

RIGHT OF WAY PROCEDURE

Acquisitions of right of way in fee, easements or grading permits are all considered right of way taking, and must be done in accordance with federal regulations, even if no federal funds are used for the acquisition.

Attachment A, which provides information regarding the experience and qualifications of the local agency, should be completed **prior to the grade inspection**. With this information, the Real Estate Division of MDOT will determine the necessity of a review.

MDOT is responsible for monitoring all right of way acquisition. Questions regarding acquisition can be directed to Kelly Ramirez, Real Estate Division, at (517) 373-4135.

Easements or right of way in fee should be obtained for part of the project that remains on private property, such as sidewalk, retaining walls, etc. Grading permits are only permissible for temporary use of the property during construction (grading), or for work performed for the benefit of the property owner, such as driveways or fence relocations.

For takings of less than \$10,000, as determined by a market study, the owner may waive the appraisal. The value must be documented in the file before attempting to acquire the property. Administrative settlements are permissible if justified and documented.

Donations are acceptable, but a waiver of appraisal/donation form is required. **There can be neither coercion to force the property owner to donate nor threats to not perform the construction in an attempt to obtain donated right of way.** It must be the property owner's free will and desire to donate the property.

For each taking, the file should contain 1) documentation of value, 2) determination of ownership (tax roll may be acceptable for minor takings), 3) appraisal or waiver of appraisal, 4) a chronological memorandum of negotiations documenting contacts, and 5) a copy of the instrument of conveyance.

Easements or right of way in fee should be recorded.

Upon completion of the above and before requesting permission to advertise, Attachment B, Part B should be completed (including the number of each type of acquisition) and signed by the local agency, certifying federal procedures were followed and that the documents listed above are present **for each taking**. **Attachment B must be received by this office a minimum of FOUR weeks prior to the anticipated advertising date.**

The right of way certification is a critical part of the federal aid process and is subject to audit by both MDOT and the FHWA. Non-compliance could jeopardize **all** federal funds used in the construction of the project.