

7-1 General

- A. When referring to real property, title defines who has legal ownership and a right to use a piece of property. Generally, the state requires fee simple title to lands acquired for right of way. Grantor's retention of reversionary rights is not acceptable in most cases.
- B. Evidence of the ownership or of an interest in the property is found in the records of the county in which the property is located. The county's assessor, auditor, clerk, registrar, and treasurer maintain public records affecting title. Title insurance companies also maintain ownership records for each county.
- C. The Washington State Department of Transportation (WSDOT) uses the services of the title insurance companies. Although fees, delivery schedules, service, etc. may vary, each title company provides the State with Preliminary Commitments for Title Insurance (PC) and any necessary Supplemental Preliminary Commitments (SPC) for its acquisition information needs. An ALTA Owner's Standard Form Policy of Title Insurance insuring the State of Washington, Department of Transportation's acquisition is required for all transfers of fee ownership and easement rights, unless otherwise approved by the Acquisition Program Manager.
- D. WSDOT may secure sundry title services such as copies of maps, copies of instruments, ownership information, etc., for a specified charge that, along with other charges, will be billed to WSDOT.
- E. Region title functions are performed in the regions, under the supervision of the Region Real Estate Services Manager (RESM) and when necessary are assisted by the Acquisition Program Manager, or designee.
- F. HQ Title and Acquisition Reviewers perform HQ title functions under the supervision of the Acquisition Program.

7-2 Title Functions – Region

7-2.1 *General*

The following sections describe title functions which are normally performed in the region.

The Region RESM is responsible for the performance of these title functions and may delegate these duties to members of their staff as appropriate.

7-2.2 *Title Commitments (Reports)*

The Region RESM or designee:

- A. Upon request from the Region Right of Way Plans Section, places an order for title reports. Requests may be in the form of assessor's parcel numbers, maps or property descriptions.
 1. Upon assurance that the title company is prepared to meet the project's time schedule, places order with a title company insuring in the county in which the project is located.
 2. Title orders are normally placed with the title company on a rotational basis; however, this is balanced against the company's ability to deliver to the department's time requirements and company's ability to deliver accurate work.

At times of large orders (20 or more parcels), it may be necessary to balance the orders between several title companies.
- B. Upon receipt of title reports, determines whether all properties within the limits of the proposed project have been covered.
 1. Contacts the title company to correct any duplications, omissions, or discrepancies.
 2. Examines the title reports for access easements and road maintenance agreements. Reviews access easements and/or agreements to determine effect on parcel and identifies the ownership(s) benefitted by the easement. Physically inspects the property(ies) to identify parties in possession, width of easement. On limited access projects, the benefitted parcel(s) shall be identified as a separate parcel. On managed access projects, determines if the benefitted parcel should be identified as a separate parcel. Also coordinates with region access staff and the Acquisition Program Manager, as needed.
 3. When the field survey (by the Region Right of Way Plans Section) does not agree with the descriptions on the title reports, coordinates with the project engineer and contacts the title company and/or the county or city engineer's office to determine the legal status of the questioned property.

Advises the Region Right of Way Plans Section on problems concerning the legal status of vacated streets or other questioned property.
 4. Acts as liaison between the Region Right of Way Plans Section and the title company.

- C. Confirms that the title company's bill is for the services provided, assures it meets contract requirements, and prepares voucher for payment.
- D. Coordinates with the project manager on real estate matters bearing on interdisciplinary team activities, such as: ownership, contiguous properties, taxing districts, assessing districts, water rights, mineral rights, timber cruises, public recreation sites, and access, etc.

7-2.3 Right of Way Plans – Special Distribution

The Region RESM or designee:

- A. Furnishes informational copies (paper or electronic) of the approved right of way plans to:
 - 1. The title company or companies that provided the reports.
 - 2. The county assessor.
- B. Distributes any subsequent map revisions resulting in a change to parcel definition as in [Section 7-2.3.A](#).

7-2.4 Title Responsibilities for Acquisition and Condemnation

The Region RESM or designee:

- A. Maintains and updates title commitments (reports).
- B. Reviews the title reports with the Acquisition Specialist as required and advises the Acquisition Specialist on techniques for clearing encumbrances.
- C. Orders Supplemental Title Reports (STRs) as needed. Title reports shall not be older than six months at time of transmittal.
- D. Drafts acquisition legal descriptions and/or assists the Acquisition Specialist in drafting them.
- E. Reviews or drafts legal documents (deeds, easements, etc.) and/or assists the Acquisition Specialist.
- F. Coordinates with the Acquisition Program Manager or designee on *Right of Way Manual* interpretations as needed.
- G. Conducts examination of all acquisition transmittals and condemnation data packages for submittal to HQ per Section 7-2.5 below.
- H. Assures that the title company's bills for supplemental fees, recording fees, and full value title policies are correct and prepares voucher for payment.

For acquisitions that close in escrow, verifies that the correct escrow fee plus sales tax and fees have been added to the acquisition voucher or will be paid by separate voucher.

The bill is verified for correctness and paid as specified in [Chapter 10](#).

7-2.5 **Region Review – Final Payment and Transmittal**

The Region RESM or designee makes a detailed review of the entire data package, to assure that WSDOT will acquire an insurable title in the interest required. The primary focus of this review includes the following:

- A. **Instruments** – Verification that all instruments needed to convey and/or clear title have been either executed or are provided for by the escrow instructions. The emphasis shall be on identification of correct parties, signatures, notaries, and legal descriptions.
- B. **Clearance of Title** – The emphasis shall be on compliance with the requirements set forth in [Chapter 8](#) and documentation of risk analysis by the Region RESM.
- C. **Administrative Settlements** – The emphasis shall be on compliance with the current WSDOT policy, documentation, and justification.
- D. **Vouchers** – Reviews all real property vouchers to assure that they have been prepared and executed in accordance with [Chapter 10](#).
- E. All necessary property management forms have been completed, i.e., Fixtures and Improvement Agreement and Displacee Lease (if applicable), as noted in [Chapter 11](#).
- F. All relocation requirements per [Chapter 12](#) have been met.
- G. Upon completion of review, the Region RESM or appropriate signatory; **Note:** The authority to execute documents for the various transactions required for acquisition of Real Property have been delegated by Secretary's Executive Order Number: E 1012.04, *Delegation of Authority to Approve Contracts and Other Documents*, dated November 20, 2017, and as further sub delegated.
 1. Signs and dates the conveyance instruments for acceptance and approval by WSDOT.
 2. Signs and dates the appropriate vouchers as approving authority.
 3. Transmits construction memo(s) to the appropriate project engineer and retains a copy for the acquisition file.
 4. In non-escrow cases:
 - a. Transmits closing orders and instruments to title insurance company (that prepared the title report) for recording.
 - b. Order funds by one of the following methods:
 - (1) **Electronic Fund Transfers (EFT)** – Option for vendors. If EFT is selected, all banking information must be filled out. This option could take up to ten or more days for first time payments after W-9, SWV form, and Voucher is submitted for payment processing. Subsequent payments will be processed in the normal three to four day timeframe. According to accounting, this is the most cost effective method of providing payment. **Acquisition documents must be recorded prior to requesting payment.**

- (2) **Inserted Warrants From AFRS** – Payment is processed and mailed directly to the vendor from OFM. The warrant does not come back to WSDOT. This payment option provides warrants three to four days from the date of processing. **Acquisition documents must be recorded prior to requesting payment.**
 - (3) **Standard Warrant Return** – This option may take a few days longer as the warrants will be returned to WSDOT and not directly processed and mailed from AFRS to the vendor. Once received, Region RES typically sends payments to property owners/vendors by certified mailed, hand delivered, or mailed with back up documentation/instructions to vendors.
- c. If methods b(1) or b(2) are used, upon receipt of notice of recording from the title insurance company a payment letter may be sent to the appropriate parties using [RES-360](#) for b(i) or [RES-361](#) for b(ii).
 - d. If method b(3) is used, upon receipt of notice of recording from the title insurance company prepares and sends payment letter using [RES-362](#) and sends warrant by certified mail or hand delivery to the appropriate parties. Include written proof of delivery in final transmittal.
 - e. Enters appropriate payment information, dates and recording numbers into computer database.
5. In escrow cases:
- a. Order funds by one of the following methods:
 - (1) **Electronic Fund Transfers (EFT)** –Option for vendors. If EFT is selected, all banking information must be filled out. This option could take up to ten or more days for first time payments after W-9, SWV form, and Voucher is submitted for payment processing. Subsequent payments will be processed in the normal three to four day timeframe. According to accounting this is the most cost effective method of providing payment.
 - (2) **Inserted Warrants From AFRS** – Payment is processed and mailed directly to the vendor from OFM. The warrant does not come back to WSDOT. This payment option provides warrants three to four days from the date of processing.
 - (3) **Standard Warrant Return** – This option may take a few days longer as the warrants will be returned to WSDOT and not directly processed and mailed from AFRS to the vendor.

- b. If methods a(i) or a(ii) is selected, then immediately upon ordering funds transmits to the escrow company the following:
 - (1) Appropriate cover letter (RES-357 or RES-358)
 - (2) Escrow agreement (RES-337)
 - (3) Documents
 - (4) Excise tax affidavit
 - c. Upon receipt of warrant(s), mails by certified mail, or hand delivers obtaining written proof of delivery, the following to the escrow company:
 - (1) Cover letter (RES-359)
 - (2) Warrant
 - (3) Escrow agreement Form (RES-337)
 - (4) Documents
 - (5) Excise tax affidavit
 - d. Reviews for accuracy and executes all necessary closing statements, escrow instructions, etc. from the escrow company and authorizes recording of the transaction.
 - e. After recording, notifies property management section of recording numbers and date funds disbursed.
 - f. Enters appropriate payment information, dates and recording numbers into computer database.
6. Upon verification of recording and payment, completes the Acquisition and Title File Contents form ([RES-347](#)) and transmits the completed original acquisition file (and title policy if received) per Section 6-23.1 to the Acquisition Program Manager in Headquarters for compliance review and records retention.
 7. Review title insurance policy upon receipt to confirm it complies with the closing order or escrow instructions.
 - a. If approved, send to the Acquisition Program Manager to be added to the original acquisition file.
 - b. If not approved, coordinate with the title company for corrections. When corrected policy is received, send to the Acquisition Program Manager to be added to the original acquisition file.

7-2.6 Assistant Attorney General, Department of Transportation – Liaison

The Region RESM, or designee:

- A. Submits requests for any needed legal opinion to the Headquarters Real Estate Services Acquisition Program Manager, or designee, for coordination with the Assistant Attorney General, WSDOT, and other regions.
- B. Obtains title evidence for the use of the Assistant Attorney General, WSDOT, in inverse condemnation proceedings and on damage claims in accordance with [Chapter 6](#).
- C. Seek Assistant Attorney General advice anytime a federal condemnation proceeding may be required.
- D. Compiles data on legal descriptions and parties defendant as requested by the Assistant Attorney General, WSDOT.
- E. Makes specific note of any toxic/hazardous situations that will need to be addressed by the Attorney General's Office (AGO).

7-3 Title Functions – Headquarters

7-3.1 General

The following sections describe title functions which are normally performed by Headquarters RES.

The Acquisition Program Manager is responsible for the performance of these title functions and may delegate these duties to members of their staff as appropriate.

- A. The Acquisition Program Manager or designee:
 1. Reviews a minimum of 25 percent of a project's acquisition files for quality assurance/quality control with state laws and WSDOT policies and procedures.
 2. Sends a copy of the Oversight Feedback Review (OFR) as described in Section 7-3.2A to the appropriate region personnel.
 3. Coordinates corrective action, if necessary, with RESM or designee and documents file accordingly.
 4. Posts documents to the appropriate Real Estate Services ownership maps.
 5. Inputs required data into the computer database.
 6. The acquisition file is retained in the appropriate location pursuant to the records retention schedule.

7-3.2 Headquarters Review – Acquisition Parcel File

Final acquisition parcels are date-stamped and then submitted to the Acquisition Program Manager or designee for final processing and review. The Acquisition Program Manager or designee performs the following:

- A. Assures that quality assurance/quality control review is completed. This review is known as an OFR. The OFR is a tool used by HQ RES to ensure that the program or project is carried out in full compliance with Federal and State laws, regulations, policies and procedures. OFRs will occur throughout the duration of the project. HQ RES will present its findings and recommendations to the RESM. As the name implies, the OFR serves three critical purposes:
 1. **Oversight** – These reviews fulfill our responsibility to FHWA to assure “...that acquisitions and disposals by a State agency are made in compliance with legal requirements of State and Federal laws and regulations.” [23 CFR 710.201(b)] In order to qualify for and maintain our accountability for Federal funding, WSDOT is required to “...be adequately staffed, equipped, and organized to discharge (our) real property related responsibilities.” [23 CFR 710.201(a)] We are also required by 23 CFR 710.201(h) to oversee the work performed by other public land organizations (e.g., local agencies) and private consultants. Failure to perform the required oversight can result in a variety of sanctions, including but not limited to loss of Federal funds on a parcel or project and/or withdrawal of Federal participation from future projects.
 2. **Feedback** – In order to ensure meaningful oversight, these reviews must provide feedback to the RESM on the progress and performance of RES activities. The format for this feedback will typically include a report of the findings of the reviewer, identification of successful practices found during the review, and a listing of any deficiencies or possible non-compliance issues. In addition, the feedback will include an action plan and/or list of options to address deficiencies and noncompliance issues and will identify the HQ RES technical specialists who may be contacted for assistance in addressing these issues.
 3. **Review** – A minimum of 25 percent of a project’s acquisition files. This is a minimum and a greater percentage is at the discretion of HQ RES. All early acquisitions, protective buying acquisitions, hardship acquisitions, corridor preservation acquisitions as defined in Section 6-3 shall be reviewed for quality assurance/quality control. The overall format for the OFR will be to review not less than a representative sample of files and documents, as determined by the review team.
- B. The areas of focus for the OFR include but are not limited to the following:
 1. Conveyance documents. The emphasis will be on identification of correct parties, signatures, notaries, and legal descriptions.
 2. Clearance of title and documentation of risk. The emphasis will be on compliance with [Chapter 8](#) and documentation of risk analysis.
 3. Administrative settlement justification. The emphasis will be on compliance with current WSDOT policy, documentation, and justification.

7-3.3 **Condemnation**

The Acquisition Program Manager or designee:

- A. Using the procedures specified in [Chapter 6](#) prepares the condemnation data package for transfer to the AGO.
- B. Acts as a liaison between the AGO and the Region RESM on matters pertaining to the condemnation.
- C. Reviews AGO documents for accuracy.
- D. Processes payments per instructions received from the AGO.
- E. Provides expert advice and testimony when requested.
- F. Posts final AGO documents on the appropriate official Real Estate Services ownership maps.
- G. Inputs required data into computer database.

7-3.4 **Records**

The Acquisition Program Manager or designee:

- A. **Real Estate Services Maps** – Maintains maps including entry of new right of way plans, entry and reposting of plan revisions.
- B. **Real Estate Services Sundry Site Maps** – Maintains pit and stockpile record books and maps.
- C. **Advise Others** – Advises and assists others on matters involving right of way acquisitions and plans including, but not limited to, retrieval of data from archives and interpretation of evidence.
- D. Review and provide records as required under public disclosure.
- E. Maintains all paper and electronic systems.
- F. Assures that records are retained and submitted for retention according to the Real Estate Services Records Retention Schedule.

