and better market available training opportunities. They should provide potential users with information regarding methods by which courses can be specifically requested and/or sponsored.
- 3) State DOTs should develop and promote in house training, which was found to be highly effective. The FHWA should encourage the exchange of in house course material.

Most of the FHWA realty courses available through the National Highway Institute (NHI) were updated in 2006 to reflect the revised Uniform Act regulation.

Appraisal Training - Two new courses, on Appraisal and Appraisal Review for Federal-aid Highway Programs have been available since June 2006. These courses were developed by The FHWA's Office of Real Estate Services in cooperation with NHI. The courses have been well received by students and the courses have been designated "Courses of Excellence" by NHI. The courses are being approved by state licensing boards as meeting continuing education requirements for licensed and certified professional real estate appraisers.

Uniform Act Training - The updated and improved web-based Uniform Act training course, Real Estate Acquisition under the Uniform Act: an Overview, NHI #141045C, is now available. This course outlines the basics participants need to know when acquiring real estate for a federally-funded project. The audience is Federal, State, and local government employees, and consultants who acquire real estate. It is free and course registration instructions can be found at <http://www.fhwa.dot.gov/realestate/distlearn.htm>.

Other Training Programs

Beyond the formal courses available through the NHI and the FHWA's partner, the IRWA, there is a need for continued development of an undergraduate real estate curriculum. As a model, real estate acquisition courses for public projects were developed by the Community College of Baltimore County. Classroom courses are 15 hours each and are certified for appraisal continuing education credit.

Conclusion

During 2006, the FHWA and other Federal agencies worked together to expand their collective knowledge about Uniform Act training needs and availability. The FHWA continues to learn about the diversity of other Federal agency programs and how to address the concerns of their stakeholders. The semi-annual All Federal Agencies Uniform Act Implementation Meetings held during 2006 were informative and beneficial in understanding the unique needs of each agency.

The DOT and the FHWA appreciate the opportunity to serve as the Lead Agency for the Uniform Act and hope this report helps others understand the Lead Agency activities for 2006.

For more information on the FHWA Uniform Act resources, efforts and reports, please visit <http://www.fhwa.dot.gov/realestate>