



STANDARD SPECIAL PROVISION

Detail

Index or Category: Design Build Related

Status: **Active**

Sequence ID: 29904

District: CO

Version: A

Provision Name: c29904 ITEM 8916-YYYY - RIGHT-OF-WAY DESIGN AND ACQUISITION SERVICES

Usage Information

Measurement: Dual

Edit Body: Yes

Include on all projects: No

Edit Header: Yes

Include on all federally funded projects: No

Edit Project Specific Details: No

Include on all 100% State funded projects: No

Instructions for Usage: Header: Edit the Header to list the item number.
Provision Body: All entries in "bold italic" must be completed by the designer. Must use with SSP SPECIAL BIDDING – DESIGN-BUILD, QUALITY PLAN [DESIGN] – WITH QUALITY ASSURANCE REVIEW BY DEPARTMENT - LOW BID or QUALITY PLAN [DESIGN] – WITH QUALITY ASSURANCE REVIEW [PEER REVIEW] - LOW BID, ENVIRONMENTAL COMMITMENTS AND MITIGATION TRACKING SYSTEM (ECMTS) REPORT, PERMITS FOR DESIGN-BUILD PROJECTS, DESIGN ROADWAY, and CONSTRUCT ROADWAY. Refer to Publication 448 for additional information. When using this item, use work class code(s) X.

For use on projects let on or after November 20, 2013.

408 Section:

Effective From: 11/20/2013

To: 01/01/2999

Associated Items

Item Number	Description
No records found.	

Header

ITEM 8916-YYYY - RIGHT-OF-WAY DESIGN AND ACQUISITION SERVICES

Provision Body

I. DESCRIPTION - This work is the preparation of a Final Right-of-Way Plan and completion of Right-of-Way Services for real properties impacted by the Design Activities identified in Section IV of the Special Provision titled SPECIAL BIDDING – DESIGN-BUILD, or as indicated on the Conceptual Drawings.

II. SERVICES

(a) General

Provide drawings in the units of measurement shown on the Roadway Construction Plan.

In addition to providing a Professional Engineer's P.E. seal and signature, provide a Professional Land Surveyor's seal and signature on plan sheets in accordance with the Department's Design Manuals.

All computations must be computed and checked by qualified personnel and initialed as such. All computations must be neat and legible.

The District's Right-of-Way Administrator is the Department's point of contact for all right-of-way issues.

(b) Additional Professional Service Qualifications

Right-of-Way Services. All Right-of-Way Acquisition Services must be completed by a firm pre-qualified by the Department to perform work under WBS Code 2.10.7. A list of those pre-qualified firms is attached. The District Right-of-Way Administrator must approve the resumes of the staff members for each project and reserves the right to exclude individual staff members from an approved/selected firm from completing Right-of-Way Acquisition Services in that District. All appraisals must be completed by firms pre-qualified by the Department under the Appraisal ITQ Contract Number 357I01. All contracted appraisal reviews will be completed by the firm pre-qualified by the Department to perform this work under RFP Contract Number 358R08 – Appraisal Review Services. All tasks identified in WBS Code 2.10.7 (Right-of-Way Acquisition Services) are required, with the exception of Task 7: "Other Services"; maintaining a project site office is not required. Other requirements include the following:

Have available to the project escrow closing and settlement services for all claims; submit all photography and video in a standardized digital format approved by the District; describe specific quality assurance plan for appraisal tasks, including updates; payment package/settlement document preparation through payment delivery, including specific details and steps in this process.

Right-of-Way Appraisals. The Right-of-Way Acquisition Services consultant is to contract for appraisals as permitted by ITQs. Right-of-Way appraisals are to be coordinated by the Right-of-Way Acquisition Services consultant with an approved firm or individual on the latest "Invitation to Qualify" (ITQ for Right-of-Way Appraisal Services, Contract Number 357I01) list. The resulting contract for appraisals will be between the Department and the fee appraiser. Certain Appraisal Planning/Services under Task 2 of WBS Code 2.10.7 may be completed by the Right-of-Way Acquisition Services consultant.

(List any other additional qualifications necessary for the particular contract over and above those listed in the Special Provision titled SPECIAL BIDDING – DESIGN-BUILD.)

(c) Information/Data Made Available by the Department

(List any information/data that will be furnished relative to Right-of-Way status and needs, otherwise indicate "None")

(d) Specifications

Prepare a Right-of-Way Plan in accordance with the most current edition of Publication 14M, Design Manual, Part 3.

Provide services required for Right-of-Way Acquisition in accordance with the Pennsylvania Eminent Domain Code, The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (The Federal Uniform Act) and promulgated rules in 49 CFR 24; the regulations found in 23 CFR 710.313 Design-Build Projects; and 23 CFR 635.309(p) for design-build certification requirements; and the PennDOT Right-of-Way Manual (Publication 378). Provide the following general services as a minimum: appraisal planning/services, negotiations, acquisitions and property management. The Department will pay the property owner just compensation for property acquired for the projects identified in Section II(e)5 of this Special Provision and will also pay fees for appraisal reports and contracted appraisal reviews.

In the event that a difference in interpretation of the policies and procedures for the preparation of the Plan and Right-of-Way Services cannot be resolved, the District Right-of-Way Administrator will be the arbiter and his/her decision will be final.

(e) Requirements

1. Right-of-Way Plan. Prepare a Right-of-Way Plan with property plots including all improvements and all contiguous parcels with unity of use in accordance with Publication 14M, Design Manual Part 3, Publication 16M, Design Manual Part 5, Utility Right-of-Way Chapter, and the Pennsylvania Eminent Domain Code. A simplified Right-of-Way Plan may be prepared in lieu of a standard Right-of-Way Plan, if agreed to in writing by the Department. Required area descriptions must be shown on the plots. In addition to the items listed, Property Plots are required for every property that is impacted by the Contractor's design. Parcel numbers are required for each plot and plan sheets.

Titles to all affected properties will be searched back a minimum of 60 years and establish the previous owner or arms length transaction or a sufficient time period in order to explain any easements, adverse, and provide legal description. The following support documents are required including: Current deed(s), mortgage(s), deed(s) of easement, adverse(s), lot or subdivision plan(s), judgment(s), lien(s), tax assessment information, all tax and lien certification(s), tax map(s), current taxes including paid, unpaid, or delinquent status, bankruptcy verification, unity of use analysis and other related documents and available in a digital format, or paper copy if requested.

2 Right-of-Way Services. In accordance with the Pennsylvania Eminent Domain Code; Publication 378; the Federal Uniform Act and WBS Code 2.10.7 for Right-of-Way Acquisition Services: Submit written acquisition and relocation procedures on a parcel-by-parcel basis to the District Right-of-Way Administrator for approval before commencing right-of-way activities. These procedures should contain a prioritized appraisal, acquisition and relocation strategy (including time frames for the activities as provided for in the schedule) as well as milestones for Department approval, such as approval of just compensation, replacement housing payment calculations and payments, moving cost claims, appraisals, and administrative and stipulated settlement amounts and dates.

Establish a tracking system and quality control system approved by and in concurrence with the District Right-of-Way Administrator. This system must show the status of litigation, property management, appraisal, acquisition and relocation status of all parcels. The quality control system may be administered by a consultant with the necessary expertise in appraisal, acquisition and relocation policies and procedures, and who will make monthly reviews and submit reports directly to the Contractor and the Department.

Execute a certification and include in the submission that the Contractor has received a copy of the Publication 378 and will comply with the procedures. The written relocation plan must provide reasonable time frames for the orderly relocation of residents and businesses on the projects defined in Section II(e)5 of this Special Provision as provided by 49 CFR 24.205 of the Federal Uniform Act. It should be understood that these time frames will be based on the best estimates of the time it will take to acquire the right-of-way and relocate families in accordance with certain legal requirements and time frames which may not be violated. Accordingly, the time frames estimated for right-of-way acquisition will not be compressed in the event other necessary actions preceding right-of-way acquisition miss their assigned due dates.

No property may be entered upon for the purpose of performing work in connection with the construction of any project until all temporary and permanent right-of-way is acquired by the Department in accordance with 23 CFR Part 710, and 49 CFR Part 24 and a Final Right-of-Way Clearance is issued for the projects as described in Section II(e)5 of this Special Provision.

If determined that additional right-of-way is required to perform construction work outside of the current legal right-of-way, no construction may begin on any particular parcel until a Final Right-of-Way Clearance for the project is issued by the Department in writing.

All required right-of-way and temporary easements for construction will be acquired by the in accordance with the Federal Uniform Act and Publication 378. The Department will issue a Final Right-of-

Way Clearance Certification when all parcels have been acquired and all eligible occupants have been relocated from the project area.

Throughout the right-of-way acquisition activities, information will need to be entered by the Contractor's Right-of-Way consultant into the Department's Right-of-Way Office system.

3. Appraisals. All right-of-way appraisal activities will follow the appraisal procedures as provided in the Pennsylvania Eminent Domain Code, the Federal Uniform Act, and Publication 378. All appraisals performed by the fee appraiser will be submitted to the Department's Chief Appraiser for review. All documents associated with the right-of-way appraisal requiring signatures will be signed and approved by the Department. Appraisal review will be completed by the Department staff review appraisers or contracted appraisal reviews will be completed by the firm pre-qualified by the Department to perform this work under RFP Contract Number 358R08 - Appraisal Review Services.

4. Authorizations to Enter - may only be procured by District Right-of-Way Staff or a pre-qualified Right-of-Way Consultant after approval for their use is granted by the District Right-of-Way Administrator.

For any Federal-Aid contract or any contract not involving a bridge, Authorizations to Enter for construction purposes before making payment available to an owner are only to be used in exceptional circumstances, with the prior approval of the owner. It is intended that authorizations to enter for construction purposes be obtained only in the exceptional case, such as an emergency project, when there is no time to make an appraisal and purchase offer and the property owner is agreeable to the process.

For design/build bridge projects with 100% State funding in all phases, the use of Authorizations to Enter for construction purposes is permitted per Section 3.03.F.3 of Publication 378. While certain projects can be constructed using authorizations to enter, timely creation of a Right-of-Way Plan and formal acquisition of the necessary right-of-way must be completed in accordance with Publication 378.

Entrance onto private property outside of legal right-of-way may be done only for the purpose of Preliminary Design Studies such as survey work, core borings, etc., and only after proper notification has been given to the property owner in accordance with Section 309 of the Eminent Domain Code. All private property must be restored to its prior condition. Notification to private property owners must be in the form of the standard Department Intent to Enter Letter. All Intent to Enter Letters must be signed by the Department. If the Department has negotiated an Authorization to Enter, this additional notification using an Intent to Enter Letter is not necessary.

Do not impair the safety or in any way be coercive with respect to unacquired or occupied properties on the same or adjacent segments of project right-of-way.

Provide access to all occupied properties to ensure emergency and personal vehicle access.

Maintain utility services to all occupied properties at all times before and until relocations are completed.

5. Final Right-of-Way Clearances

The following Final Right-of-Way Clearances have been obtained by the Department:

-MPMS # _____ *(Describe limits of each project, including SR, segments included (or range), and any limitations to construction activities included. If no ROW have been obtained by the Department indicate "None")*

Obtain the following Final Right-of-Way Clearance(s):

- MPMS # _____ *(Describe limits of each project, including SR, segments included (or range), and any limitations to construction activities included)*

(f) Submissions

Right-of-Way Plan. Submit 3 full size sets of plans with plots and current deed and title certifications in accordance with Publication 14M, Design Manual Part 3 and documentation of any utility's compensable interest where a Required Substitute Utility Right-of-Way is required as per Publication 16M, Design Manual Part 5, Utility Right-of-Way Chapter. Make all necessary changes as directed and resubmit for review and approval. The Right-of-Way Plan must be approved before any negotiations can begin.

(g) Submittal Review, Approval, and Distribution

Make all submissions in accordance with the Special Provision titled SPECIAL BIDDING – DESIGN-BUILD

III. MEASUREMENT AND PAYMENT – Lump Sum

Partial payment will be made for the design activity based on the approved Schedule of Values in accordance with Section IX of the Special Provision titled SPECIAL BIDDING – DESIGN-BUILD, utilizing the following components:

- **Final Right-of-Way Plan Approval** - will be paid after the final Right-of-Way Plan is received and signed by the District Executive.
- **All Appraisals Approved** - will be paid upon the approval of all appraisals.
- **Final Right-of-Way Clearance** - will be paid upon the issuance of all Final Right-of-Way Clearance Certificates as specified in Section II(e)5.
- **Right-of-Way Plan Revisions** - will be paid when the contract work is complete and all Right-of-Way Plan revisions have been made and recorded. Revisions include updates to all affected parcels including appraisal updates and reports for Eminent Domain requirements and litigation purposes. If there are no revisions, the percentage indicated on the Schedule of Values will be paid upon completion of the project.

No additional compensation will be made for additional Right-of-Way Plan revisions or Right-of-Way Services that are a result of design omissions or designs that are not accepted.