

APPENDIX C3 – OUTLINE OF RIGHT-OF-WAY ACQUISITION PROCEDURES FOR HIGHWAY OCCUPANCY PERMITS

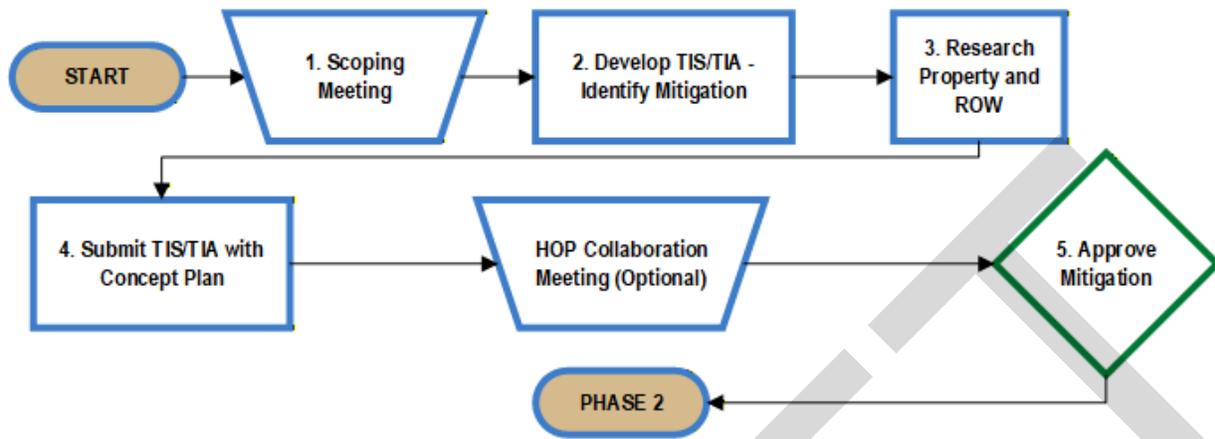
The following are suggested chronological steps for successfully completing the conveyance process when an applicant must obtain land for State highway right-of-way in connection with obtaining a highway occupancy permit (HOP). Because each conveyance may have unique circumstances and requirements the process may and should be adjusted based on direction from the specific Engineering District in which the permit is being issued.

This outline is not intended to be a substitute for the policy set forth in Chapter 2 on right-of-way acquisition procedures in permit projects. There are requirements and guidance in the chapter that apply but are not contained in this outline.

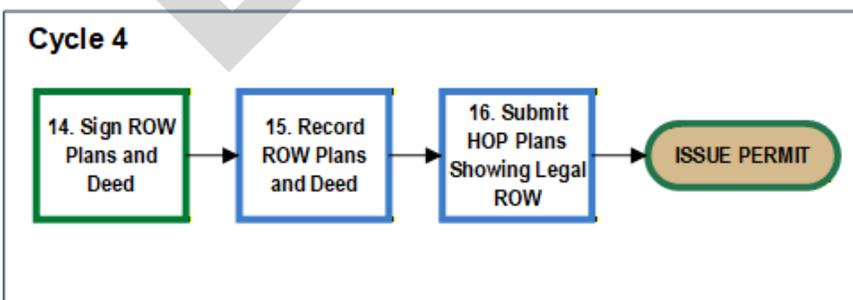
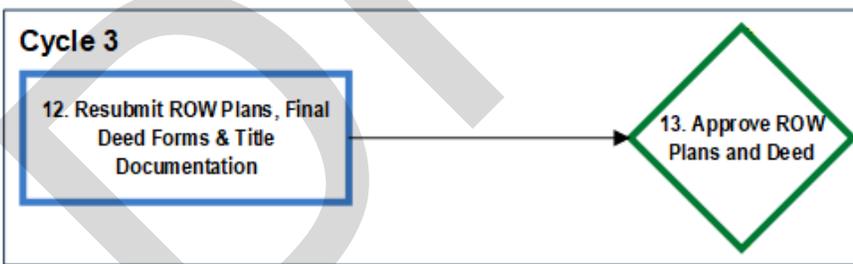
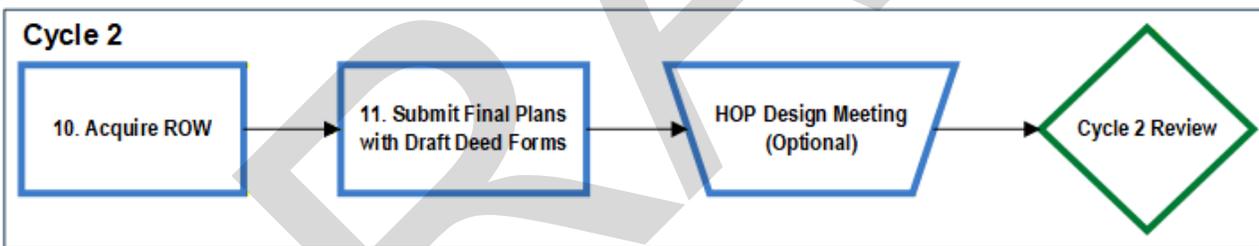
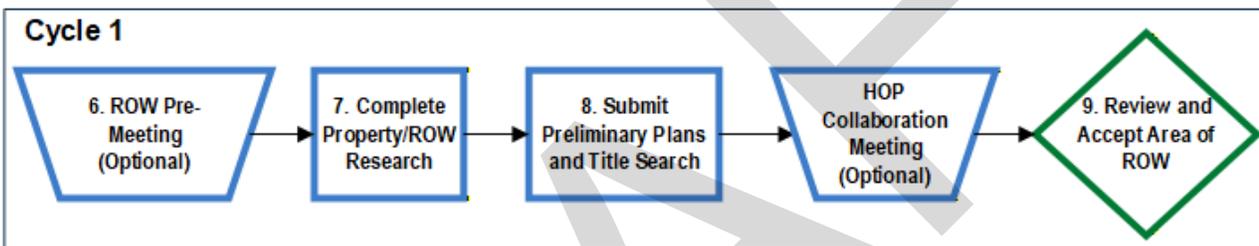
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HIGHWAY OCCUPANCY PERMIT OPERATIONS MANUAL
Appendix C3 – HOP Right-of-Way Procedures Outline

PHASE 1: TIS/TIA PHASE



PHASE 2: HOP PLANS PHASE



NOTES

1. Cycle 4, if necessary. In some cases the permit can be issued with ROW conditions in Cycle 3.

Decision Action
 Start/End Meeting
 PennDOT Lead
 Applicant Lead

1. Scoping Meeting

If Right-of-Way (ROW) must be conveyed, it should be identified as early in the Highway Occupancy Permit (HOP) application process as possible. If the requirements for ROW are not started early, the permit project could be delayed. If it is obvious that a permit project will require ROW conveyance to PennDOT, then ROW should be discussed during the scoping meeting. Items that could be discussed include:

- Standard or simplified ROW plans presentation and other requirements in PennDOT Publication 14 “Design Manual, Part 3”, Chapter 3 (DM-3)
- Acceptable form of deed (i.e., fee simple or easement)
- Title documentation requirements
- Environmental requirements
- Easements (i.e. utility, drainage, temporary construction, etc.)
- How much ROW is needed beyond the roadway for PennDOT to maintain facilities
- Survey requirements.
- Plot plans and metes and bounds descriptions
- Recording procedures based on PennDOT needs and County requirements

2. Develop TIS/TIA - Identify Mitigation

Complete the transportation impact study (TIS) or transportation impact assessment (TIA). The applicant must coordinate with PennDOT and municipalities to address concerns, comments and proposed mitigation measures. The mitigation measures agreed upon to address requirements set forth in Appendix A of this Publication are to be shown on the concept plans submitted with the TIS outlined in Item 5 below.

3. Research Property and ROW

If the proposed mitigation cannot be constructed within the existing roadway cross section and pavement widening is required, the concept plan must include state ROW lines and property information for any impacted neighboring properties.

The ROW and property research should include:

- PennDOT’s existing ROW plans
- Copies of tax maps from the local tax assessor’s office
- Identification of all impacted properties, property tax numbers and deed references
- Names of property owners and mailing addresses
- Copies of all deeds, easements (including utilities) and encumbrances
- Ordinances and dedications

The following property information should be shown on the concept plan:

- a. Existing and required ROW
- b. Properties, boundaries, and property tax numbers
- c. Owner names, mailing addresses, and deed references
- d. Easements

PennDOT ROW plans resource information is available at <https://gis.penndot.gov/iROW>

4. Submit TIS/TIA with Concept Plan

The Applicant Team submits the TIS/TIA which includes the proposed mitigation. The mitigation must be clearly depicted on a concept plan. The design criteria used to develop the concept plan and necessary ROW must also be identified. The requirements for concept plans are in Appendix A of this Manual.

As part of the TIS/TIA process to identify impacts and mitigation of the project, applicants may utilize the HOP Collaboration Meeting process offered by PennDOT to ask questions regarding the ROW process. Collaboration Workshops are offered to Applicants if clarification is needed on PennDOT comments.

5. Approve Mitigation

PennDOT will review the TIS/TIA, proposed mitigation, concept plan, and design criteria. If the final approved mitigation cannot be constructed within PennDOT's existing ROW, ROW will need to be conveyed to the State.

6. ROW Pre-Meeting (Optional)

If questions related to the ROW process are not able to be discussed at the Scoping Meeting or Collaboration Meetings, the applicant may request a ROW Pre-Meeting with PennDOT. This meeting would focus on ROW questions, plans presentation, and recording procedures not discussed at other optional meetings provided.

The recommended attendees may include:

- PennDOT Permit Unit representative
- District ROW Administrator (or representative)
- Chief of Survey, Environmental Manager, Utility Administrator as appropriate
- Applicant
- Applicant's consultant
- Applicant AND PennDOT counsel as appropriate

Agenda items for the meeting may include:

1. Who the PennDOT single point of contact will be
2. Submissions (i.e. Submissions to be whole submissions, not partial submissions. Preliminary submission can be made. Final submission to include draft M-950D Deed and title documentation.)
3. Select standard or simplified R/W plans presentation DM-3
4. Plan presentation details unique to ROW drawings and plans DM-3
5. Acceptable form of deed (i.e., fee simple or easement)
6. Title documentation requirements:
 - a. Record owner and lien certificate/abstract of title/report (M-950ROLC)
 - b. Exceptions to title must be addressed and removed where appropriate in the determination of PennDOT
7. Issues related to the project site
 - a. Elimination of utility easements, general utility clearance requirements
 - b. Environmental requirements for ROW area to be transferred
 - c. Need for drainage easements to be deeded to municipality if the municipality maintains drainage.
 - d. PennDOT concurrence on ROW needed beyond roadway to maintain facilities (e.g.: 5' min for signs, sometimes 8' beyond toe of slope in a fill section, total width multiples of 5', etc.)
 - e. Confirm any required temporary construction easements (TCEs), rights of entries or permissions have been acquired.
 - f. Consider effect of land development requirements including building set-backs
 - g. Discuss survey requirements
8. Recording procedure expectations
 - a. Who, when and where
 - b. ROW Administrator may have guidance on Counter Recorder preferences/requirements

7. Complete Property/ROW Research

Complete any necessary property research that was not performed as part of developing the concept plans.

Note: Applicants should start approaching and negotiating with property owners during this and the next step.

8. Submit Preliminary Plans and Title Search

Submit the HOP and ROW plans prepared according to the Plan Review Checklist in Section 13.7 in DM-3. As part of the HOP Plan Phase approval process, applicants may utilize both the HOP Collaboration Meeting process as well as the Design Meeting process offered by PennDOT to ask questions regarding the ROW process and plans. Refer to PennDOT's HOP website for more Collaboration Workshop details. The Design Meeting offered by PennDOT is intended to discuss HOP plan design, ROW, traffic signal permits and other applicable documents with the intent to resolve all outstanding HOP application issues

The HOP and ROW plans must show existing conditions, proposed improvements, legal ROW line, and required ROW lines. The submitted drawings must document the extent of the new ROW into PennDOT's record keeping system. The applicant is required to generate a plan depicting the ROW that will be conveyed and deeded to PennDOT in accordance with DM-3.

For each separate parcel, complete a title search and a record owner and lien certification. Submit the documentation with the first plans submission. Form M-950ROLC (record owner and lien certificate) is the recommended document, but an abstract of title or title report is acceptable.

Please note that the title search and record owner and lien certification are needed only for the property being conveyed to PennDOT. It is not needed for any other property depicted on the plans. The submission of unnecessary property documentation can be counterproductive, as they often introduce complications by referencing easements and other matters that do not pertain to the parcel in question.

9. Review & Accept Area of ROW

ROW Plans will be reviewed by the District Permit Manager, as well as Bureau of Design and Delivery (BODD) Highway Design and Technology Division (HDTD) as appropriate. PennDOT reviewers may provide preliminary acceptance of the proposed ROW area and request technical revisions.

Note: ROW area approval does not constitute ROW Plan or HOP Plan approval.

10. Acquire ROW

ROW acquisition should begin as early as possible once the ROW area is approved by PennDOT.

Following is the suggested method to approach property owners in the case where State or Federal funds are not being used and PennDOT has not authorized the local governmental intervention. See Design Manual Part 3.

- A. Use a standard form for the initial contact with property owners:
 - i. Provide a general overview of the project.
 - ii. Assess general interest or cooperation.
 - iii. Clarify that this is not a PennDOT project but rather a private inquiry.
 - iv. Include a statement that there is no condemnation authority.
 - v. Assure that only amicable arrangements are possible.

- vi. Offer to have appraisal performed at no cost to property owner.
- vii. Offer to provide fair market value.
- viii. Offer to do all the paperwork.
- ix. Offer to meet and discuss.
- x. Offer contact person at PennDOT for information or to request PennDOT participation in meetings.
- xi. Offer contact person at the municipality for information or requesting municipal participation in meetings.
- xii. Offer to consider counteroffers.
- xiii. Allow reasonable response times.
- xiv. Make sure necessary documents are notarized.

B. Follow up with formal offer including conditions, schedule information and opportunity to accept or decline.

If the Applicant is not successful in acquiring the ROW and thus unable to meet design standards, then the Applicant will need to redesign the project. Under exceptional circumstances, the local government may have the power to condemn the property (see Design Manual Part 3). If the project cannot be reasonably redesigned or the local government will not condemn, then the applicant will need to request a design waiver. See 67 Pa. Code §441.5(e) and Chapter 2 of this publication on Waiver of Design Requirements.

11. Submit Final Plans with Draft Deed Forms

Submit the final HOP and ROW plans based on comments received and DM3.

Land not owned by the applicant must first be conveyed to the applicant and then by the applicant to PennDOT in one deed using the appropriate deed form.

Draft deed forms – Form M-950D1 (Deed Fee Simple) shall be used to convey the needed ROW from the applicant to PennDOT unless PennDOT approves use of Form M-950D2 (Deed of Easement).

The deeds utilize a plot plan referenced as an Exhibit. A plot plan is preferable because it is simpler to compare a plot plan to the approved ROW plan for accuracy. When approved by the District, a metes and bounds description may be used with the M-950D1 form supported by a sealed survey (i.e. fee simple title is being transferred).

Form M-950ORT (Opinion of Record Title) is required and Form M-950ROLC (record owner and lien certificate) is the recommended supporting documentation, but an abstract of title or title report are also acceptable. For review purposes, the bring down must be provided within 15 calendar days of the date the permit is to be issued.

12. Resubmit ROW Plans, Final Deed Forms and Title Documentation

For each separate parcel, complete and submit a title bring down and a record owner and lien certification (Form M-950ROLC). The record owner and lien certificate is required to be updated within 15 calendar days of the date the land will be conveyed to PennDOT.

All exceptions to title must be addressed and removed as determined necessary by PennDOT.

13. Approve ROW Plans and Deed

Once the required District and Central Office reviews are obtained, sign and stamp all final documents.

Once the executed deed is obtained, the District must review and approve the deed and the plot plan or description before it is recorded.

14. Sign ROW Plans and Deed

Sign the ROW plan Title Sheet. PennDOT will process for execution by Secretary of Transportation.

The District will ensure the acquisition of the new ROW is properly filed and documented at PennDOT for future reference and use by the District and others.

15. Record ROW Plans and Deed

Record the plans and deed. Costs associated with the County's recordation process are the responsibility of the applicant. Provide recorded documents to the District.

16. Submit HOP Plans Showing Legal ROW

Update HOP plans are to reflect the new legal ROW rather than required ROW.