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**DEPARTMENT OF TRANSPORTATION  
INFORMATION COLLECTION  
SUPPORTING STATEMENT**

**Alternative Uses of the Right of Way**

OMB Control No. 2125-XXXX

**INTRODUCTION**

This is to request the Office of Management and Budget's (OMB) approval for the information collection titled, "FHWA Task 693JJ318F000324: Alternative Uses of the Right of Way."

**Part A. Justification**

**1. Circumstances that make the collection of information necessary.**

Government agencies that acquire real property for a Federal-aid highway project in which Federal funds participated in any phase, are charged with managing the acquired property after the project is completed as described in 23 CFR 710 Subpart D – Real Property Management. As a part of this consideration, any excess or available right-of-way (ROW) for potential disposal must be determined and inventoried, as described below.

- 23 CFR 710.201(e) Record keeping. The acquiring agency shall maintain adequate records of its acquisition and property management activities.
- 23 CFR 710.201(e)(2) Property management records shall include inventories of real property interest considered excess to project or program needs, as well as all authorized ROW use agreements for real property acquired with Title 23 funds or incorporated into a program or project that received Title 23 funds.

Each State Department of Transportation (SDOT) must track, manage, and update its inventory continually until the property is disposed. SDOTs may use several methods to track and document available ROW. The methods presumably include an electronic method which keeps track of the inventory and tracks any use or disposal of property. Their method should include documentation of any state requirements that influence the disposal process. There has always been interest from private and public entities to use available ROW for alternative uses. This interest has increased in recent years as SDOTs look for new ways to generate revenue and funds that can be used for Title 23 activities.

This information collection supports the Department of Transportation's (DOT) accountability strategic goal. The information will help FHWA modernize existing policies and regulations regarding waiver valuations. This survey will collect information that will support analysis of the current state of the practice of alternative uses of the ROW nationwide. The report will identify current processes and tools used by SDOTs to identify and track ROW available for alternative uses, the types of alternative uses requests they receive, and any safety, operational, or legal

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issues related to alternative uses. The survey will also identify additional opportunities for improving the existing processes, tools for identifying and tracking ROW that can streamline agencies' Property Management programs and provide information to states that have shown interest in alternative uses.

### **2. How, by whom, and for what purpose is the information used.**

Information collection will be done through a survey and interviews of SDOTs, by contractors for FHWA. The information collection will provide a detailed analysis of the current state of the practice of alternative uses of the ROW nationwide and provide information to states that have shown interest in alternative uses. The information collection effort will identify current processes and tools used by SDOTs to identify and track ROW available for alternative uses, the types of alternative use requests they receive, and any safety, operational, or legal issues related to alternative uses. More specifically, the purpose of the information collection will be to:

- a) Document the processes SDOTs currently use to inventory and track ROW/real property subject to Federal requirements.
- b) Document the tools used to inventory and track Federal-aid property, including how much they cost, if they are electronic, and any issues related to their use.
- c) Document the methods used by SDOTs to track ROW Use Agreements.
- d) Document any SDOTs that have identified commercially available "Off the Shelf" (OTS) software that can be used to inventory and track property management activities. Identify the accuracy and effectiveness of these tools.
- e) Document the average time spent on inventory and identification of ROW available for alternative uses.
- f) Document which States identify and track ROW available for alternative uses.
- g) Document the type of alternative use requests SDOTs receive.
- h) Document the extent that SDOTs use licenses, permits, leases, or other documents for alternative uses.
- i) Document the SDOTs current staffing levels for agency staff dedicated to property management activities related to alternative uses.
- j) Document any safety or operational issues SDOTs have observed related to alternative uses and if/how the issues were addressed.
- k) Identify problems that may have occurred in a SDOT's Property Management program because of ineffective or inappropriate inventory and tracking methods.
- l) Identify processes, methods, or remedies that were begun to correct identified problems (in items above), or that could be used going forward; FHWA Headquarters Office of Real Estate Services (HEPR) would also like to know when programs have stumbled in the past, what steps were taken to correct the issues, and which steps were most effective in correcting issues.
- m) Identify successful/innovative practices associated with the identification of ROW available for alternative uses and quantify efficient outcomes that resulted.
- n) Identify lessons learned, including which alternative uses are most compatible with the transportation purpose, which are not, and why. Identify if those not compatible could be allowed with certain restrictions or in limited circumstances.

### **3. Extent of automated information collection.**

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The survey will be conducted electronically. Emails will be sent to State DOT agencies with a link to the electronic survey. The electronic survey instrument will let respondents upload documentation and other supporting material. An email invitation will explain the purpose of the survey, explain the type of data needed to answer the survey questions, provide a link to the electronic survey, and instructions for how to respond to the survey. All respondents will receive the electronic version of the survey; they can receive a paper version of the survey on request. The contractor fielding the survey will provide technical support to each respondent to help them answer the survey questions. Follow-up telephone interviews will be conducted with a subset (10 or fewer) of the respondents to collect detailed information about implementation obstacles and solutions.

The information is being collected through an electronic survey instrument because it is the easiest, least-cost approach for collecting the information. The electronic survey is inexpensive to distribute and track, minimizes the burden on respondents, and facilitates the creation of electronic data sets that will be used to analyze the survey results.

#### 4. **Describe efforts to identify duplication.**

To the best of FHWA's knowledge, up-to-date state-by-state information on alternative uses of the ROW, including common state acquisition practices, catalog systems, and barriers to effective program implementation, is not available from any other source. Some of the specific data collection efforts FHWA considered include the following:

- **American Association of State Highway and Transportation Officials (AASHTO) Special Committee on Research and Innovation (R&I), Research Advisory Committee (RAC) survey results database.** AASHTO's R&I, and its RAC subsidiary, look to support development, technology transfer, and implementation of innovation in the transportation community through research. The database includes surveys distributed to AASHTO transportation agency members. There are two surveys related to this FHWA research project. One is focused on [ROW agent staffing](#) but is not nation-wide, and while tangentially related in terms of content, does not include any of the needed information on operations or tracking processes. The other survey is focused on [broadband communications infrastructure in the ROW](#) but it is outdated, not comprehensive, and does not include any of the needed information on operations or tracking processes because it is narrowly focused on one alternative use of the ROW.
- **AASHTO Subcommittee on Right-of-Way, Utilities and Outdoor Advertising Control, Taskforce on Research's survey database.** This AASHTO subcommittee conducts research and surveys, many of which are topically related to this FHWA research. However, all surveys except for one are far too outdated. The [sole non-outdated survey](#) focuses on management of ROW departments, but is directed more at the staffing and organizational structure and does not cover any of the needed information on operations or tracking processes.
- **State DOT ROW policies and procedures manuals.** Some states have policies and procedures manuals that describe forms used to document ROW acquisitions and related items, but no information on management, storage, or tracking of these forms. This information is not comprehensive (only some states have public manuals) and varies

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significantly in detail and the specific information offered.

**4. Efforts to minimize burden on small businesses.**

This information collection does not involve small businesses.

**5. Impact of less frequent collection of information.**

This information will be collected one time only. Without these data FHWA will not be in a position to properly support state and regional agencies in tracking alternative ROW uses.

**7. Special Circumstances.**

This information collection does not:

- Require respondents to report information to the agency more often than quarterly
- Require a written response to a collection of information in fewer than 30 days after receipt of it
- Require respondents to submit more than an original and two copies of any document
- Require respondents to retain records for more than three years
- Rely on a statistical sample; it is conducting a census and is collecting information from all relevant SDOTs and federal agencies.
- Require the use of a statistical data classification that has not been reviewed and approved by OMB.
- Promise that the data requested will be kept confidential.
- Request proprietary trade, secret, or other confidential information.

There are no special circumstances associated with this information collection.

**8. Compliance with 5 CFR 1320.8.**

The FHWA published a 60-day Federal Register notice regarding the renewal of this information collection on June 4, 2019, Vol. 84, page 25898. No comments were received.

**9. Payment of gifts to respondents.**

No payments or gifts will be provided to respondents.

**10. Assurance of confidentiality.**

None of the information is considered confidential.

**11. Justification for collection sensitive information.**

None of the information required is of a sensitive or private nature.

**12. Estimate of burden hours for information requested.**

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Each State and the District of Columbia are requested to provide information. The annual number of burden hours (professional and clerical staff) per respondent for preparation of the data required to answer the survey and to fill out the questionnaire is 4 hours. The total annual burden for State respondents is estimated to be 204 burden hours (4 burden hours per respondent times 51 respondents). This annual burden consists of staff time of each respondent to the information requested by the survey (up to 3 hours) and the time to fill in the survey instrument (up to 1 hour).

**13. Estimate of total annual costs burden.**

The survey should require no costs to the agencies responding, other than the time needed to respond to the survey. Respondents will be asked to answer the survey one time. The survey should require no costs to the agencies responding, other than the time needed to respond to the survey. Respondents will be asked to answer the survey one time. We use average of the Bureau of Labor Statistics' median hourly rates for [General and Operations Managers](#) (\$42.48), [Civil Engineers](#) (\$40.75), and [Management Analysts](#) (\$39.64), rounded up to the nearest whole dollar (\$41).

The annual hourly burden and costs are shown below.

	State Departments of Transportation
Hours	204
Direct Labor Costs	\$8,364
Overhead (20%)	\$1,673
Total	\$10,037

**14. Estimate of costs to the Federal Government.**

Federal and contractor costs are based on the estimated level of effort required to complete the data collection, multiplied by the hourly rate of the contractor staff.

The cost to the Federal Government consists of the staff time and related expenses for the development of the survey instrument and outreach to SDOTs to encourage their participation in the survey. It is assumed FHWA staff will spend 20 hours on data collection. Hourly costs are \$50 and overhead is assumed to be 20 percent, for an hourly cost \$60. The cost is:

20 FHWA Headquarters Staff Hours @ \$60 per hour = \$1,200.

Contractors will support the federal government's data collection effort. Contractors will develop the survey instrument, deliver the survey, and collect the data. In summary:

Cost Component	Federal Agency Costs	Contractor Costs	Total
Direct salary		\$58,000	
Overhead/fringe benefits (at 33%)		\$20,000	

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<i>Total cost:</i>		\$78,000	
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**15. Explanation of program changes or adjustments.**

There are no program changes or adjustments.

**16. Publication of results of data collection.**

The data will be collected during the summer of 2019 and published in 2020. The survey and interview results will be published in a technical report and PowerPoint presentation. The report will summarize the responses to the survey questions. Complex analytical techniques will not be used. The proposed schedule is below:

Project initiation and planning	9/13/2018
Draft investigative questions and survey instrument	10/26/2018
Survey approval	1/2/2020
Analysis of survey results and follow-up interviews	2/16/2020
Draft report	1/18/2021
Final report	4/25/2021
PowerPoint presentation summarizing study	5/16/2021
Final strategy and next steps	6/20/2021

**17. Approval for not displaying the expiration date for OMB approval.**

Approval for not displaying the expiration date is not being requested.

**18. Exceptions to certification statement.**

There are no exceptions to the certification statement for this information collection.

**Part B. Collections of Information Employing Statistical Methods.**

The survey does not rely on a statistical method.