

## Right of Way Certification Summary

**Purpose:** A written statement used to document the status of all Right of Way interests stating the project is ready for advertising (23 CFR 635 Subpart C).

**Certification No. 1:** Allows Agency to advertise project and award contract.

- Agency has full legal and physical possession of all parcels (title has transferred and Agency can legally enter property). Includes acquisition of access rights.
- All acquisitions are complete (escrows closed, payments made and/or final orders of condemnation are recorded).
- Effective Orders for Possession.
- All occupants have vacated.
- Relocation Assistance requirements have been met (including payments).
- Improvements have been removed, salvaged or demolished.
- Utility or Railroad work has been completed and/or arrangements have been made for the work to be completed.
- All required material and disposal sites have been secured.

**Certification No. 2:** Allows Agency to advertise project and award contract.

- Agency has physical possession of parcels but not legal possession (all title has not transferred).
- Has met the requirements of a Certification No. 1 except one or more parcels are in the Agency's possession by:
  - Permits or Licenses;
  - Right of Way Contract with an effective date of possession clause and unclosed escrow;
  - Possession and Use Agreement;
  - Right of Entry (specific approved uses other than use for the typical grantor);
- Upgrade to a Certification No. 1 is not required.

**Certification No. 3:** Allows Agency to advertise project only.

- Full written justification describing the unusual circumstances is required.
- Bids cannot be opened or contracts awarded until Certification is upgraded to a Certification No. 1 or 2.
- Requires a minimum two month processing time to obtain approval from FHWA.
- Physical and/or legal possession of parcel(s) is not effective.
- Order for Possession has been obtained but possession date is not yet effective.
- Executed Right of Way contracts with a date of possession clause not yet effective.
- Unclosed escrows.
- This Certification is to be used in exceptional circumstances on a limited basis because project is at risk. Acceptable uses include weather considerations, construction windows, and loss of funding. A Certification No. 3 allows an Agency to advertise the project. However, bids cannot be opened and contract cannot be awarded until the Certification No. 3 is upgraded to a Certification No. 1 or 2.

**Certification No. 3W:** Allows Agency to work around occupants.

- Full written justification describing the extraordinary circumstances is required.
- Allows physical construction of project by working around occupants of residences, businesses, farms, etc.
- Requires a minimum two month processing time to obtain approval from FHWA.
- Used in extreme situations only and no guarantee of approval!
- Not to be programmed into project timeline to meet required milestones.
- Upgraded to a Certification No. 1 or 2 is **not** required.
- Certification must be **updated** 15 days prior to bid opening.
- As with a Certification No. 3 this certification is to be used in extreme circumstances only!