

The Right-of-Way Bureau

Responsible for acquiring and managing property necessary for state highway and municipal transportation projects

The Uniform Act applies to all projects receiving federal or state funds or federal or state financial assistance where real property is acquired or persons are displaced as a result of acquisition, demolition, or rehabilitation

www.fhwa.dot.gov/realestate



Why follow the ROW Process?



1. **Avoid jeopardizing Transportation Improvement Program funding or deobligation of federal funding.**
2. **Avoid delays in advertising and construction.**
3. **Failure to comply with the provisions of the Uniform Act will result in denial of federal participation in project cost, including construction.**



OVERVIEW

25%
DESIGN

75%
DESIGN

100%
DESIGN

State Highway Projects versus Local Roadway Projects

- **State Highway Project**

- MassDOT is responsible for the Right of Way process

- **Local Roadway Project**

- Municipality is responsible for Right of Way process with MassDOT oversight
 - Roadways
 - Bridges
 - Multi-Use Paths
 - Other; scenic by-way easements, visitor centers, transportation alternatives programs

Right-of-Way Process

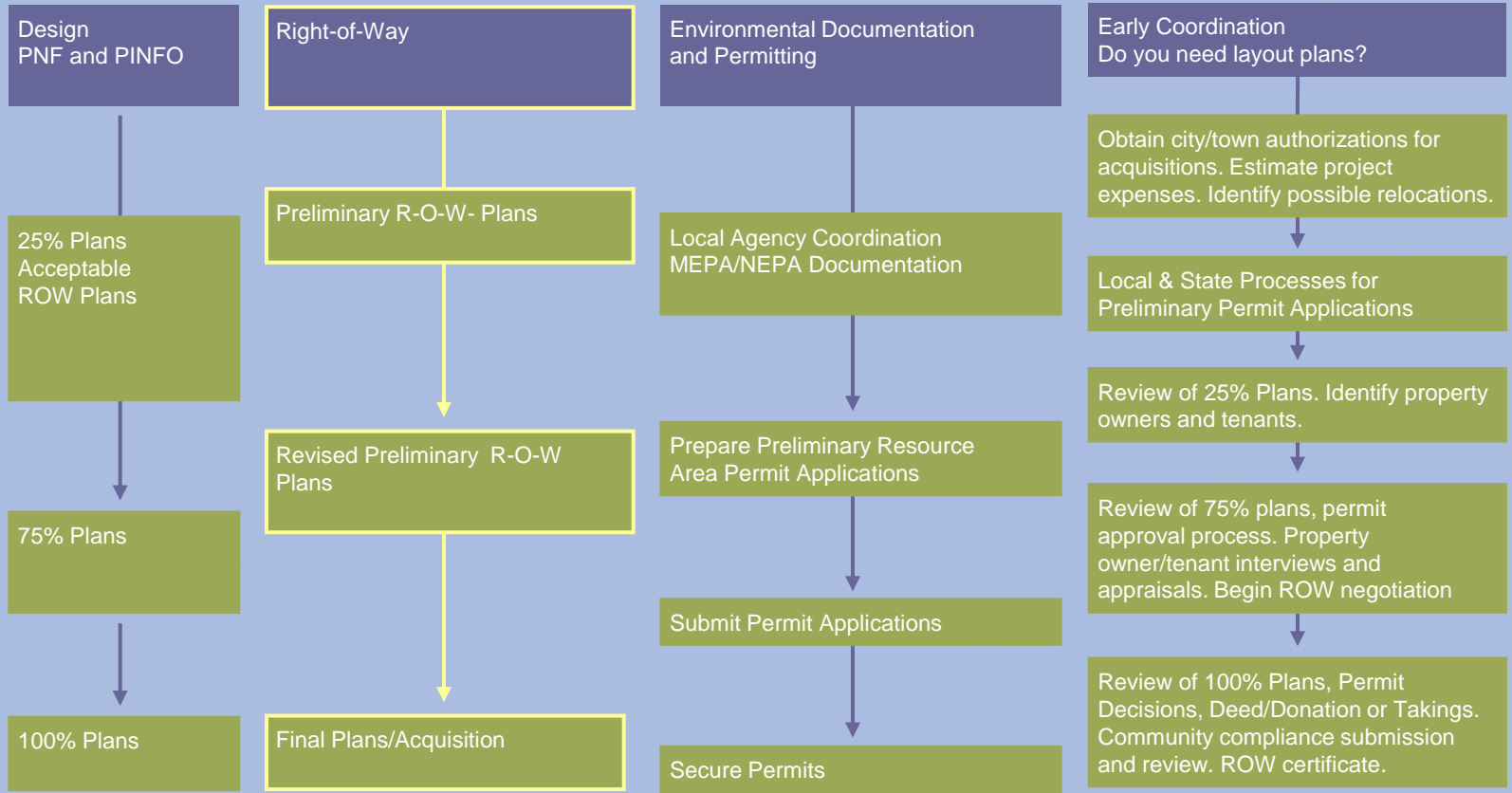
Helping Communities Move Projects Forward



OVERVIEW

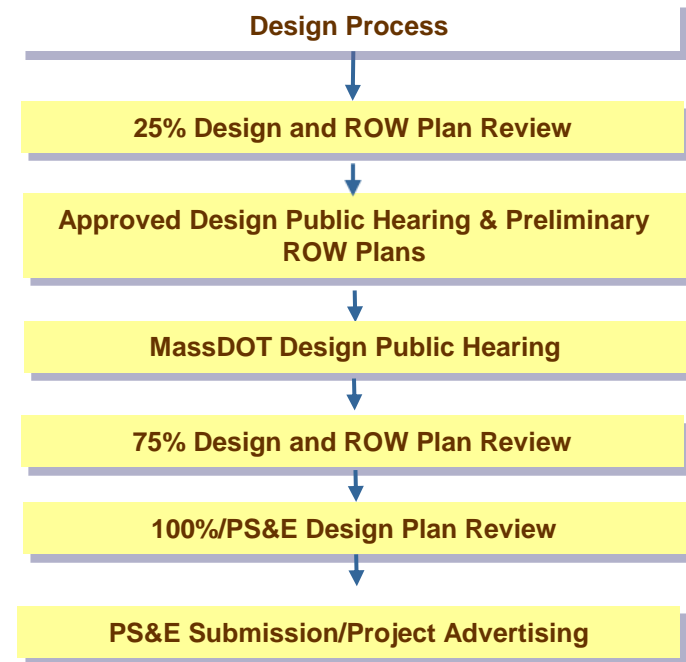
The Overall Process

25% DESIGN
75% DESIGN
100% DESIGN



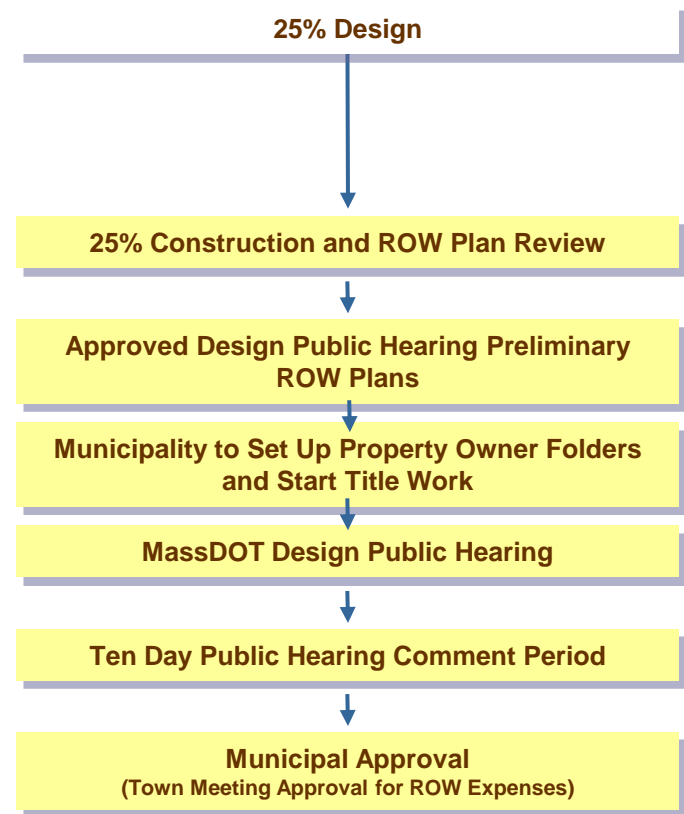
State Highway Project

- 25% Preliminary ROW Plans
- Plan Review/Multiple Submissions/Revisions to achieve Accepted ROW Plans (Avg. 6 Months)
- Environmental Approval
- Title Examinations (3 - 3 ½ Months)
- Project Case Work (2 ½ Months)
- Appraisals (2 ½ Months)
- Layout Plans & Instrument (3 Months)
- Award Offers (1 ½ Months)
- Recording (14 Days)
- Payment (2 Months)
- ROW Certificate Issued



Local Roadway Project

- Reaffirm or identify Municipal liaison
- Begin Municipal authorization process
- Identify ROW associated costs
- Identify property owners
- ROW plans required at 25% design submittal



The 75% to 100% Design Phase

- Municipality is responsible for all appraisal, damages, and litigation costs.





The Written Offer

- The agency's written offer will consist of a written summary statement that includes all of the following information:
- The amount offered as just compensation.
- The description and location of the property and the interest to be acquired.
- The identification of the buildings and other improvements that are considered to be part of the real property.

Name: _____

Project # _____

Address: _____

Parcel # _____

Salutation: _____

The State Department of Transportation is acquiring lands necessary for the construction of _____ in _____ County.

Public records indicate you are the owner of a parcel of land needed for the highway construction. We are offering \$ _____ for the purchase of the property, property rights and improvements, if any * which includes the sum of \$ _____ as payment for damages to your adjacent remaining lands caused by the acquisition of the portion of your land needed for the highway improvement. ** (As an alternate offer, we will acquire all of the land necessary for the project plus the uneconomic remainder for the sum of \$ _____.)

This value is based on a professional appraisal made by a qualified appraiser to determine the fair market value of your property plus damages to the remainder, if any. The appraised value was reviewed by our reviewing appraisers to assure that you will receive just compensation for your property. The basis for the value set forth is summarized on the attached appraisal summary sheet.

*** Additionally, if you so desire you may retain the improvements located on this parcel of land for the sum of \$ _____, which will be deducted from the total amount offered.

Enclosed is a brochure prepared by the department explaining ROW acquisition. If you have any questions concerning the construction or acquisition details or the ROW plans, please contact me (phone, meeting, etc.) _____.

Very truly yours,
Right-of-Way Agent
Enclosure

* Omit if no damages

** Omit if no uneconomic remainder

*** Omit if bare land

Note: Omit "if any" if not applicable

Right-of-Way Certificate



Once the final Right-Of-Way Plan and all necessary documents have been submitted, reviewed, and accepted, MassDOT issues a Federal Right of Way Certificate



Expedite the ROW Process

1. Negotiate a comprehensive scope of design services including the need for ROW Plans at each design submittal stage.
2. Establish a municipal liaison to work with assigned Community Compliance Officer
3. Identify Parkland and other publically owned open space areas-this early coordination will help expedite the design process (NEPA has to be approved prior to the onset of negotiations with property owners)

Applicable “Parkland” Regulations

Section 4(f) of the DOT Act, 49 U.S.C
Section 303 – Federal- Use” of Section
4(f) Land

- Permanent incorporation
- Temporary occupancy
- Constructive use



Environmental

Article 97 of the Constitution – State

- Article 97 Land Disposition

Publically-owned Open Space-conservation, recreation, agricultural, watershed protection, etc.

Legislative(2/3 vote) approval required.

MEPA-Trigger-ENF-transfer of state owned property cannot occur until after MEPA approval.





Expedite the ROW Process

4. Properly budget the ROW activities.
5. The design schedule that the Design Engineer prepares needs to take into account Town Meeting Approval dates; appraisal dates; Board of Selectmen or City Council vote and recording dates.
6. Follow up with the Design Engineer at each plan review stage to make certain that the plan review comments have been incorporated in the next design submittal.

Expedite the ROW Process

7. Towns are required to obtain Town Meeting approval to accept donations, exercise their right of eminent domain and purchases. This process is very time consuming, please work with your legal counsel and your Community Compliance Officer. Do not omit or limit the town's power to use eminent domain.

Town Meeting Approval, Eminent Domain & Donations

Most towns require town meeting approval to acquire land parcels for highway purposes.

The following is a suggested format that allows the Board of Selectmen to acquire the necessary land areas on behalf of the inhabitants of your municipality.

To authorize the Board of Selectmen to acquire the following land parcels and or rights in land parcels for the purpose of obtaining a secure and public right of way. This will allow for the construction and roadway safety improvements (Name of Project)

	Total # Parcel	Area (Square Feet)
In Fee	_____	_____
Permanent Easements	_____	_____
Temporary Easements	_____	_____

Further that the Selectmen may acquire these parcels, or modification of these parcels or other required parcels through all legal means. This includes donations, purchase or eminent domain. The subject parcels are currently identified on plans drafted by _____

Dated _____ Titled _____

Further, to raise and appropriate an amount of \$ _____ to defray any associated right of way expenses connected with this project.

Your town counsel and other appropriate officials should review and draft the proposed article. It should be modified as necessary given current information. Chapter 90 funds may be used for right of way purposes. Contact the local Massachusetts Department of Transportation, Highway Division Office for information regarding use of your Chapter 90 Funds.

Town officials must estimate the Right of Way Cost. This may include appraiser fees, sign relocation's, award of damages, recording fees, Attorney fees, etc. Your assessor's office should be of assistance in estimating the required appropriation.

If you have any questions, please do not hesitate to contact the Community Compliance Section.

Community Compliance Section
 (617) 973-7966
 Massachusetts Department of Transportation/ Highway Division
 Ten Park Plaza, Rm. 6160
 Boston, Ma 02116-3973



Expedite the ROW Process

8. Make sure your Design Engineer submits a complete 25% submission with ROW Plans that match the construction plans.



Expedite the ROW Process

9. Following these tried and tested recommendations can help ensure your schedule is accomplished.

10. "Streamlining" can work, as long as you involve the various project disciplines EARLY and OFTEN in the project.

ROW recommends using this Mantra: "Let's solve problems BEFORE they become problems."

Any questions?

