



LOCAL ASSISTANCE ACADEMY

RIGHT OF WAY

LOCAL PROGRAMS

(CH 13 - LAPM)

&

UTILITY RELOCATIONS

(CH 14 -LAPM)

Presented by
HQ Right of Way Local Programs

Today's Overview

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- **Right of Way 101 – A Primer**

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- **The Uniform Act - Statutory Requirements for Federal Aid**

3

- **Right of Way Certification – What is it? When is it required?**

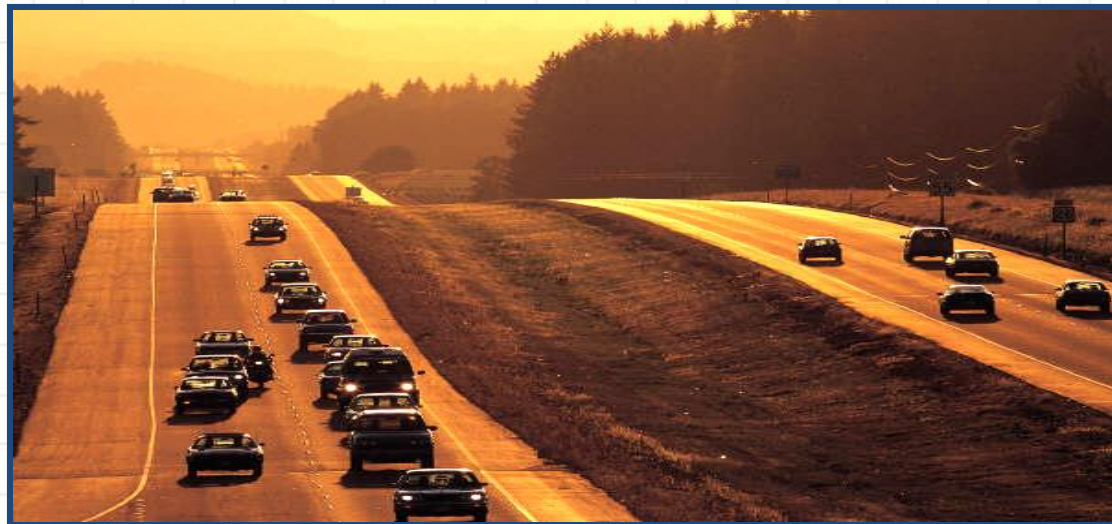
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- **Railroad and Utility Involvements - Required Project Deliverables**

What is Right Of Way?

Definition - *for highway construction purposes:*

All real property rights, either temporary or permanent, a local agency must legally and physically possess (or acquire) prior to project construction – all performed in accordance with state and federal regulations and guidelines



R/W is not A&E

All capital and support cost for R/W are to be addressed in the R/W E-76

- Chapter 3 of LAPM

R/W consultants are not to complete paperwork as if they are A&E contractor

R/W Cost invoiced under A&E contract will be Rejected as not reimbursable, must be billed to R/W phase as part of R/W Consultant Contract.

Right Of Way Function

- Division of Caltrans Project Delivery
- Also part of every Project Development Team for:
 - Caltrans capital and permit projects
 - Local projects (on & off system)
 - Other realty related services as needed
- Subject matter experts on the performance of “real property rights” activities, processes and procedures to ensure successful delivery (i.e. “certification”) of projects for construction

Right Of Way Functional Units

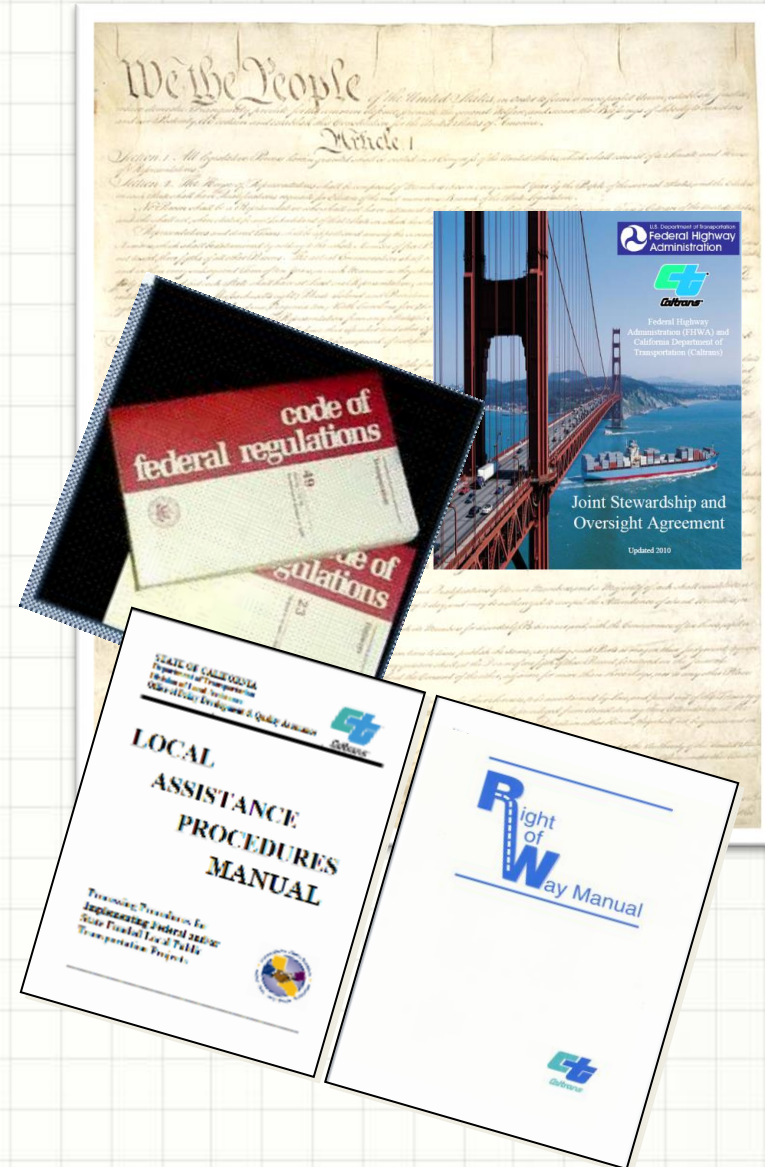
- Comprised of several real property rights activity “units”:
 - Estimating
 - R/W Mapping (in some Districts)
 - Project Delivery:
 - Appraisals
 - Acquisition/Condemnation
 - Relocation Assistance Program (RAP)
 - Railroad and Utility Coordination/Relocation
 - Project Coordination (P&M – part of PID & PDT)
 - Property Services – including
 - Property Management
 - Excess Land
 - Airspace

When Do You Call Right Of Way?

- At beginning of project's development phase or earlier
- Participates in environmental document review
- Local Assistance Projects:
 - Preliminary Environmental Study (PES) - Verify accuracy of R/W statements and cost estimates
 - Participate in field reviews with LPAs
- “On-System” – Part of Project Development Team to produce project documents (PSR, Draft PR and Final PR)
- ***Always direct LPAs to your District Local Programs or Right of Way Coordinator to discuss any potential right of way on their projects during the programming phase***

Basis for R/W's Role and Function

- US Constitution – 5th and 14th amendments
- Article 1 of California State Constitution
- Title VI of Civil Rights Act of 1964
- The “Uniform Act”
- 23 & 49 CFR
- California Code of Civil Procedures
- California Streets & Highways Code
- CTC Guidelines Stewardship Agreement between FHWA & Caltrans
 - CT RW Manual
 - LAPM



Uniform Relocation Assistance and Real Properties Act of 1970 (as amended)

- Expansion of Title VI of the Civil Rights Act of 1964
- Compliance with all provisions of the “*Uniform Act*” is mandatory:
 - to be eligible for federal reimbursement
 - for successful submittal of a Right of Way Certification” for construction authorization
- **IMPORTANT:** must comply w/the “*Uniform Act*” when \$1 of federal funds is used on **ANY** phase of work (even if **no** federal funds are used for the right of way phase of work)

The Uniform Act – cont'd

- Provides important protections and assistance for people affected by federally-funded projects
- Ensures fair and equitable treatment for people displaced by a federally-funded project
- Ensures no person shall suffer disproportionate injury by a program designed to benefit all
- Encourages every reasonable effort to expeditiously acquire real property by negotiation without coercion
- Codified in 49 CFR; processes/procedures in 23 CFR

Right Of Way Certification

- Written statement prepared by the agency responsible for the R/W project component
- Summarizes and attests to status, legal compliance and sufficiency of all project R/W matters, including railroad and utilities for construction purposes
- Essential for Project Delivery
- Projects cannot be advertised without a R/W Cert
- Federal funds for construction cannot be authorized without it

Which Projects Require a R/W Cert?

- Projects with NO R/W involvement (confer with R/W to determine)
- Projects with only utility involvements
- Projects with parcel acquisitions and relocations, ***including railroad involvements and utilities***
- Emergency Projects – post construction

Note: For “off-system” projects, an approved CT encroachment permit is required prior to R/W Certification

R/W Certification Requirements, Policies and Procedures

A full discussion of R/W Certification types, levels and compliance requirements can be found in:

- CT R/W Manual, Chapters 14 and 17
www.dot.ca.gov/hq/row/rowman/manual
- LAPM, Chapter 13
www.dot.ca.gov/hq/LocalPrograms/public.htm

Railroad Involvements

California Public Utilities Commission

Public Utilities Code Section 1201-1220:

- California Public Utilities Commission (CPUC) has jurisdictional authority over all railroad crossings
- Exclusive power to determine final design when a crossing involves a public or publicly used road or highway

CPUC Rule 3.9 – agencies must submit an application and obtain approval to construct or adjust a railroad facility cross, over or under a public road, highway or street

Railroad Involvements – cont'd

Three (3) Mandatory Project Deliverables:

- CPUC Application Approval of Project Railroad Plans for final project PS&E
- Identification and acquisition of railroad real property rights; and
- Obtaining an agreement with the railroad for physical construction of the project

Utility Relocations

Definition (23 CFR 645.105):

- “The **adjustment** of utility facilities required by the highway project. Includes removing and reinstalling the facility, including necessary temporary facilities, acquiring necessary right of way on the new location, moving, rearranging or changing the type of existing facilities and taking any necessary safety and protective measures....”

Utility Relocations – cont'd

- Manhole cover adjustments are utility relocation items
- Must be addressed in certification
- If agency legally required to pay for relocation costs (or portion thereof), must have completed Report of Investigation and obtained ***fully executed agreements prior to R/W Certification***
- If federal participating, must obtain Specific Authorization for each utility facility cost item
- See Chapter 14 of LAPM for full discussion – updated 12/31/2014
- Seek help and guidance from District Local Programs Coordinators



THANK YOU FOR LISTENING!

ARE THERE ANY QUESTIONS?