



**STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION**
SUITE 700, JAMES K. POLK BUILDING
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(615) 741-2848

JOHN C. SCHROER
COMMISSIONER

BILL HASLAM
GOVERNOR

MEMORANDUM

DATE: January 31, 2011

TO: Mr. Brian Egan, Director
Construction Division

FROM: *PDD* Paul D. Degges, P.E.
Chief Engineer

RE: **Acquisition of Right of Way, Construction Phase**

Recent events indicating that the roadway contractor acquired land to be incorporated into the right of way during the construction phase of a project were discussed with the Federal Highway Administration (FHWA). FHWA has advised that this is not an acceptable practice. Any such property acquired under this condition requires the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act) to be followed. The Uniform Act was established to ensure the owners of real property to be acquired are treated fairly and consistently. It also requires agencies to implement these regulations in an efficient and cost effective manner. FHWA has indicated the Right of Way Division would be responsible for the acquisition of any additional property when this type of situation occurs; any variance from this process could jeopardize Federal funding on the project. For example if it is discovered that additional right of way is needed because the plans are incorrect or a Value Engineering Study recommends it, a plans revision would be issued and the Right of Way Division would acquire the necessary property.

I am requesting that your office notify the appropriate construction staff to ensure this situation does not occur on future construction projects. Your assistance and cooperation in this matter is appreciated.

PDD/JH/jc

Cc: Mr. Jeff Jones
Mr. Steve Hall
Mr. Jeff Hoge
Mr. Steve Borden
Mr. Ray Rucker
Mr. Winston Gaffron
Mr. Chuck Rychen
Mr. Charlie O'Neill
Mr. Victor Otero
Mr. Oliver Farris
Mr. Jackie Wolfe
Mr. Joe Payne
Mr. Andy Miller