

# How To Implement Public Law 91-646

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*(Editor's Note: This paper is addressed to Indiana Local Public Agencies.)*

## INTRODUCTION

How to comply?—Time won't permit a detailed explanation so I will attempt an over view of the procedures with some emphasis on the problem areas from our standpoint.

Keep in mind that the law is applicable on all projects using federal funds in any phase of the project. We do need adequate documentation from you that there has been compliance with the law even though federal funds are not used in the right-of-way (R/W).

## BEGINNING R/W ACQUISITION

Right-of-way acquisition may begin following design approval (and no sooner) when R/W has not been programmed for federal funds. We are attempting to contact the local agency or consultant responsible for the R/W acquisition at that time. However, we need your help! Often, there is a delay in the project progress and then at a later time, R/W activities are begun without our knowledge. We feel we can help you avoid some problems later if we are in touch early on. It's so much easier to do it right in the beginning! Also, letting can be delayed due to R/W inefficiencies so give us a call if we haven't been in recent touch with you; fill us in on the project, etc.

## NOTICE TO PROCEED

Of course, when R/W is programmed for federal funds, authorization from FHWA and written notice to proceed must be issued prior to work being started. FHWA will disallow any reimbursement of fees if the work is done prior to authorization.

## APPRAISING

Every parcel must be appraised and approved for purchase, unless the property owner will sign a waiver of these rights and donate the required R/W. We have a form for execution by the property owner. The

appraisal must meet certain requirements — namely the value of the taking and damages to the residue must be separately stated. The appraiser must attest to the opportunity to accompany and that the effect of the project on the value of the property has been disregarded. Our Value Finding Appraisal form meets these standards but in lieu of this, the appraiser's signature on the Certificate of Appraiser form or similar statement will suffice.

The head of the agency approval requirement can be accomplished by signature on the appraisal or by letter listing each parcel and the approved purchase amount.

## STATEMENT OF JUST COMPENSATION

Another method is the head of agencies signature on the Statement of Just Compensation. One to the property owner; a copy for our file.

The Statement of Just Compensation is a must. It can be signed by the appraiser or the head of the agency. The original goes to the property owner, and there is a copy for our files.

“How Land is Purchased for Highways” is the best means of advising the property owner of their rights. Available from our office at 35¢ each or you may reproduce them locally. The FHWA puts a lot of emphasis on this being done. We need a statement to the effect that the pamphlet was given to each owner prior to any negotiating.

## CONVEYANCING INSTRUMENT

A copy of conveyancing instrument must be fully executed for our files. Permanent R/W must be recorded. Temporary R/W need not be. The instrument should indicate the amount of compensation. If it doesn't, then we'll need a copy of the warrant issued for payment.

Parcels which are condemned are acquired when the money is deposited with the court. We must have a copy of the court appointed appraisers (award) report and a copy of the court deposit.

## CERTIFICATION OF LETTER

Last but not least is the certification letter. We have standard forms for this. Nothing else will do! We've had instances where the R/W has all been acquired and we receive various forms of letters stating that the R/W is clear, etc. but the statements in the standard certification letter are absolutely necessary to process the project to construction letting. So, if you need a copy of the form letter, let us know!

Time for certification plus R/W clearance is four months prior to construction letting.

## FORMS AVAILABLE

The form I feel most helpful is the check list for R/W certification.

If there is additional information you need please contact me and we'll be glad to get it to you or give you a call.

## UNIFORM MODEL REGULATIONS

The big news is that the FHWA has advised us that they will soon issue a Uniform Model Regulation. We understand this will mean that all projects using federal funds in any phase of the project must not only comply with Public Law 91-646 but there must be stricter compliance with the regulations. We are told this will happen this spring and we'll have some time (60-90 days) to implement the change. We aren't sure now just how much this will affect R/W and our monitoring.

## TRAINING SESSIONS

During the implementation time, training sessions will be held by us in conjunction with FHWA in the districts for your benefit. You are urged to attend. The loss of federal funds is a big price to pay for non-compliance! Watch for notification of these training sessions and plan to attend.

We are here to help and available five days a week so call if you have any question whatsoever.