



# Caltrans Right of Way Division of Local Assistance

## Local Assistance Procedures Manual Exhibit 13-A Revisions & Certification

May 8, 2024

# Background Information

- A Lean Six Sigma (LSS) process improvement approach was completed on the Local Assistance Procedures Manual (LAPM) Exhibit 13-A.
  - The LSS team included staff from Division of Local Assistance, Division of Right of Way and Land Surveys, Federal Highway Administration, and a local public agency.
  - The Exhibit 13-A had no processing time baseline, resulting in unidentified efficiencies and inefficiencies.
  - The LSS analyzed twenty-one (21) samples of accepted Exhibit 13-A's over four months and was able to estimate a cost savings of \$1,044,753.00.
- Effective May 2024, use of the revised LAPM Exhibit 13-A: Short Form Right of Way Certification Local Assistance Project (off the State Highway System) will be implemented for all federally funded local projects.

# LAPM Exhibit 13-A Revisions



Form will have a “Required Attachment Checklist” of documents which need to be attached to the Exhibit 13-A before submitting for acceptance.



Form will have a note indicating “Certification must be signed by person authorized by current resolution of the LPA.”



Form will replace the line for Project ID with Federal Project No./Federal Program Prefix-Project No.



Removal of the third check box in 5. Status of Required Utility Relocation, “Utility Agreements are not required on this project; therefore, Buy America requirements do not apply.”



Updated distribution directions

# Right of Way Certification



# Acronyms

- RW – Right of Way
- LPA – Local Public Agency
- CT – Caltrans
- FHWA – Federal Highway Administration
- LAPM – Local Assistance Procedures Manual
- RWM – Right of Way Manual
- RWC - Right of Way Certification
- UT - Utilities

# Overview

- Right of Way Certification – Purpose
- Manuals & Guidance
- Caltrans Oversight Prior to Certification
- Level of Certifications
- What CT is looking for during reviews
- Common Deficiencies

# Right of Way Certification - What is it?

RWC is a written statement summarizing the status of all right of way related matters pertaining to a proposed federal-aid construction project. The purpose of the RWC is to document the construction project is ready for advertising and states:

- Real property interests have been, or are being, secured.
- Physical obstructions including utilities and railroads have been or will be removed, relocated, or protected as required for construction, operation, and maintenance of the proposed project.
- Right of way acquisition and relocation assistance program requirements were conducted in accordance with the Uniform Act, applicable federal and state laws, and procedures.

# Background Information

- RWCs are required for any project that has a PS&E package.
- A RWC is needed to get Federal reimbursement
  - This includes Emergency Reopening projects. Construction can begin without a RWC, however, a RWC will still need to be completed to get Fed reimbursement



# Manuals and Guidance

- LPAs have two (2) CT reference manuals that outline processes, policies, and state and federal regulations for RW activities which must be followed to ensure Federal participation on projects.
  - Local Assistance Procedures Manual (LAPM)
  - Caltrans Right of Way Manual (RWM)
- Additional guidance can be provided by the district Right of Way Local Programs Office with jurisdiction over your area
  - Staff available to answer questions, perform oversight of RW activities, and process CT acceptance of your RWC

# Steps for a Successful and Efficient Certification Acceptance

- Early Engagement with your Caltrans District Local Programs Office
  - Submit the Preliminary Engineering Right of Way Form ([PERW Exhibit 13E](#)) as initial notification of an upcoming project
  - Real-Time Monitoring by CT of LPA RW activities in each phase
    - 1) CT reviews a sampling of 15-20% of RW documents as agreed upon by FHWA.
    - 2) CT will advise which parcel documents they want to review (i.e. appraisals, acquisition contracts, relocation assistance documents, etc.)
    - 3) Real-time monitoring allows for correction of any deficiencies that may jeopardize federal reimbursement before certification is needed

# Steps for a Successful and Efficient Certification Acceptance

- Submit Certification giving adequate time for CT/FHWA review
- Ensure information on certification is accurate, on correct/current form, comprehensive and consistent with the plans that will be submitted with PS&E
- Include all required attachments
  - Resolution signed by City/County Council or Board identifying LPA staff with signing authority, if one is not on file with district RW Local Programs office from previous submittal
  - FHWA Specific Authorization/Approval of Utility Agreement (Exhibit 14-C)
  - PS&E package

# Certification Exhibits

## Off-System Local Assistance Projects

- LAPM Exhibit 13A – Short Form RWC Local Assistance Project
  - For projects with no R/W acquisition, relocation assistance, no railroad involvement, and the only utility relocation involvement is limited to utility cover adjustments.
- LAPM Exhibit 13B – RWC Local Assistance Project

# Certification Level 1

**No acquisition is required, or**

**Full legal and physical possession of all parcels**

**Can advertise and award construction contract**

# Certification Level 2

Physical Possession but not legal rights on at least one parcel

Right of Entry (RoE)

Possession and Use Agreement (P&UA)

Can advertise and award

# Certification Conditional Level 3

- Resolution of Necessity have been obtained, however, Orders of Possession hearing and service dates may not be effective yet
- Can advertise construction contract, but cannot award the contract until the Cert has been upgraded to a Cert Level 1 or 2
- Memorandum of Justification must be submitted with RWC, with a full justification as to why a Conditional Level 3 is needed
- Due to the complexities with RWC level 3, there are additional approvals required, increasing the turn-around time for acceptance

# Certification 3 with Workaround (3W)

- RON has been obtained from the LPA board
- Orders for Possession hearing and service dates may not be effective yet
- Only to be used in extraordinary circumstances
- Memorandum of Justification is required with submittal
- Can advertise and award construction contract (bid package must identify workaround parcels)
- Cert must be updated 15 days prior to construction contract bid opening



# Railroad Coordination & Utility Relocations

- Railroad coordination – There is no workaround with Railroads. You must have all applicable approvals prior to RWC.
  - Start your railroad outreach early as turn-around for documents from the railroads is known to be long
- Utility Relocations – RWC will reflect all utilities in conflict, notification of conflicts with UT companies, Agreement with UT companies identifying who will do the relocation work, whom has liability to pay for relocation, and schedule for relocation to occur.
- Any Federal reimbursement requested for a UT relocation must have a completed Exhibit 14C, signed by the CT Utilities office, submitted with RWC.

# Updating a Right of Way Certification

- RW Certifications over a year old from the time the LPA submits the RFA for CON phase must be updated to confirm there are no project scope changes and re-certified
- In the case of RWC Level 3s, a revised updated/upgraded cert is needed 15 days prior to bid opening.

# What Caltrans is looking for in review

## Exhibits and Documentation

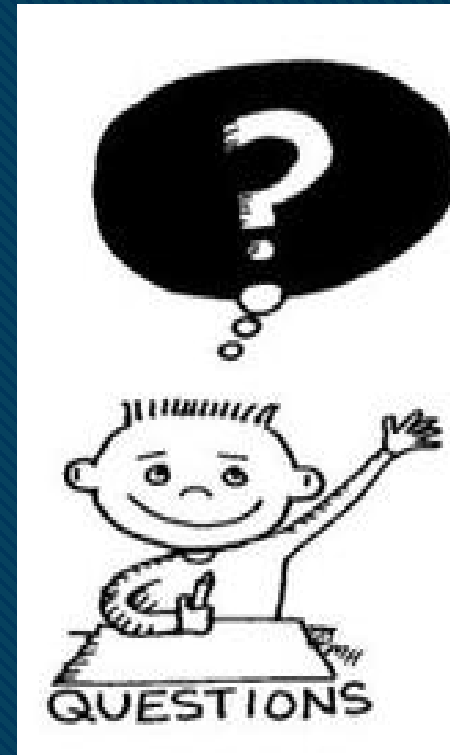
- Checking that real-time monitoring has occurred and any identified deficiencies were corrected
- Exhibits
  - Checking correct Exhibit used (On-System vs. Off-System)
  - Most current versions
- Required Documentation
  - Completeness - Information for all sections
  - Appropriate statements
  - Specific Authorization(s) should be attached to the certification

# What Caltrans is looking for in review

## Common Deficiencies

- Content
  - Dates – Actual or Target TCE effective dates and TCE Expiration
  - Page numbering and misspellings (names and no acronyms)
- Does it make sense
  - Realistic date of possession
  - Inconsistencies, (Right of Way Certification and Justification memo)
  - Parcel Info., (e.g., count, sub-parcels, appropriate section and explanations for work-around parcels)

# Questions & Answers



# Contacts:

## Revisions to the LAPM Exhibit 13-A

Division of Local Assistance-Office of Local Right of Way

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## Right of Way Certification Presentation

Division of Right of Way and Land Surveys Office of Local Programs

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