



## Right-of-Entry for Federal Land Transfers Questions and Answers

### **W**hat is "right-of-entry?"

A right-of-entry is a right to enter and begin construction on property that is needed and will be acquired for a highway project.

### **What is a Federal land transfer?**

A Federal land transfer is the conveyance of property, usually by highway easement deed, to a State or local public agency either directly by a Federal land management agency (such as the U.S. Forest Service or Bureau of Land Management) or by the FHWA on behalf of the land management agency. These transfers are made to allow the construction or improvement of a highway facility on Federal land.

### **Are Federal land transfers subject to federal statutes or regulations?**

Yes. Two statutes, 23 United States Code (U.S.C.) 317 and 23 U.S.C. 107(d), authorize the Secretary of Transportation and, by delegation, the FHWA to transfer lands under the jurisdiction of another Federal agency to a State or local public agency. The regulations implementing this statutory authority can be found at 23 Code of Federal Regulations 710.601.

### **What do the regulations say about the use of a right-of-entry for a Federal land transfer?**

The regulation in 23 CFR 710.601(e) states that if FHWA concurs in the need for the land to be transferred to the State or local agency "...the land-owning agency will be notified and a right-of-entry requested."

### **If the State or local agency works through the FHWA, pursuant to 23 U.S.C. 317 or 107(d), is the Federal land management agency required to grant a right-of-entry?**

No. However, in the past FHWA has been very successful in receiving grants of right-of-entry from Federal land management agencies.

### **Can a right-of-entry still be obtained if the State obtains the property by direct transfer from the Federal land management agency rather than proceeding via the FHWA under 23 U.S.C 317 or 107(d)?**

A State or local agency can request a right-of-entry if it obtains the property by direct transfer from a Federal land management agency. However, the transferring agency will make the determination whether to grant such a request.

### **More Information**

For more information about functional replacement or other types of flexibilities in ROW, visit FHWA's Every Day Counts website ([www.fhwa.dot.gov/everydaycounts/projects/toolkit/row.cfm](http://www.fhwa.dot.gov/everydaycounts/projects/toolkit/row.cfm)) or contact Virginia Tsu, FHWA Office of Real Estate Services, at (202) 366-2042 or [virginia.tsu@dot.gov](mailto:virginia.tsu@dot.gov).