

6 General Office Administrative Review Unit

6.1 General

The General Office Administrative Review Unit (f/k/a Administrative Appeals Unit) is under the Acquisition Section as set forth in Chapter 2 and may be supervised by the Assistant State Right of Way Acquisition Manager or the State Right of Way Acquisition Manager. Reference [49 CFR 24.102 \(h\) and \(i\)](#) as support of this process.

6.2 Purpose

The purpose of the General Office Administrative Review Unit is to insure that every effort has been made within the negotiation process to reach amicable settlement agreements with property owners; to avoid costly litigation; to relieve congestion in the courts; to assure consistent treatment of owners; and, to promote public confidence in State and Federal land acquisition practices and policies.

6.3 Policy

It is the policy of the General Office Administrative Review Unit to contact personally each owner throughout the state requesting a review of their offer of Fair Market Value and negotiations; to make every effort to negotiate an amicable property settlement before condemnation proceedings are instituted; to insure that the Department considers every counter-offer received from an owner; and, to ensure that a condemnation petition is filed only when absolutely necessary. (This policy may be waived at the discretion of the State Right of Way Administrator.)

6.4 Procedures

After it has been determined that an agreement cannot be reached with the property owner, the owner is mailed either a 10-day General Office Administrative Review Letter or a 10-Day District Office Administrative Review Letter informing the owner of the impending condemnation and the Review process. The District Right of Way Acquisition Manager will submit the negotiation parcel file to the assigned General Office Administrative Review Officer within 10 (ten) days after the Acquisition Manager's final or last contact. Upon receiving the negotiation parcel file, the Administrative Review Officer will call within 7 (seven) days to schedule a General Office Review. The Administrative Review Officer will assure the Review is completed within 30 (thirty) days of the date the Review is held, unless otherwise approved by the Assistant State Right of Way Acquisition Manager or the State Right of Way Acquisition Manager, and on a case-by-case basis, typically due to complexities.

6.6 Preparation in the Administrative Review

- A. The General Office Administrative Review Unit follows the below listed general procedures in the review of all parcel files and the processing of all Reviews assigned to the unit (providing the preliminary title report reflects good title can be obtained, if a settlement is reached):
1. Upon receipt of a General Office Administrative Review Request to the Assistant State Right of Way Administrator, either a staff Administrative Review Officer or Consultant Administrative Review Officer is assigned to the parcel and project.
 2. The Administrative Review Request is documented in the electronic reporting system for monitoring and reporting purposes by the General Office support staff.
 3. An acknowledgement letter is mailed to the owner confirming receipt of the Administrative Review Request by the General Office support staff.
 4. Upon receipt of the negotiation parcel file, the following areas are scrutinized for possible areas of vulnerability that could be used to reach a negotiated settlement of the parcel:
 - a. The appraisal
 - b. Comparable sales data
 - c. The negotiation record
 - d. Any counter offers previously made by the owner
 - e. Any other areas, which could lead to a settlement (omissions or overlooked items in the determination of value, etc.)
 - f. Right of Way, Construction Plans, Cross-Sections, Driveway Profiles, etc.
 - g. Relocation assistance (if applicable)
 - h. The files are closely checked to ensure that all required forms and reports have been included and accurately documented and dated.

6.9 Settlements and Rejections

A. Acceptance Processes

Should the acceptance of an owner's settlement proposal be in the best interest of the Department and the owner executes an Option:

1. Settlement Acceptance

The Administrative Review Officer accepts the settlement proposal based upon facts and issues concluded from the Administrative Review and approves the Option, but does not sign Options which are subject to any further approval. (Refer to Administrative Review Ranges of Approval & Authority Levels above in 6.5.) The approved authority level person shall need to sign the Option.

2. Complex Issues

For Administrative Reviews that involve complex issues, the Administrative Review Officer may elect to submit the settlement proposal to the Administrative Review Unit for consideration and approval by the Assistant State Right of Way Acquisition Manager, the State Right of Way Acquisition Manager, the Assistant State Right of Way Administrator, or the State Right of Way Administrator prior to the acceptance of the signed option.

3. Approved Option Return

The approved Option with attached plat and documented negotiation parcel file is then returned to the Acquisition Team or Acquisition Consultant for closing. A copy of the approved Option is also provided to the property owner. The Condemnation Preparation Unit is notified of the settlement in order to discontinue the preparation of the condemnation petition.

B. Non-Acceptance Processes

If the acceptance of an owner's settlement proposal is not considered to be in the best interest of the Department, the following processes should be implemented:

1. Owner Notification

The Administrative Review Officer should so notify the owner and attempt to secure an acceptable settlement, if possible. If it is determined that a settlement cannot be reached, the owner is notified in writing (regret letter) that the Department must proceed with condemnation to secure title since all attempts to reach a mutual agreement have failed.

2. Parcel File Returned

The reporting system is documented of all pertinent information resulting from the Review. The parcel file is then forwarded back to the Acquisition Team or Acquisition Consultant.

6.10 Review of Relocation Benefits

See Relocation Chapter 11 for the Relocation Appeal Process.

6.12 Quality Assurance Quality Control

- A.** The General Office Administrative Reviews are an integral part of the negotiation procedure, if there has been no agreement reached between the property owner(s) and the Department for any reason. This procedure ensures that any and all information that may be presented by an Owner can be submitted for consideration in support of any value that exceeds the value of what has been established for that property. A separate party, other than the Negotiator who has represented the Department, reviews and discusses with an owner. Should a settlement be reached, the settlement shall be viewed as reasonable, prudent and in the best interest of the public. A written justification explaining why this settlement is viewed as such becomes a part of the negotiation record. Any agreement that may be reached that is not within the approval parameters of the Administrative Review Officer must be reviewed by and accepted for approval by each successive manager, and contain the appropriate signature authority.
- B.** Audits of these files will occur at several stages. The Administrative Review Officer will typically review the file to ensure all information has been included before any contact and discussion with an owner(s). This shall serve as an indirect audit, but also serves as a first check that all information is in the file and has been processed correctly. Should the Administrative Review Officer be successful or unsuccessful, the file is returned to the Negotiator or Acquisition Manager. In either instance, the file would be closed out in conformance with an in-house checklist that serves to ensure all information that should be included in the file is present. The completed checklist signed by the Negotiator and Right of Way serves as a self-audit. At this point, the file should be complete. Routine and random project audits on files throughout the year are conducted. Those audits often capture parcels handled by the Administrative Review Unit.

