DATE: October 25, 2017

TO: Users of the Real Estate Manual

FROM: Wayne Pace, Manager Acquisition Unit

RE: Changes and Updates to the Real Estate Manual

The only current and accurate source of ODOT’s Real Estate Manual is on the Office of Real Estate’s website. This site is located at: http://www.dot.state.oh.us/real. Desired information can be accessed by scrolling down the left column and selecting “Manuals and Booklets.” Specific information can be selected by clicking on the desired section.

The Real Estate Manual is a “living document” as procedures will evolve and change. Individuals or firms providing various services to the Office of Real Estate (e.g. negotiations, titles, appraisal, appraisal review, relocation, relocation review, closing, property management, railroad coordination and utility relocation) must perform these services in compliance with current published policies and procedures. Individuals utilizing a hard copy version of the manual, without accessing the website for updates, risk providing non-compliant services to the Office of Real Estate. Therefore, all users must be aware of the changes as various sections of the manual are updated.

ODOT will provide notice of manual changes on the Design Reference Resource Center (DRRC) web page. Users of the manual can access this page and subscribe to be made aware of manual changes via e-mail notification. Then, when changes to the manual occur, ODOT will provide direct notice to the subscriber. This page can be accessed at http://www.dot.state.oh.us/DRRC. Scroll down to “Real Estate Policies and Procedures Manual” and select the desired section for updates, or enter your e-mail address to subscribe for changes. It is the user’s responsibility to maintain their most current e-mail address on the DRRC notification system. The DRRC web site is updated four times a year.

The Office of Real Estate may also provide additional guidance to its procedures by Inter-Office Communications (IOC’s). These communications will be made a part of the Real Estate Manual. If Individuals having questions pertaining specifically to this Section, contact me at (614) 995-3541.
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**5000 REGULATIONS IMPLEMENTED, DESCRIPTION OF PROCESS TO ACQUIRE RIGHTS OF WAY**

**5000.01 FEDERAL AND STATE REGULATIONS IMPLEMENTED INTO THE ODOT REAL ESTATE MANUAL**

The Ohio Department of Transportation (ODOT) administers the Federal-aid Highway Program in the State of Ohio. This program, in part, provides funding for ODOT’s highway projects. This program is funded under chapter 1, title 23 of the United States Code (U.S.C.) requiring real property interests needed for rights of way to be acquired in compliance with the Uniform Act, 49 C.F.R. Part 24 and 23 C.F.R. Part 710. These procedures implement these Federal regulations.

A. The Uniform Act implemented into Ohio law and ODOT acquisition procedure

1. The Uniform Act (Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended) is Federal law that is codified in 42 U.S.C. Chapter 61. The Ohio Department of Transportation (ODOT) is required to follow the Uniform Act when its highway projects are funded with grant funding under chapter 1 of title 23 of the United States Code. In particular, Subchapter III of 42 U.S.C. Chapter 61 establishes Federal law for uniform real property acquisition.

2. The State of Ohio has implemented Subchapter III into its eminent domain code, which is Ohio Revised Code, Chapter 163 – Appropriation of Property. Implementation is in the following sections:
   - 163.59 Policy for land acquisition
   - 163.60 Acquiring interest in buildings located on acquired real property
   - 163.61 Reimbursement of incidental expenses
   - 163.62 Reimbursement of reasonable costs, disbursements, and expenses

3. These real property acquisition laws are implemented into ODOT’s appraisal and acquisition processes. The procedures for the appraisal are in the 4000 section series of its Real Estate Manual. The procedures for acquisition of real property are in the 5000 section series of the Real Estate Manual.

B. 49 C.F.R. Part 24 implemented into Ohio Administrative Code and ODOT acquisition procedure

1. 49 C.F.R. Part 24 is Federal regulation that promulgates federal rules to implement the Uniform Act. 49 C.F.R. Part 24 is divided into Subparts A through G with Real Property Acquisition being Subpart B. ODOT is required to follow the regulations in this C.F.R. (Code of Federal Regulations) when its highway projects are funded with grant funding under chapter 1 of title 23 of the United States Code.

3. These real property acquisition regulations are implemented into ODOT’s appraisal and acquisition processes. The procedures for the appraisal are in the 4000 section series of its Real Estate Manual. The procedures for acquisition of real property are in the 5000 section series of the Real Estate Manual.

C. 23 C.F.R. Part 710 implemented into ODOT acquisition procedure

1. 23 C.F.R. Part 710 provides Federal regulation for Right of Way and Real Estate. It is regulation that ensures the prudent use of Federal funds under title 23 of the United States Code in acquisition, management, and disposal of real property. This regulation requires compliance to 49 C.F.R. Part 24, and applies to programs administered by the Federal Highway Administration (FHWA). ODOT is required to follow the regulations in this C.F.R. when its highway projects are funded with grant funding under chapter 1 of title 23 of the United States Code.

2. 23 C.F.R. Part 710.201(c) requires ODOT to have a right of way manual that implements applicable Federal requirements. These requirements include the Uniform Act, 49 C.F.R. Part 24 and 23 C.F.R. Part 710.

    The ODOT Office of Real Estate has created its Real Estate Manual to implement this Federal requirement. The procedures for acquisition of real property for ODOT highway projects are the appraisal and acquisition parts of the ODOT Real Estate Manual. The procedures for appraisal are in the 4000 section series of its Real Estate Manual. The procedures for acquisition of real property are in the 5000 section series of the Real Estate Manual.

5000.02 THE STEWARDESHIP AND OVERSIGHT AGREEMENT

A. General

These procedures implement Federal regulation 23 C.F.R. § 710.201(h) requiring the content of the most recent Stewardship and Oversight Agreement to be reflected in the Real Estate Manual used by ODOT. This Agreement sets forth the roles and responsibilities of FHWA and ODOT with respect to title 23 project approvals, related responsibilities, and Federal-aid Highway Project oversight activities. The current edition of this Agreement is dated February 20, 2015.

This sub section of the ODOT Real Estate Manual implements the negotiation/real estate acquisition requirements in the Stewardship/Oversight Agreement.
### B. Assumption of Responsibilities for Federal-aid Projects

Per the Stewardship Agreement, for projects that are on the National Highway System (NHS) and that are not on the NHS, ODOT may assume responsibilities of FHWA under title 23 for the following items:

- design,
- estimates,
- plans,
- specifications,
- inspections
- contract awards, and

This delegation of authority from FHWA to ODOT includes real estate acquisition because real estate is part of the PS&E package as defined in Section VI (B) of the Oversight Agreement:

Real estate acquisition approvals assumed by ODOT are shown on the matrix and apply program-wide with the exception of FHWA Projects of Division Interest (PoDI) or Projects of Corporate Interest (PoCI). The FHWA Division Office will carry out project specific actions for the approval or related responsibilities on PoDI and PoCI projects. More information is found in the FHWA PoDI / PoCI Guide at: http://www.fhwa.dot.gov/federalaid/stewardship/.

ODOT may not assume responsibilities for Interstate projects that are high risk – see Section III (C) of the Oversight Agreement. However, there are no high-risk areas noted in Section IX (B) of the Agreement.

### C. Assumptions of Responsibilities for Locally Administered Projects

ODOT may permit local public agencies (LPAs) to carry out its assumed responsibilities on locally administered projects. ODOT is responsible and accountable for LPA compliance with all applicable Federal laws and requirements.

### D. Project Action Responsibility Matrix

This matrix defines actions that FHWA has delegated to ODOT and actions retained by FHWA. This matrix does not cover projects classified as PoDI as those projects will be governed by a separate PoDI plan that specifies FHWA and State responsibilities for the project.

<table>
<thead>
<tr>
<th>The Action</th>
<th>Projects on NHS</th>
<th>Projects off NHS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Makes determination to allow construction prior to completion of RW clearance, utility and railroad works – 23 C.F.R. § 635.309(b)</td>
<td>ODOT</td>
<td>ODOT</td>
</tr>
<tr>
<td>Ensure compliant R/W certificate is in place – 23 C.F.R. §635.309(c)</td>
<td>ODOT</td>
<td>ODOT</td>
</tr>
<tr>
<td>Approve hardship/protective buys – 23 C.F.R. § 710.503</td>
<td>FHWA</td>
<td>FHWA</td>
</tr>
<tr>
<td>Requests for credits toward non-Federal share of construction costs for early acquisitions, donation’s or other contributions applied to a project</td>
<td>FHWA</td>
<td>FHWA</td>
</tr>
<tr>
<td>Federal land transfers – 23 C.F.R. § 710, Part F</td>
<td>FHWA</td>
<td>FHWA</td>
</tr>
<tr>
<td>Functional replacement – 23 C.F.R. 710.509</td>
<td>FHWA</td>
<td>FHWA</td>
</tr>
</tbody>
</table>
E. Program Responsibility Matrix

This matrix is a list of program actions for ODOT and FHWA.

<table>
<thead>
<tr>
<th>Activity</th>
<th>Authority</th>
<th>Frequency</th>
<th>Due Date</th>
<th>FHWA HQ Office</th>
<th>FHWA Div. Office</th>
<th>DOT Office</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Approvals of acquisitions appraisals, relocation program procedures</td>
<td>49 C.F.R. Part 24</td>
<td>As Needed</td>
<td>N/A</td>
<td>Planning, Real Environ. &amp; Realty</td>
<td>Special Programs Team</td>
<td>Real Estate</td>
<td>None</td>
</tr>
<tr>
<td>Early acquisitions</td>
<td>23 C.F.R. §710.501</td>
<td>As Needed</td>
<td>N/A</td>
<td>Same</td>
<td>Same</td>
<td>Same</td>
<td>None</td>
</tr>
<tr>
<td>Approval of Real Estate Manual, Updates &amp; Certifications</td>
<td>23 C.F.R. §710.201</td>
<td>08/23/2018 and then every 5 years</td>
<td>N/A</td>
<td>Same</td>
<td>Same</td>
<td>Same</td>
<td>None</td>
</tr>
</tbody>
</table>

F. The FHWA Oversight Program Under 23 U.S.C. §106(g)

1. FHWA will employ a risk management framework to evaluate financial integrity and project delivery, and balance risk with staffing resources, available funding, and ODOT’s transportation needs.

2. Techniques that FHWA and ODOT may use to identify and analyze risks and develop response strategies include the following:

   - Program Assessments;
   - FIRE Reviews;
   - Program Reviews;
   - Certification Reviews;
   - Recurring or periodic reviews such as Compliance Assessment Program (CAP); and
   - Inspections of project elements or phases

G. State DOT Oversight and Reporting Requirements

ODOT is responsible for demonstrating to FHWA how it is carrying out its responsibilities in accordance with the Stewardship/Oversight Agreement – see Section XI (A) of the Agreement.

1. At the project level, ODOT will follow its Project Development Process (PDP) and its supporting procedures in its technical manuals.
2. At the program level, ODOT, in coordination with FHWA, will continue to develop updates to its manuals, as conditions require. ODOT maintains qualification requirements for its staff and consultants. As a component of the qualification requirements, ODOT implements training on a variety of subjects or requires specific training from outside sources.

3. ODOT conducts internal reviews of its processes. Some of these reviews are recurring and some as ad hoc. These reviews are coordinated through the Stewardship and Oversight Committee (SOC) where it is decided if the review will be conducted jointly with FHWA.

4. State DOT’s are required to provide adequate oversight of sub recipients including oversight of any assumed responsibilities the State DOT delegates to a LPA. More details regarding these responsibilities are in Section XI (B) of the Stewardship/Oversight Agreement.

5000.03 THE ODOT REAL ESTATE MANUAL

The ODOT Real Estate Manual is developed to implement the regulations of 23 C.F.R. § 710, 49 C.F.R. Part 24 as well as other Federal laws and regulations. This Manual also implements regulations and laws pertinent to acquiring rights of way and which govern the Ohio Department of Transportation which include, but are not limited to: Article 1, Section 19 of the Ohio Constitution; Chapters 163 and 5501 of the Ohio Revised Code; and, Chapter 5501:2-5 of the Ohio Administrative Code.

The ODOT Real Estate Manual has been approved by FHWA. All right of way acquisition activities are required to comply with this manual. The ODOT Real Estate Manual includes the following sections:

1000 Railroad Coordination
3000 Right of Way Plan Development
4000 The Appraisal Manual
5000 Acquisition and Negotiation Procedures
6000 Relocation Requirements
7000 Property Management
8000 Utility Coordination

The sections of the Real Estate Manual describe functions and procedures for all phases of the right of way program under the jurisdiction of the Ohio Department of Transportation.
When a highway project is federalized with the use of title 23 funds anywhere in the project, ODOT, its subgrantees, and their contractors must comply with current FHWA requirements and this Real Estate Manual.

The Real Estate Manual is updated periodically to reflect changes in operation. These changes have been submitted to and approved by FHWA. Because of these ongoing changes, the only source of the official/current manual and forms is on the web site of the Office of Real Estate.

23 C.F.R. § 710.201(d) allow right of way manual alternatives. Non-State DOT grantees, and all subgrantees, design build contractors, and other acquiring agencies carrying out a project funded by a grant under title 23, United States Code must demonstrate they will use FHWA-approved right of way procedures for acquisition and they have the ability to comply with current FHWA requirements. This can be done by:

- Certification, in writing, that the acquiring agency will adopt and use the FHWA-approved ODOT Real Estate Manual;

- Submission of the acquiring agency’s own right of way manual that has been reviewed and approved by ODOT;

- Submission of a Real Estate Acquisition Management Plans (RAMP). Currently, ODOT does not approve of the use of RAMPs.

5000.04 RECORD KEEPING

23 C.F.R. § 710.201(e) requires ODOT to maintain adequate records of its acquisition and property management activities which demonstrate compliance to 23 C.F.R. Part 710 and 49 C.F.R. Part 24. Records shall be retained at least 3 years from the later of: i) The date ODOT (or other grantee) receives Federal reimbursement of the final payment made to each owner of a property and each displaced person; or, ii) The date of reimbursement for early acquisition or credit towards the ODOT share of a project based on early acquisition activities under 23 C.F.R § 710.501.

- ODOT implements this regulation in section 5800 of its Real Estate Manual. Most records are kept into perpetuity because procedures require acquisition records to be electronically scanned and stored.

5000.05 PROJECT AUTHORIZATION

As a condition for federal funding, 23 C.F.R. § 710.303 requires ODOT to obtain FHWA authorization in writing or electronically before proceeding with any real property acquisition using title 23 funds. This federal authorization requirement also applies to federal funded early acquisitions under 23 C.F.R. § 710.501(e) and hardship/protective purchases under 23 C.F.R. § 710.503. ODOT is required to prepare a project agreement in accordance with 23 C.F.R. part 630.
subpart A. Authorizations and agreements are to be based on acceptable costs estimates for acquisition.

− The form used when requesting authorization is the Authorization Request form available from the ODOT Office of Finance.

− The information from this form is entered into the Fiscal Management Information System (FMIS) for review by FHWA. Upon approval by FHWA, an electronic signature is entered in FMIS, which provides Federal authorization of the acquisition activity.

− Once authorized by FHWA, ODOT can be reimbursed for acquisition costs defined as direct costs and indirect costs – see 23 C.F.R. § 710.203.

− The procedures implementing this requirement are Section 2300 of the ODOT Real Estate Manual – Cost Estimating Procedures for Acquiring Rights of Way.

− The form used to estimate costs is the Cost Estimator on the Office of Real Estate web site. ODOT district office may also develop/use their own cost estimating forms.

5000.06 REAL ESTATE ACQUISITION

23 C.F.R. § 710.305(a) describes the process of acquiring real property to include appraisal, appraisal review, waiver valuations, establishing estimates of just compensation, negotiations, relocation assistance, administrative and legal settlements, and court settlements and condemnations.

− ODOT implements these requirements in the 4000, 5000, and 6000 section series of its Real Estate Manual.

ODOT is required to ensure all acquisitions and related relocation assistance activities are performed in accordance with 49 C.F.R. Part 24 and 23 C.F.R. Part 710 with title 23 projects. This also includes compliance to all pertinent state regulations, laws and the ODOT Real Estate Manual. ODOT district offices are responsible for managing the acquisition phase of a highway project and assuring acquisition complies with these regulations and the Real Estate Manual.

23 C.F.R. § 710.305(a) requires ODOT to directly own the real property interest used for a title 23 project, or if ODOT does not directly own the real property interest, it must have an enforceable subgrant agreement or other agreement with the owner of the ROW that permits ODOT to enforce Federal requirements affecting the real property interests, including real property management requirements.

− 23 C.F.R. § 1.23 also requires the State to acquire rights-of-way of such nature and extent as are adequate for the construction, operation, and maintenance of a project.
– ODOT does acquire and own real property interests by use of a variety of instruments and contracts created by the Ohio Attorney General’s Office in compliance with Ohio Rev. Code § 5501.31. These instruments/contracts allow control and ownership of the rights of way that is adequate for construction, operation, and maintenance of the highway project.

– These instruments and contracts are located on the ODOT Office of Real Estate web site.

– ODOT has a training classes and procedures in place providing technical direction to utilize these instruments and contracts. The procedures are in the Real Estate Manual and include:

  Section 5201.05 – Contracts
  Section 5400 – Instruments
  Section 5307 – Right of Entry

23 C.F.R. § 710.305(b) requires the real property interest acquired for any title 23 funded project to be adequate to fulfill the purpose of the project. Except for Early Acquisition Projects, this means adequate for construction, operation, and maintenance of the resulting facility, and for the protection of both facility and the travelling public.

– ODOT acquires a variety of property rights needed for its highway projects to comply with this regulation. These rights include, but are not limited to:

  WD - Fee simple reserving reasonable access to the residue
  WL - Fee simple including the taking of all access rights
  SH - Perpetual easement for highway purposes reserving access to the residue
  LA - Perpetual easement for highway purposes reserving no access rights to the residue
  A - Perpetual aerial easement
  SL - Perpetual slope Easement
  T - Temporary easement for construction purposes

– A description of these property rights is in the Right of Way Plan Development section of the Real Estate Manual, which is the 3000 section series.

23 C.F.R. § 710.305(c) requires the establishment and offer of just compensation to be approved by a responsible official of the acquiring agency and shall be done in accordance with 49 C.F.R. § 24.102(d).

– ODOT has procedures for the establishment of just compensation and for the offer of just compensation. These procedures are in sections:
23 C.F.R. § 710.305(d) requires ODOT to provide persons affected by projects or acquisitions advanced under title 23 of the USC with a written description of its real property acquisition process under State law and 23 C.F.R. Part 710, and the owner’s rights, privileges, and obligations. The description shall be written in clear, non-technical language and, where appropriate, be available in a language other than English in accordance with 49 C.F.R. § 24.5, 24.102(b), and 24.203.

To implement this requirement, ODOT provides the owner a brochure entitled “When ODOT Needs Your Property”

The procedures implementing this regulation are in the following sections of the Real Estate Manual:

5201.01 - Requirement for Acquisition Notice
5201.08(A)(4) - Required Discussions with the Owner

5000.07 DESCRIPTION OF PROCESS TO ACQUIRE RIGHTS OF WAY

A. General
The process of acquiring rights of way needed for a highway project is very flexible. Acquisition can occur early (before the environmental review for the project is completed), can occur piecemeal as part of a design build project, or can occur traditionally after the environmental review is completed and the project’s right of plans are completed. The following paragraphs generally describe the process to acquire rights of way.

When an ODOT highway project cannot be constructed within the existing limits of its right of way or when a new alignment for a highway is required, there is a need to obtain additional property rights that will be used for new highway rights of way.

The process of obtaining control of areas needed for rights of way is managed by ODOT district offices. Someone of authority in these districts establishes the time by which the acquisition of rights of way must be secured that will allow sufficient time for the construction phase of the project to be advertised and awarded by a specific date.

A district office develops highway plans and, the right of way component of these plans identifies the property rights to be acquired for new rights of way needed for the project. These
plans allow a district office to secure the property rights needed for the construction and long-term operation of the highway.

When the right of way plans are sufficiently completed, a district office may begin the process of acquiring rights of way from property owners. The initial steps in this acquisition process include:

- estimating the costs to acquire rights of way,
- obtaining Federal authorization to acquire rights of way if there are title 23 funds in the acquisition, and
- if consultants are to be used to acquire, engaging their services and issuing authorizations to proceed.

Obtaining control of areas needed for rights of way occurs by negotiation or appropriation. With only a few exceptions, an ODOT district office acquiring rights in real property for a highway project has the power of eminent domain. Obtaining control means that a district office has:

- obtained possession or the legal right to take possession of the right of way needed for the project,
- that there is a plan in place for relocation of utilities,
- if the project affects an active rail line, there is an executed railroad agreement in place,
- people, businesses, personal property determined as displaced have been relocated from the project area and,
- encroachments in the construction area have been identified, removed, a plan is in place for their removal, or a permit will be issued allowing the encroachment.

Once the district office has control of the areas needed for highway right of way, it can certify the right of way as cleared. Certification means the ODOT contractor may legally and physically enter onto the right of way needed for the construction phase of the project. Once a district controls the right of way needed for the project, it will issue a Certification of Right of Way Control Letter detailing its control of the right of way needed for the project. This letter along with the plan submittal package is sent to the ODOT Office of Estimating for review. Once this review is finished, the Certification of Right of Way Control Letter and other pertinent information of the PS&E package (Plans, Specifications and Estimates) is input into the federal Fiscal Management System (FMIS) as part of the process to obtain authorization from FHWA to proceed with the construction phase (advertise, bid, let and construct) of the project.

**B. What control of the right of way means**

The “purpose” for those managing the acquisition of rights of way and those performing the various tasks of obtaining control of real property needed for rights of way is to:

- Obtain control of the right of way by a specific date. This date is usually dictated by a district official. The date may be earlier than typical due to demands of utility
relocation, demolition of structures, or environmental issues (bat tree removal or environmental mitigation).

- Assure that owners of properties needed for the project are offered just compensation.

- Assure that owners and other occupants of properties needed for the project are treated fairly, consistently, and are afforded all rights, processes and privileges due to them as provided in laws and regulations from the federal and state levels and as implemented in the ODOT Real Estate Manual.

“Control of the rights of way” needed for the project means the district office has obtained site control, which occurs by any of the following means:

- Property rights have been conveyed to ODOT and if the acquired property was occupied, the occupant has vacated the project area. Title to the property is in the name of State of Ohio, for the use and benefit of ODOT;

- Property has been appropriated, if necessary. A district office has exercised right of the Director of the Ohio Department of Transportation to take the property rights needed for the project. ODOT has quick take authority for the taking of vacant land. If the take area includes a structure, a district office will need an order of possession from the court to have the right of possession to the structure. The taking of property is not absolute and is subject to many restrictions/regulations;

- For those properties that have not been acquired or appropriated, the owner has granted a right of entry to the district office;

- All people, businesses and personal property determined as displaced have moved from the right of way area;

- Acquired structures have been tested for asbestos. Abatement, if needed, is noted in the plan package;

- All encroachments in the construction zone of the project area have been removed or a plan is in place for removal;

- Utilities within the old and new rights of way have been identified and if relocation has not occurred, there is a plan in place for the relocation;

- An executed railroad agreement is in place when the project affects an active rail line; and

- All property owners and occupants have been afforded all rights due under, regulation and the ODOT Real Estate Manual. All acquisitions have been done in
a manner compliant with 23 C.F.R. Part 710, 49 C.F.R. Part 24 and the ODOT Real Estate Manual. All file documentation supports this compliance.

C. The process to control/acquire rights of way

1. Title Reports
Regulations require a notice of intent to acquire and good faith offer of compensation be made to the owner. Ohio Rev. Code § 163.01(E) defines “owner” in the State of Ohio. A Title Report is completed to determine the owner of a property to be acquired for the highway project. The procedure for preparing title reports is described in Section 5100 of the Real Estate Manual.

2. Appraisal Reports
Regulations require a good faith offer of compensation be made to the owner – Ohio Rev. Code § 163.04. Just compensation is based on market evidence and this evidence is detailed in an appraisal report that is an unbiased and supported opinion of compensation allocated into the part taken and damages, if any, to the part not taken. This is the appraisal process and the procedure for preparing appraisals is described in the 4000 section series of the Real Estate Manual.

3. Appraisal Review
In part, the regulation of Ohio Admin. Code § 5501:2-5-06 (A) requires a review of all appraisals when there is Federal or State financial assistance in any part of project costs or any acquisition of real property subject to Ohio Rev. Code Chapter 163.

   Appraisal review is part of the process for just compensation made to the property owner. The appraisal review process is designed to ensure appraisal standards are met and compensation offered to the property owner complies with Ohio statutes, regulations, and Ohio case law for eminent domain compensability. The appraisal review process is described in Section 4300 of the Real Estate Manual.

4. Establishing Just Compensation
Regulations require just compensation be established by an official of the agency before the initiation of negotiations with an owner. The process of establishing just compensation is described in the 4100, 4300 and the 5200 Sections of the Real Estate Manual.

5. Negotiations
There can be no negotiations with an owner until the agency has established just compensation. The initial offer of compensation to any owner is regulated by Ohio Rev. Code § 163.04 requiring the offer to be made by certified mail or face-to-face visit. ODOT’s negotiation procedures are described in Sections 5200 and 5300 of the Real Estate Manual.

6. Relocation
The relocation process is mandated by Federal and State regulations and is the process of assisting persons and businesses displaced by highway projects and assuring that replacement housing payments, moving reimbursements, and other benefits are offered in compliance with regulation and procedures. To ensure people determined as displaced are moved or relocated from the project area in an expedient manner, the relocation process must be coordinated with the acquisition process. In many instances, the relocation offer and the acquisition offer occur at the same time. The procedures for relocation are described in Sections 6100 through 6600 of the Real Estate Manual.

7. Closing
Closing is the process where funds are disbursed to the owner and the rights of way needed for the highway project are conveyed into the name of ODOT (or other acquiring agency). The procedures for closings are described in Sections 5600 and 5700 of the Real Estate Manual.

8. Appropriation
Condemnation (also known as appropriation) is the process where ODOT exercises its power of eminent domain and takes property needed for the highway project.

- Appropriation in Ohio is regulated in Chapter 163 of the Ohio Revised Code (ORC or RC).

- Per Ohio Rev. Code § 163.02 (B), the Director of ODOT may appropriate real property and it is presumed the taking of an owner’s property for a road is a public use1.

- Any acquisition subject to the power of eminent domain or any condemnation pursuant to Chapter 163 of the Ohio Rev. Code is an appropriation of the owner’s property.2

- The procedure for condemnation is described in Section 5500 of the Real Estate Manual.

Condemnation provides a district office the right of possession of vacant land required for right of way by depositing funds equal to the district’s estimate of just compensation with the court at the time of the filing of the appropriation petition3.

A district’s right to have possession of structures may not be on the date funds are deposited with the court and before the right to possess structures occurs, an order of possession may be required from the court.

1 Ohio Rev. Code § 163.01(H)(2)
2 Ohio Rev. Code § 163.63
3 Ohio Rev. Code § 163.06(B)