

X. Right-of-Way (ROW)

Definition:

- **Right-of-way** means real property and rights therein used for the construction, operation, or maintenance of a transportation or related facility.
- **Right-Of-Way Phase** – This effort includes the revision of existing plans or the preparation of new plans detailing the need for new Right of Way defined during the design phase. It also includes the appraisal, negotiation, and purchase of new Right of Way. The right-of-way phase can begin during scoping, after design completion, or anytime in between. The phase end is when the ROW is certified, but this may not have a direct relationship to the construction phase. Construction cannot begin unless the ROW is certified. Except under rare circumstances, all new Right-of-Way must be acquired before the project can go to advertizing.

Program Overview. The Right of Way program conducts acquisitions of property rights necessary for the construction and improvement of IRR roads. Some rights of way are for a specific use such as repair of telephone lines. The program also coordinates the relocations of businesses and families displaced by highway projects. In addition, the program tracks the management and disposition of residue parcels and surplus right of way.

The Right-of-Way program is responsible for ensuring that land acquired and people relocated for highway projects are accomplished according to the Uniform Act. Requirements provide for fair market value to be paid for real estate, and reimbursements paid for relocating homeowners/tenants and business owners. Program responsibilities also cover other programs such as Federal land transfers, outdoor advertising, encroachment permits, and junkyard control.

Statutory/Regulatory Requirements.

- 42 U.S.C. 4601 – Uniform Relocation and Real Property Acquisitions Policy Act

Roles and Responsibilities. The following outline provides examples of potential agency or governmental roles and responsibilities when establishing a project agreement for IRR projects advanced by a Tribe under a Program Agreement.

Land	Roles and Responsibilities
Trust Land	<p>Tribe: Drafts Project Agreement, provides review copies for cooperating agencies, and executes the Project Agreement with cooperating agencies.</p> <p>BIA Regional Office: Processing right-of-way: reviewing right-of-way applications and certifications; approving right-of-way documents; processing grants and acquisitions of rights-of-way requests for allocated lands; responding to information requests; filing Affidavit of Completion Forms; Performing custodial functions related to storing rights-of-way documents; ROW appraisal and negotiation; providing Title Status Reports (TSRs), Grants of Easement, and filing ROW documents; reviews and approval.</p>

Land	Roles and Responsibilities
	<p>FHWA: Ensure ROW process is complete.</p>
<p>Restricted Fee Land</p>	<p>Tribe: Drafts Project Agreement, provides review copies for cooperating agencies, and executes the Project Agreement with cooperating agencies.</p> <p>BIA Regional Office: Processing right-of-way: reviewing right-of-way applications and certifications; approving right-of-way documents; processing grants and acquisitions of rights-of-way requests for allocated lands; responding to information requests; filing Affidavit of Completion Forms; Performing custodial functions related to storing rights-of-way documents; ROW appraisal and negotiation; providing Title Status Reports (TSRs), Grants of Easement, and filing ROW documents; reviews and approval.</p> <p>FHWA: Ensure ROW process is complete.</p>
<p>Fee Land</p>	<p>Tribe: Drafts Project Agreement, provides review copies for cooperating agencies, and executes the Project Agreement with cooperating agencies.</p> <p>FHWA: Ensure ROW process is complete.</p>
<p>State Owned</p>	<p>State DOT: Obtains necessary ROW and ensures utility relocation (both at State’s expense).</p> <p>Tribe: Drafts Project Agreement, provides review copies for cooperating agencies, and executes the Project Agreement with cooperating agencies.</p> <p>FHWA: Ensure ROW process is complete.</p>
<p>County or local agency owned roads</p>	<p>Tribe: Drafts Project Agreement, provides review copies for cooperating agencies, and executes the Project Agreement with cooperating agencies.</p> <p>County/Local Agency: Obtains necessary ROW and ensures utility relocation (both at County’s expense).</p> <p>FHWA: Ensure ROW process is complete.</p>