

Network for Success

Local Programs Workshop



How to Make Your Right of Way Acquisitions Successful

Breakout Session # 5 D

Project Delivery

Les Griggs

Regional Right of Way Manager, VDOT

October 25, 2012

How to Make Your Right of Way Acquisitions Successful

- **Follow the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and subsequent amendments (42 USC Section 4601, et seq.)**
- **Follow the Code of Virginia**
- **Follow the Right of Way Manual**

How to Make Your Right of Way Acquisitions Successful

- **Coordinate closely with the VDOT Project Manager**
- **Involve VDOT in making right of way decisions**
- **Do not deviate from VDOT Policy without written permission**

How to Make Your Right of Way Acquisitions Successful

- **Do not begin to make offers to property owners until after you have received Notice to Proceed**
- **Be extremely careful not to acquire contaminated properties**
- **Be sure to make a bona-fide offer to the landowner based on the appraised value**
- **Conduct a proper negotiation**

How to Make Your Right of Way Acquisitions Successful

It is important to remember...

- **Follow all applicable laws in performing relocations (Uniform Act means to treat everyone uniformly)**
- **Quality Assurance Reviews by VDOT don't have to wait until the end of the project**

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Any Questions??

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UNIFORM ACT Overview

Barbara Middleton
October 25, 2012

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UNIFORM ACT

FEDERAL LAW

**Uniform Relocation Assistance and Real Property Acquisition Policies Act
of 1970, (as amended)**

Public Law 91-646

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UNIFORM ACT

Minimum Requirements for:

Real Property Acquisitions

Relocations

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UNIFORM ACT

**Protects Rights of Property
Owners**

**Protects Rights of Displaced
Persons**

UNIFORM ACT

Objectives:

Uniform, fair and equitable treatment of persons whose real property is acquired or who are displaced in connection with Federally funded projects.

UNIFORM ACT

**To ensure such persons do not
suffer a disproportionate impact as
a result of projects which benefit
the public**

UNIFORM ACT

To encourage and expedite acquisition by agreement

To minimize litigation and relieve congestion in courts

To promote public confidence in Federally funded land acquisition programs

UNIFORM ACT

Applies:

**To all Federally funded projects
When Federal dollars are utilized
in any phase of a project**

FEDERAL REGULATIONS

49 CFR Part 24

Known as the, “*Single Rule*”

Implements the Law - *Uniform Act*

Acquisition Highlights

Right to Receive Just Compensation

Determination of Just Compensation by a Court of Law.

Right to an Appraisal

Right to Accompany the Appraiser

Acquisition Highlights

Written Offer and Summary Statement

Payment Before Possession

Offer to Acquire Uneconomic Remnants

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Acquisition Highlights

Reimbursement for Expenses Incidental to the Transfer of Title

Reimbursement of Certain Litigation Expenses

Relocation Highlights

Minimum 90 Day Notice to Vacate

Availability of Comparable, Decent Safe and Sanitary (*DSS*), Replacement Housing

Relocation Advisory Services

Relocation Highlights

Replacement Housing Payments

180 day homeowners - \$22,500

Replacement Housing Payment

90 day owners/tenants - \$5,250

Last Resort Housing

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**Non-compliance
with the law
means NO
Federal dollars**

You'll Lose \$\$\$ IF

**You fail to comply with the
Uniform Act**

**You fail to comply with 49 CFR
Part 24**

Documentation Requirements

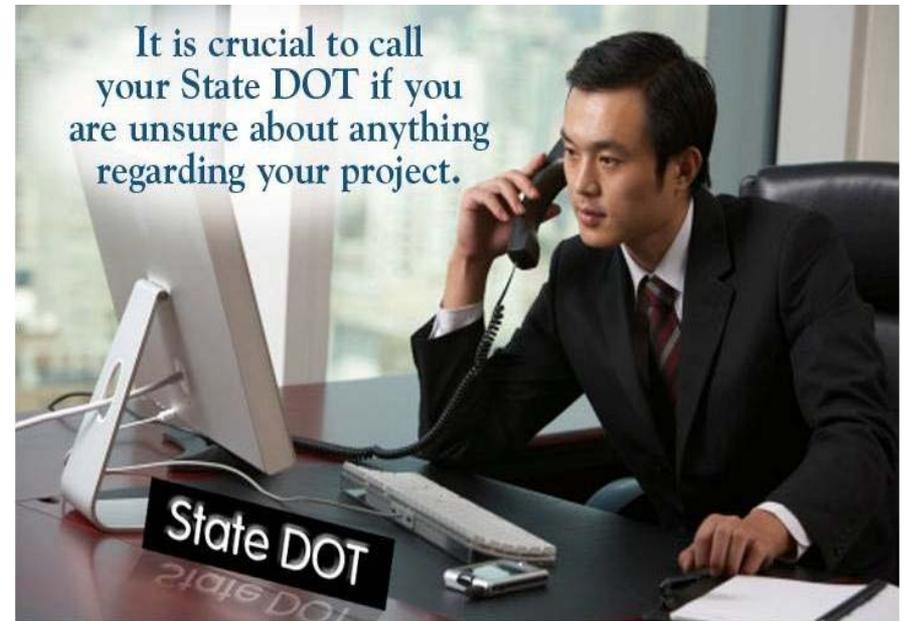
The acquiring agency shall maintain complete and adequate records of its acquisition and relocation activities.

Actions, decisions, approvals, payments, etc. must be sufficiently documented to preserve Federal participation in a project.

The “Almost Golden” Rule

**“If it ain’t documented, it
didn’t happen!”**

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FHWA holds VDOT accountable for overseeing and monitoring acquisition activities on locally administered projects.

The State is responsible for ensuring compliance with applicable State & Federal laws & regulations.

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Office of Real Estate Services Web Site

Address:

<http://www.fhwa.dot.gov/realestate/>

Uniform Act

23 CFR, 49 CFR (Regulations)

Policy Interpretations, Q&A's

Brochures, etc.

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Right of Way Acquisition and Utility Relocation Breakout Session # 5 Project Delivery

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State Utilities and Property Manager

October 25, 2012

Administrating Utility Relocations

- **Legal**
- **Cost Responsibility**
- **Utilities Coordination**
- **Utility Relocation Construction**
- **Placement of Aerial Utilities Underground**
- **Thing's to Remember**

Legal

CFR Title 23 part 645 – Subpart A – Utility Relocations, Adjustments and Reimbursement

Statutory Rights – Code of Virginia - Reference Chapter 2 of the VDOT Utility Manual

Prior Rights – existing facilities located on VDOT right of way and have a compensable right to be in that location

Utility facilities placed or located within the right of way, with or without a permit, shall be relocated at the cost of the utility.

Legal

- **Utility facilities located on other public property shall be relocated at the cost of the utility owner were written documentation is not present.**
Examples:
 - Dedicated or acquired property for street or road purposes.
 - Federally owned land.
 - Waterways, Streams and Rivers.
 - State owned land.
- **Utility facilities located on private property shall be relocated at the cost of the project.**
- **Franchise Agreement?**

Cost Responsibility

- **Utility (Electric, Phone, Gas, etc.) relocation cost shall be pro-rated to determine cost responsibility.**

Documentation

- VDOT utilizes UT-9 (Appendix 4)

Exception:

- Franchise Agreements, the term of the agreement will determine cost responsibility.

- **County, City or District/Authority owned utilities (Water/Sewer/Gas) shall be relocated at the cost of the project. (In-Plan)**

Exceptions:

- Request for betterment (upgrade facilities) shall be the cost responsibility of the owner of the facilities. (Construction Administration and Contingency cost percentages are applicable)
- Private Company, these facilities will be pro-rated.

Utility Relocation Coordination

Scoping – Cost estimate, preliminary utility relocation schedule

Utility Field Inspection (Plan Status at appropriate level)

Utility Easement Identification

Submittal/Review/Authorization of utility companies Relocation Plan and Estimate (P&E)

Notice to Proceed (NTP)

Right of Way Acquisition – Parcel/Easement Prioritization for utility relocations

***Second relocations not due to utility company error are 100% locality cost**

Utility Relocation Construction

- **Notice of the completion of Right of Way and utility easements acquisition shall be sent to all utilities.**
- **A utility coordination meeting with the utility companies should be held to discuss work schedules and order of relocation.**

Example:

- Electric 03/15/13 to 06/15/13
 - Cable TV 07/01/13 to 08/01/13
 - Phone 08/15/12 to 10/15/13
- **Inspection shall be performed on all utility relocation work.**
 - **VDOT utilizes Form: UT-7 (Appendix 26)**
 - **Notes.**
 - After utility work has been completed the Inspector shall provide a statement of completion in accordance or not in accordance with the relocation P&E.
 - Utility company shall provide a letter notifying that the relocation has been completed.

Placement of Aerial Utilities Underground (Urban Policy)

- **Policy**

- **Section 33.1-44 Code of Virginia, which covers the Urban System of Highways. Project must have urban formula allocations to utilize this policy and cover cost.**
- **Electric Transmission facilities operating at a voltage of 40kv and over shall not apply.**
- **The facilities shall not extend more than 150ft beyond the project limits or first pole. Unless determined to be necessary from an engineering standpoint.**

Use of temporary overhead facilities.

- When facilitating the sequence of construction or the physical characteristics of the project.
- Cost of the temporary work shall be the responsibility of the department, Locality and Utility.
- If temporary work solely accelerated the construction of the project, the cost shall be at project cost.

Under Grounding of Utilities (General Requirements)

- **The local government shall enact or have enacted an Ordinance establishing an underground utility district.**
- **The local government shall provide the Department with a Resolution for under grounding of existing utilities.**

Ordinance (Underground District)

- The Ordinance must require that all new utility facilities, publicly or privately owned, be installed underground and shall include criteria where facilities are modified to be placed underground.

Resolution

- The Resolution must be provided to the Department requesting the under grounding of the existing utilities as part of the project.
 - Under grounding may elect to include all or part of the project limits, provided the limits are within the existing Ordinance.
 - Assurance shall be included within the Resolution that Local Government has the financial resources available for the portion of the under grounding.
- **Ordinance and/or Resolution shall include that future utility facilities within the area covered shall be required to be placed underground including street lights.**

Under Grounding of Utilities (Cost Responsibility)

- The cost (Pro-rate) responsibility shall be in accordance with the Policy and Procedures Manual using cost determination form (UT-9). This will be used to determine the theoretical overhead cost responsibility between the project cost and Utility cost.
- The utility company will provide estimated costs of the theoretical overhead and additional cost to underground.
- These costs will be used to determine the cost responsibility between the Utility, Locality and Department.

Part A – Theoretical (Overhead)

- Department – 98% of the pro-rated cost (UT-9)
- Locality – 2% of the pro-rated cost (UT-9)
- Utility – 100% of their pro-rated cost (UT-9)

Part B – Additional Cost to Underground

- Project Share – 50% of additional under grounding
- Locality Share - 50% of additional under grounding

Part C – Additional Cost to Underground Project Cost

- Department – 98% of the project share to underground
- Locality – 2% of the project share to underground
- Utility – No cost

Under Grounding of Utilities (Tri-Party Agreement)

- **Agreement between the Department, Locality and Utility.**
- **Section II (Theoretical Overhead)**
Outlines the cost responsibility between the Locality, Department & Utility
- **Section III (Additional Cost to Underground)**
Outlines the cost responsibility between the Locality & Department
 - Note: The maximum Department cost to underground utilities shall not exceed \$5,000,000 per project. The Locality will be responsible for 100% of the cost that exceed \$10,000,000
- **Section VII (Reimbursement)**
Outlines reimbursement of cost as shown within the agreement and schedule of payment.
 - Within thirty days of the execution of the agreement or authorization to proceed to relocate utility, which is the latest the Locality will make the first payment as outlined within the agreement.
 - Payments hereafter will be set into a payment schedule as outlined in the agreement.
- **Final Payment**
 - After receipt of the final bill from the Utility, the Department will final invoice the Locality. The Locality shall be responsible for the difference between cost outlined in the agreement and the actual total cost to underground.

Things to remember

- **Right of Way and Utilities Certification for Project advertisement includes clearance of conflict utilities**
- **Use of consultants by a utility owner for preparing relocation plan must be requested and approved before any design and reimbursement can occur.**
- **Local administered projects: Utilities must obtain a VDOT permit prior to proceeding with their relocations on VDOT Right of Way.**
- **Progress Bills:**
 - **Must be a minimum of \$1,000. 00 and can not exceed 90% of the authorized amount. Prompt payment – 30 days**

Things to remember

- **Final Bill:**
 - **Must be billed within 1 year of completion of the completion of the transportation project (Chapter 13.1 of Utility Manual).**
 - **Explanation of under runs or overruns in excess of 10% or \$5,000.00 of the total cost or individual categories (see UT-11).**
- **Any necessary environmental documents to cross environmentally sensitive areas are the responsibility of the utility company. Unless part of the construction contract (in-plan work) then permits are included with project permits.**
- **THANK YOU!**

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How to Make Your Right of Way Acquisitions Successful Breakout Session # 5 Project Delivery

Evelyn Jones

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October 25, 2012

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**Dominion Boulevard, Chesapeake, Virginia:
A Consultant's View**

Dominion Boulevard, Chesapeake, Virginia A Consultant's View

- **First Project for the City of Chesapeake under the Urban Construction Initiative Certification Program (UCI)**
- **Deemed Successful both by the City and VDOT**
- **Carole Gillespie, City Right of Way Agent is well versed in Right of Way Procedures**

Dominion Boulevard, Chesapeake, Virginia A Consultant's View

Scope of Project:

Two Phases: 48 Total Acquisitions

**Including 9 Businesses, 12 Residential
Displacees, which included the State's first
reverse mortgage calculation and 1 Church**

135 Partial Acquisitions

Total Acquisition Time: Approximately 18 Months

Keys to a Successful Project when a Consultant is involved

- 1. Know your clients and have a complete understanding of the scope of work in order to provide the guidance they are soliciting**
 - a. Be sure all staff on both sides are aware of all Federal, State, and local regulations. If a municipality does not have a right of way guideline in place, be sure they prepare one and have it approved by the governing body**

- 2. Understand VDOT's role in the process.**
 - a. Use RUMS or maintain an accurate up-to-date status**
 - b. Request an audit early in the process**

Keys to a Successful Project when a Consultant is involved

- 3. Create a Partnership and work closely together**
 - a. City, VDOT, Sub-consultants of the City and the Consultant**
 - Design Engineers are an important part of the process
 - Plans and Plats
 - City's legal Staff
- 4. As a consultant, hire competent, dependable sub-consultants**
 - a. Appraisers**
 - b. Environmental Staff**
- 5. Maintain a good filing system**
- 6. Keep the project on schedule and meet the goals of the client**

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Right of Way Acquisition and Utility Relocation Breakout Session # 5 Project Delivery

Emilie Simpson

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October 25, 2012

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RUMS and the Locally Administered Project

RUMS and the Locally Administered Project

Advantages

Provides “at a glance” status of project

- Each major discipline graphically represented in treeview
 - Printable status reports
 - Quick status counts
- Drill down for project “pulse points”
 - Evaluations
 - Negotiation contacts
 - Relocation contacts
 - Improvement relocation
 - Utility easements/relocation

Designed to assist compliance

- VDOT policies/procedures
 - Right of way acquisition process
 - Utility relocation process

RUMS and the Locally Administered Project

Advantages

Simplifies

- Form template library
 - Most recent versions of forms
 - Forms completed in RUMS viewable from application
- Assignment notification/completion notification for evaluations
 - PDF copy with electronic signatures maintained in RUMS
 - Eliminates bulky e-mails and/or postage costs

Web-based application

- Accessible anywhere with Internet service
 - Secure connection site

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“At A Glance” Status

The screenshot displays three instances of the RUMS Management System web application in Internet Explorer. The active window shows the following data:

Project Counts

	Total	Cleared
Utility Easements:	3	0
Utility Relocations:	3	0
Relocations:	2	0
Improvements:	3	0
Railroads:	0	0
Brochures:	0	0

Parcel Counts

	Total	Cleared
Parcels (Non-Adv Acq):	7	1
Parcels (Adv Acq):	0	0
Evaluations:	1	1
Negotiations:	1	0

Arrangements

	Total	Cleared
Utility Completed:		
Railroad Completed:		

Project Tree View:

- Projects
 - 0011-077-R27, R201 (101264)
 - Estimate
 - Parcel
 - 001 - O'Hara, Scarlett
 - 002 - Butler, Rhett
 - 003 - Tara Plantation Tea Room
 - 005 - Dott, Virginia
 - 006 - Kent, Clark
 - 007 - Daily Planet News
 - 008 - Lane, Lois & Lana
 - Utility
 - Pulaski County Sewer Authority
 - Dominion Virginia Power (22995)
 - Verizon - Virginia, Inc. (22996)

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Compliance

The screenshot displays a multi-monitor workstation running the RUMS Management System web application. The application is shown in multiple browser windows, with the main window displaying a detailed view of a project (D Number 1). The interface includes a search filter panel on the left, a tree view of projects, and a main content area with various input fields and buttons. The search filter panel includes fields for Project/UPC, District, Project Type, System, and Date Range, along with checkboxes for 'Include Cleared Projects' and 'Include Uncleared Projects'. The tree view shows a hierarchy of projects, with the selected project (D Number 1) expanded to show its details. The main content area includes fields for D Number, Type, Use, Plan Sheet, Owner, Station, and Size, along with buttons for 'Apply' and 'Log out'. The application is running on a Windows operating system, as indicated by the taskbar and window titles.

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Compliance – Utility Screens

The screenshot displays the RUMS Management System interface, which is a web-based application for managing utility projects. The interface is divided into several panes and sections:

- Project Management Panels:** Six vertical panels on the left, each titled "RUMS Management System". Each panel contains a search and filter section with fields for "Project/UPC", "District", "Project Type", "System", and "Date Range". Below these are checkboxes for "Add Date", "Include Cleared Projects", and "Include Uncleared Projects". A tree view of projects is shown at the bottom of each panel.
- Main Project Detail Panel:** The largest panel on the right, titled "RUMS Management System", shows details for Project/UPC 101264. It includes fields for "District", "Project Type", "System", and "Date Range". There are also checkboxes for "Add Date" and "RW End Date", and an "Apply" button.
- Utility Contact Form:** A modal window titled "Contacts" is open, showing a table with columns for "Date" and "Comment". The table is currently empty. There are "New", "Edit", and "Delete" buttons on the right side of the form.
- Navigation and Tools:** At the top right of the main panel, there are tabs for "General", "Field Inspection", "Affected Parcels", "Other", "Utility Construction", and "Contacts". A "Logout" button is also present.
- System Information:** At the top right, it shows the user "Utility: Dominion Virginia Power" and the "Master Agreement Date: 12/26/1984".

The interface is running in a Windows Internet Explorer browser, as indicated by the title bar. The taskbar at the bottom shows several open applications, including "Sent Items - Microsoft...", "https://sslvpn-2.vta...", "VDOT - Right of Way...", "Microsoft PowerPoint...", and "Util-Const..PG - Paint".

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Forms Library

The screenshot displays the RUMS Management System interface within a Windows Internet Explorer browser. The main window title is "VDOT - Right of Way and Utilities Management System - Windows Internet Explorer provided by Virginia IT Partnership". The interface includes a navigation menu with tabs for "Project", "PMI", "Contract", and "Assign". The "Project" tab is active, showing fields for "Project/UPC: 101264", "District", "Project Type", and "System". Below these are "Date Range" options and checkboxes for "Include Cleared Projects" and "Include Uncleared Projects". A tree view on the left lists projects under "0011-077-R27, R201 (101264)", including "Estimate", "Parcel", "Evaluation", "Negotiation", "Level", "Relocation", "Grave", "Improvement", "Utility", and "006 - Kent, Clark", "007 - Daly Planet News", "008 - Lane, Lois & Lana", and "Utility".

A modal window titled "RUMS Modal Window -- Webpage Dialog" is open, displaying a list of forms:

- D01 - Option - RW-10
- D02 - Corporate Option-RW10 Corp
- D03 - Option Form-RW10LA-With or without FR
- D04 - Corp Limited Access Option-RW10LA
- D05 - Deed Form - RW16
- D06 - Deed Corporation - RW16 Corp
- D07 - Deed-Limited Access-RW16 LA
- D08 - Deed-Limited Access Corp-RW16 Corp LA
- D09 - Individual Agreement-Perm Ease-RW28
- D10 - Corp Agreement-RW28 Corp-Perm Ease
- D11 - Agreement Extndng Slopes-RW29-Temp Ease
- D12 - Agreement Extending Slopes-RW29 Corp
- D16 - Individual Deed-RW202-Perm Slope Ease
- D17 - Individual Deed-RW203-Perm Drainage Ease
- D24 - Unitary Payment (RW-228)
- D25 - Deed Limited Access Rights Only SF1LA
- D26 - Perpetual Ease Opt-LA-School Brd SF2LA
- D27 - Perpetual Ease Deed School Brd LA-SF3LA
- D28 - Perpetual Ease Deed School Brd Reg-SF4

The modal window also includes an "OK" button and a "Document Name:" field.

RUMS and the Locally Administered Project

VDOT Assistance

Training

- VDOT will train users

Support

- Application usage questions
- Limited technical support
 - Operating system differences
 - Different web browsers

Getting Access

Criminal History Records Check (with fingerprints)

- RUMS classified as containing sensitive Information

IT Application Access Request Forms