



RIGHT-OF-WAY OPERATIONS MANUAL

Chapter One Right-of-Way Organization

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Chapter One

RIGHT-OF-WAY BUREAU ORGANIZATION

1-1 RIGHT-OF-WAY BUREAU FUNCTION

1-1.1 Function and Operation of the Right-of-Way Bureau

The Right-of-Way (R/W) Bureau is part of MDT's Preconstruction Program within the Engineering Division and is organized into the following sections: Lands, Acquisitions, Utilities, and Real Estate Services. The Right-of-Way Bureau is responsible for designing right-of-way, acquiring land for highway facilities, managing acquired land, supporting assistance and payments to individuals, businesses and utilities that are relocated because of highway construction.

Our primary goal is to execute responsibilities of the Right-of-Way Bureau to deliver MDT's mission: *"to plan, build, operate and maintain a safe and resilient transportation infrastructure."*

The Bureau coordinates its activities with the objectives and schedules of MDT and maintains liaison with other units within MDT and with the Federal Highway Administration (FHWA) concerning property acquisition and other Bureau programs. The functions or programs carried out by the Bureau in meeting these responsibilities are described below:

1. Right-of-Way Design Services. The Bureau is responsible for the design of right of way plans, right of way limits, easement limits, and construction permits. This step in the overall project development process is necessary for letting 60-70 percent of all projects for MDT. If this development phase is not accomplished in a timely manner and according to schedule, projects cannot be let, and millions of dollars of pre-allocated funds will be either lost or the expenditure postponed creating substantial economic loss to various communities and the State.
2. Real Estate Valuation. The Bureau performs all real estate valuations through waiver valuation, appraisal, and appraisal review functions. These services include professional appraisal and technical assistance to staff and fee appraisers, review of all appraisals performed by staff and fee appraisers, decisions or determinations of any uneconomic remnants, and decisions or determinations as to the amount of just compensation that MDT should offer for each parcel to be acquired.

3. Property Acquisition. The Bureau performs all operations related to the acquisition of interests in real property needed for transportation purposes, including communication and negotiation with property owners for the purchase of real property interests. However, once negotiations have proven to be unsuccessful in acquiring a property, and MDT has adopted a resolution to condemn, acquisition becomes the responsibility of Legal Services of MDT using a legal settlement or condemnation.
4. Property Management. The Bureau provides the necessary real estate management services for all property interests that are owned or controlled by MDT. These services include the rental, lease, management, and sale of all types of property interests held by MDT, including administrative property that is determined to be more than present or future needs.
5. Relocation Assistance. The Bureau conducts a program of relocation assistance that provides advisory services and financial assistance to aid in the orderly and successful relocation of persons, businesses and nonprofit organizations that are displaced by transportation projects.
6. Utility, Railroad and City/County Water and Sewer Agreements. The Bureau develops policy and procedures and secures agreements for the removal, relocation or adjustment of utility and railway facilities when necessary to accommodate highway construction. These facilities include, but are not limited to, electric, telephone, gas, water, sewer, oil pipelines, and railway facilities, including grade separation structures and signal devices. The Bureau also is responsible for developing policy and procedures governing the occupancy of highway right-of-way by public utility facilities (see Volume III of the ***Right-of-Way Bureau Manuals***).

1-1.2 Purpose and Use of the Right-of-Way Operations Manual

The ***Right-of-Way Operations Manual*** is Volume 1 of MDT's ***Right-of-Way Bureau Manuals***. It provides users with information on the organization of Montana's Right-of-Way Program and the functional and operational units that carry it out.

This Volume is designed to meet the FHWA's requirement for a Right-of-Way Operations Manual (23 ***CFR*** 710.201). MDT will update its ***Right-of-Way Operations Manual*** as needed to ensure that the manual stays current with current procedures and conforms to Federal and State real estate law. The manual updates will be submitted to FHWA for approval, beginning no later than August 23, 2018, and every 5 years thereafter. In an effort to minimize the burden to State DOTs and FHWA staff, FHWA is extending the next cycle of State DOT Right of Way (ROW) Manual updates.

As you may be aware, State DOTs are required to “prepare and submit for approval by FHWA an up-to-date ROW Manual” every five years. The next update is due to the Division Offices **by August 23, 2023**.

In addition, the conduct of right-of-way activities will be consistent with the provisions of the current Partnership Agreement between MDT and the Montana Division of the FHWA. The agreement commits MDT and FHWA to pursue effective, innovative, and cooperative Federal-aid Highway Program management methods for ensuring the delivery of quality transportation products and services in full compliance with State and Federal laws and regulations.

1-2 GENERAL ORGANIZATION

1-2.1 Organization

1-2.1.1 General

The Right-of-Way Bureau is 1 of 10 Bureaus in MDT’s Engineering Division. The Engineering Division is responsible for the planning, development, and construction of highway projects.

1-2.1.2 Right-of-Way Bureau

The Right-of-Way Bureau is composed of Headquarters and District Office components. The Headquarters component is responsible for developing right-of-way policy and procedures, providing technical expertise, providing general oversight of District Office right-of-way activities, and managing and allocating right-of-way resources. The Headquarters Office is in Helena and consists of the Right-of-Way Bureau Chief, the Lands Management Section, the Acquisition Management Section, and the Utilities Management Section. These Management Sections oversee multiple functional Sections, including:

- Right-of-Way Design
- Appraisal
- Acquisition
- Relocation
- Compliance
- Real Estate Services
- Special Programs
- Utility Construction
- Utility Engineering
- Railroad

- Broadband Coordination

The District Office component consists of staff located in each of MDT's five (5) District Offices. The District Offices are in Missoula, Butte, Great Falls, Glendive, and Billings and provide design, appraisal, acquisition, and utility services.

1-2.2 **Right-of-Way Bureau Chief**

The Right-of-Way Bureau Chief is the lead right-of-way official and is responsible for the overall management of the right-of-way function. The Chief reports to the Preconstruction Engineer within the Engineering Division. The Bureau Chief is responsible for:

- policy and procedure development, including maintaining the ***Right-of-Way Operations Manual*** and other directives.
- training, including the budget for training.
- Supervise Real Estate Service Section,
- quality assurance, and
- oversight.

The Bureau Chief has responsibility for direct supervision of the Innovation Specialist/Business Analyst, as well as the Lands, Acquisition, and Utilities Management Sections at Headquarters. In addition, the Bureau Chief has the authority to adjust right-of-way staff temporarily among the Headquarters and District Offices, based on workload, and to require training for Bureau and district staff as needed.

1-2.3 **Right-of-Way Innovation Specialist/Business Analyst**

The Business Analyst reports directly to the Right-of-Way Bureau Chief. The Business Analyst is the liaison between the Right-of-Way business units, Design, Acquisition, Real Estate Service and Utilities. This position is responsible for researching, developing, reviewing, implementing, and deploying new technologies, practices, tools, and methods that promote efficiency, consistency, and quality to Right-of-Way processes.

- Directs multiple projects concurrently and determines assignments when the project is development related.
- Develop solutions to Right-of-Way problems and identifies new approaches and developments to ensure that contemporary and cost-effective practices and solutions are implemented.

- Works directly with Managers and Supervisors to define work methods and to create detailed project plans.
- Direct a team to translate the requirement into the software and/or business phases and activities to implement the solution.
- Oversee (organize, direct, review and approve the work of other in the performance of) project delivery: documents business requirements, assemble projects teams, assign individual responsibilities, identify appropriate resources needed and develop schedules to ensure timely completion.
- Project Quality Assurance to ensure the project is meeting the identified needs, expectations, and requirements of customers and stakeholders.
- Supervises Records Management positions and is responsible for records retention based on state and federal requirements.

1-2.4 **Lands Section Manager**

The Lands Section Manager reports directly to the Right-of-Way Bureau Chief and is authorized to act in his or her absence. The Lands Section Manager is the liaison between Headquarters and the District Offices on design matters. The Lands Section Manager has responsibility for:

- Direct supervision of the Design Section in Headquarters.
- General quality control oversight of District design, policy, and procedure.
- Oversight of the consultant design term contracts.
- Assigning of District Design overflow projects.
- Conducting Research.

1-2.5 **Acquisition Section Manager**

The Acquisition Section Manager reports directly to the Right-of-Way Bureau Chief and is authorized to act in his or her absence. The Acquisition Section Manager is the liaison between Headquarters and the District Offices on appraisal, acquisition, relocation, and outdoor advertising matters. The Acquisition Section Manager has responsibility for:

- Direct supervision of the Appraisal Section, Special Program Section, Compliance and the Relocation Agent in Headquarters.
- General quality control oversight of District appraisal and acquisition operations, policy, and procedures.

- Oversight of the consultant acquisition term contracts.

1-2.6 **Utilities Section Manager**

The Utilities Section Manager reports directly to the Right-of-Way Bureau Chief and is authorized to act in his or her absence. The Utilities Section Manager is the liaison between Headquarters and the District Offices on utility matters. The Utilities Section Manager has responsibility for:

- Direct supervision of the Utility Section in Headquarters.
- General quality control oversight of District utility operations, policy, and procedures.
- Outlining and formalization of all railroad agreements.
- General oversight of all utility relocation payments.
- Broadband deployment.

1-2.7 **District Offices**

Right-of-Way operations are decentralized. The District Office staff are responsible for design activities, as well as carrying out field right-of-way operations, including appraisal, and acquisition. Additionally, District Office staff process utility permit requests and oversee the relocation of utility facilities that conflict with MDT highway projects.

1-2.8 **Legal Services**

The Right-of-Way Bureau works with Legal Services on various right-of-way issues. The Bureau encourages informal communication between the respective staffs at an early juncture to minimize problems later. However, when issues arise of a nature or magnitude requiring a formal legal opinion, or other written interpretation, Right-of-Way personnel will make these requests through their supervisor. These requests must be in writing and will come from a Right-of-Way Manager or the Right-of-Way Bureau Chief.

1-3 **LANDS SECTION**

1-2.9 **Organization**

The Lands Section is composed of the Design Section. Each section has a supervisor as well as staff, as appropriate. These sections and units are as follows:

1-3.2 Design Section

1-3.2.1 Function

The Design Section is responsible for the design of right-of-way plans, right-of-way limits, easement limits, and construction permits. The Section also:

- Develops right-of-way cost estimates.
- Prepares legal descriptions, deeds and exhibits required for right-of-way acquisitions.
- Resolve boundary problems.
- Determines the appropriate method for taking properties.

In addition, the Design Section establishes a policy for implementing corridor preservation adopted by MDT.

1-3.2.2 Organization

The Design Section is composed of the Design Supervisor and four (4) Designers. Their duties are as follows:

1. Design Supervisor. The Design Section is managed by the Design Supervisor. The Design Supervisor is directly accountable to the Lands Section Manager and through him or her to the Right-of-Way Bureau Chief for the fulfillment of the responsibilities of the Section. It is the Design Supervisor's duty to assign projects and tasks to the various designers, review the work of subordinates and ensure proper development of right-of-way plans.
2. Designers and Design Technicians. Civil engineering specialists, designers and technicians design the right-of-way and prepare the right-of-way plans and deeds. These positions are under the supervision of the appropriate Design Supervisor.

1-3.3 Real Estate Services Section

1-3.3.1 Function

The Real Estate Services Section is responsible for administering MDT's Property Management Program. The Section also:

- Authorizes payments for land and improvements.
- Determines special assessments and miscellaneous right-of-way expenses.
- Maintains land acquisition statistics.

- Disposes of, leases, and permits the use of excess land owned by MDT.

The Property Management Program includes encroachment control, clearing the right-of-way of acquired improvements, perfecting ownership records of land titles on state-owned property, and collecting and maintaining records of rents and accounts receivable. Property management tasks also include creating, issuing, and processing right-of-way easements, land use licenses, special recreational, park, and FWP Permits, a variety of other land type leases, rental agreements, land sales, exchanges, discharge of easements, abandonments, transfers of jurisdiction, wetland mitigation, special land use studies, timber sales, right of way use agreements (air space) agreements and clearing contracts.

1-3.3.2 Organization

The Real Estate Services Section consists of the Real Estate Services Section Supervisor and four (4) Right-of-Way Specialists. Their duties are as follows:

1. Real Estate Services Section Supervisor. The Section is under the supervision of the Real Estate Services Supervisor, who is directly responsible to the Right-of-Way Bureau Chief for the fulfillment of the responsibilities of the Section. The Real Estate Services Supervisor is responsible for the development of MDT's policies and procedures concerning property management, fulfillment of the other responsibilities of the Section, and delegation of work assignments, monitoring work progress and reviewing work performed by the Section staff.
2. Right-of-Way Agents. The Right-of-Way Agents in this Section are responsible for the disposition of buildings and other improvements on right-of-way acquisition projects, maintaining records of excess land owned by MDT, and handling the rental, lease or sale of property owned by MDT, including appraising property for disposition.

1-4 ACQUISITION SECTION

1-4.1 Organization

The Acquisition Section is composed of the Appraisal Section, Special Programs Section, Compliance Specialist, and a Relocation Specialist. The Appraisal Section and Special Programs Section each have a supervisor as well as staff. The sections are as follows:

1-4.2 Appraisal Section

1-4.2.1 Function

The Appraisal Section is responsible for the valuation of interests in real property to be acquired by MDT. It is responsible for:

- Developing appraisal policies, procedures, and special instructions.
- Providing technical education for the training and continuing development of staff appraisers.
- Arranging for services of outside (fee) appraisers, when needed.
- Providing technical assistance to staff and fee appraisers.
- Reviewing all appraisals prepared for MDT.
- Making determinations as to the compensation MDT should pay for each parcel of real property to be acquired and testifying in court in support thereof
- Monitoring the quality of appraisals that are prepared for MDT.

1-4.2.2 Organization

The Appraisal Section is staffed by the Appraisal Section Supervisor and four (4) Review Appraisers. Their duties are as follows:

1. Appraisal Supervisor. The Section is under the supervision of the Appraisal Supervisor, who is directly responsible to the Acquisition Section Manager and through him or her to the Right-of-Way Bureau Chief for the fulfillment of the responsibilities of the Section. It is the responsibility of this position to:
 - Develop appraisal policies, procedures, and special instructions.
 - Allocate appraisal workload among staff and fee appraisers and monitor the progress thereof.
 - Check appraisals, appraisal reviews and determinations of just compensation submitted by the review appraisers to verify that these products conform to established appraisal standards and are based on proper legal premises.
 - Certification mentorship.

Additional responsibilities include providing liaison and coordination between the Appraisal Section and the District Right-of-Way Sections regarding appraisal and appraisal review matters and providing technical appraisal training and advice to staff and fee appraisers, as needed. The Appraisal Supervisor has the authority to use the Review Appraisers to balance the entire right-of-way review appraisal workload.

2. Review Appraisers. The primary function of the Review Appraisers is to review appraisals that were prepared by staff and fee appraisers. As appropriate, they may approve appraisals or seek revision. They use approved appraisals to determine the amount recommended to be paid as just compensation for property to be acquired. The Review Appraiser makes the actual determination of just compensation.

Review Appraisers perform complex appraisals, as needed, and provide training for staff and fee appraisers. Review Appraisers also conduct independent appraisals in special cases, perform special cost studies and advise appraisers on technical appraisal matters.

1-4.3 Special Programs Section

1-4.3.1 Function

The Special Programs Section is responsible for preparing valuation estimates and appraisals, conducting property acquisitions, overseeing acquisition consultants, and controlling outdoor advertising. Their duties are as follows:

- Conducting specialty acquisitions, from state and federal agencies such as DNRC and the Forest Service, on right-of-way acquisition projects and assisting the districts with excessive workloads.
- Ensuring that outdoor advertising along controlled routes is conforming, including monitoring, record maintenance and enforcement.

1-4.3.2 Organization

The Special Programs Section consists of the Special Programs Section Supervisor and four (4) Right-of-Way Agents. Their responsibilities are as follows:

1. Special Programs Section Supervisor. The Section is under the supervision of the Special Programs Section Supervisor, who is directly responsible to the Acquisition

Section Manager and through him or her to the Right-of-Way Bureau Chief for the fulfillment of the responsibilities of the Section.

Duties include developing policy and procedures, assigning the workload, establishing priorities and schedules, providing guidance to Section staff, monitoring work progress, reviewing work quality and coordinating with other Sections and Bureaus.

2. Right-of-Way Agents. The Acquisition Agents in this Section are responsible for specialty acquisitions, from state and federal agencies such as DNRC and the Forest Service, on right-of-way acquisition projects, assisting the districts with excessive workloads and are responsible for ensuring outdoor advertising along controlled routes meets state and federal requirements.

Relocation Specialist

3. The primary function of the Relocation Specialist is to ensure that landowners and tenants displaced by MDT projects are relocated according to State and Federal requirements and relocated to comparable facilities that meet decent, safe, and sanitary requirements. The relocation specialist reports directly to the Acquisition Manager.

1-5 Utilities Section

1-5.1 Function

This Section is responsible for:

- Obtaining cost estimates and securing agreements with utility and railway companies for the relocation and adjustment of their facilities, as required for highway construction.
- Conducting direct negotiations with utility and railway companies to acquire portions of their operating rights-of-way for highway purposes.
- Developing policies and procedures governing the occupancy of highway rights-of-way by public utility facilities.

1-5.2 Organization

The Utilities Section is composed of the Utility Section Manager, two (2) Utility Unit Supervisors, nine (9) Utility Agents, a Utility Designer, and a Broadband Coordinator. Their responsibilities are as follows:

1. Utility Section Manager. The Section is under the supervision of the Utility Section Manager, who is directly responsible to the Right-of-Way Bureau Chief for the fulfillment of the responsibilities of the Section. The Utility Section Supervisor develops policy and procedures; prepares, monitors, and revises the railroad/utility budget; and provides oversight of field utility/railroad relocation activities.

4. Utility Unit Supervisors. The duties of the Utility Unit Supervisors in the Utilities Section are divided among two units. The Utility Engineering Unit is responsible for handling matters relating to cost estimates and agreements with utility companies. The Utility Construction Unit is responsible for reviewing and tracking all agreements and program information. The duties include processing utility and railroad payments. The Unit Supervisors are under the direct supervision of the Utility Section Manager.

5. Utility Agents. The Utilities Section staff also includes Utility Agents, who are responsible for providing field liaison with utility and railway companies. The Utility Agents are under the direct supervision of the Utility Unit Supervisors and Utility Section Manager.

Broadband Coordinator. The Broadband Coordinator manages the Alternative Uses of Highway Right of Way Program. This position serves as the contract administrator and is responsible for researching, developing, reviewing, implementing, and deploying new technologies, practices, tools, and methods that promote economical and efficient installation of eligible projects installed within MDT's state highway system or Highway Commission designated right of way routes. This position reports to the Utility Engineering Manager.

1-6 DISTRICT OFFICES

1-6.1 Function

There are five (5) District Right-of-Way Sections located in Missoula, Butte, Great Falls, Glendive, and Billings. These Sections are responsible for providing the field services required for design, appraisal, acquisition, relocation, and utility permitting and relocations, as well as other right-of-way functions that are performed in the field.

1-6.2 Organization

The District Right-of-Way Sections are all staffed differently, but generally have some variation of a Design Supervisor/Lead, a Designer, and Supervisor, Right-of-Way Agents, and a Utility Agent to accomplish the assigned work program. Their responsibilities are as follows:

Design Supervisor/Lead. The District Design Unit is managed by the Design Supervisor. The Design Supervisor is directly accountable to the District Engineering Services Supervisor. The Design Supervisor is responsible to the Lands Section Manager for fulfillment of design responsibilities of the Unit. It is the Design Supervisor's duty to assign projects and tasks to the designer, review the work of their subordinate and ensure proper development of right-of-way plans.

- Designers and Design Technicians. Civil engineering specialists, designers and technicians design the right-of-way and prepare the right-of-way plans and deeds. These positions are under the supervision of the appropriate Design Supervisor.
- Right-of-Way Supervisor. The District Right-of-Way Section is under the supervision of a Right-of-Way Supervisor, who is responsible to the Right-of-Way Bureau Chief for fulfillment of right-of-way responsibilities. The Right-of-Way Supervisor is directly accountable to the Preconstruction Engineer.
- Acquisition Agents. Each District Right-of-Way Section has Acquisition Agents on its staff. The Acquisition Agents conduct studies and prepare cost estimates, appraise property to be acquired, and negotiate with landowners for the purchase of real property for highway purposes.
- Utility Agent. The Utility Agent is responsible for providing field liaison with utility companies. The Utility Agents are under the direct supervision of the District Engineering Services Supervisor. The Utility Agent is responsible to the Utility Section Manager for fulfillment of utility responsibilities within the district.

2 REFERENCES

1. ***Administrative Rules of Montana***, 18.6.201 through 264, *Outdoor Advertising Control*.
2. ***Mission Statement***, Montana Department of Transportation,
3. ***Partnership Agreement***, Montana Department of Transportation and Montana Division of the Federal Highway Administration, April 27, 2004.
4. ***Right-of-Way Project Parcel Tracking System***, Montana Department of Transportation (for information, consult Right-of-Way Bureau Acquisition Manager).
5. ***Right-of-Way Bureau Organization Chart***, Montana Department of Transportation.
6. ***Montana Right-of-Way Utilities Manual***, Montana Department of Transportation,
7. ***Montana Code Annotated***, 75-15-101 through 75-15-134, *Montana Outdoor Advertising Act*.