

Project Delivery Directive

Number: PD-02-R1

TO: Project Delivery Employees
Maintenance Employees

References: PDPM, Chapter 18
R/W Manual, Chapter 6-8
SER Vol. I, Chapter 10
PM Manual, Chapter 16
Deputy Directive 16
Deputy Directive 23-R2

Effective Date: (7/24/2020)

Supersedes: PD-02 (4-9-09)

Review by: (7/24/2025)

TITLE: Contaminated Property Acquisition

DIRECTIVE

The California Department of Transportation (Caltrans) shall:

- avoid the acquisition of contaminated properties,
- require responsible parties to accept responsibility for remediation when acquisition of contaminated property cannot be avoided, and
- obtain reimbursement from responsible parties when Caltrans must conduct remediation and/or monitoring.

All properties, including those acquired by an implementing agency, shall be investigated for contamination before being considered for incorporation into state right of way. Property containing or potentially containing contamination shall only be acquired or accepted if:

- the benefits and risks are documented,
- available risk reduction mechanisms are employed, and
- a policy exception is approved by Caltrans management using criteria established by the Caltrans Chief Engineer.

BACKGROUND

Caltrans preserves and enhances California's resources and assets, and efficiently delivers quality transportation projects through the acquisition of clean, uncontaminated property. The acquisition of contaminated property has substantial short and long-term costs and liabilities. In the short term, remediation of a property may result in:

- project delays,
- increased costs, or
- project failure.

In the long term, ownership of contaminated property may:

- expose Caltrans to legal liability and potential future regulatory requirements,
- extend remediation of severely contaminated property well beyond the life of the project for which the property was acquired,
- result in budget shortfalls (as it is difficult to accurately estimate remediation costs),
- require continued funding for ongoing remediation to meet regulatory requirements once a project is completed, and
- result in Caltrans assuming financial responsibility in perpetuity for hazardous material generated and disposed from the acquired contaminated property.

DEFINITIONS

Acquisition: Taking possession of property rights necessary for a project's construction, maintenance, and operations.

Contaminated: The pollution of soil, surface water, groundwater, or air by the unauthorized release of hazardous material into these media. The presence of hazardous material released into these media is contamination.

Hazardous Material: Any material, due to its quantity, concentration, physical characteristics, or chemical characteristics, that poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment. "Hazardous material" includes, but is not limited to, hazardous substances, hazardous waste, and any material a handler or the administering agency has a reasonable basis to believe would be injurious to the health and safety of persons or harmful to the environment if released.

Implementing Agency: An entity charged with successful completion of each project component as defined in Deputy Directive 23-R2 and Government Code Section 14529 (b).

Property: Refers to real property acquired for a project's construction, maintenance, and operations.

RESPONSIBILITIES

Chief Engineer:

- Periodically updates the criteria for management level exception approvals and issues an update memo.
- Creates a team to review and recommend approval or denial of submitted exception requests.
- Expeditiously reviews and approves or denies submitted exception requests.

Chief, Divisions of Design, Engineering Services, Environmental Analysis, Project Management, and Right of Way and Land Surveys:

- Ensure the compliance of this directive in their division.
- Provide guidance and training on the assessment and avoidance of contaminated property.
- Provide explicit guidance and training on the exception process for the acquisition or acceptance of contaminated parcels in their manuals.
- Periodically recommend updates to the implementation process and to the criteria for management level approvals to the Caltrans Chief Engineer.
- Participate, as a team led by the Division of Environmental Analysis, in the review of exception requests received from districts.
- Expeditiously review exception requests from the districts and collaborate to make joint recommendations to the Caltrans Chief Engineer.

Chief, Divisions of Construction and Maintenance:

- Participate on the team led by the Division of Environmental Analysis in the review of exception requests received from districts, as appropriate.

District Directors:

- Ensure that this directive is followed for all properties within their district considered for incorporation into the state right of way.
- Execute approval authority for all policy exceptions to acquire or accept contaminated property within the criteria established for their delegated authority.
- Approve and sign policy exception requests when the liability exceeds the criteria and the exception must be approved by the Caltrans Chief Engineer.
- Ensure district funding and commitments, based on cost estimates for long-term remediation and maintenance, are in place and

responsibilities assigned for all remediation activities not funded by the project.

- Ensure that Headquarters Divisions of Design, Engineering Services, Environmental Analysis, Project Management, and Right of Way and Land Surveys, are notified and engaged during the development of exception requests.

District Project Manager:

- Coordinates with district environmental, district right of way, Legal Division, district maintenance, district construction, and district design staff to ensure all tasks necessary for successful project delivery are performed, including those relating to this policy.
- Coordinates with the external implementing agency to ensure compliance with this directive, when applicable.

District Project Engineer:

- Works with the project manager, district environmental, district maintenance, and district right of way staff to ensure that project design avoids contaminated property whenever possible and incorporates risk reduction features when avoidance is not possible.

District Right of Way:

- Ensures that all property rights are acquired in compliance with this directive and other state and federal regulations associated with the acquisition of contaminated property.
- Ensures that funding is available after a project is complete for activities such as ongoing hazardous waste remediation conducted to meet regulatory requirements.

District Environmental:

- Ensures that all acquired properties are thoroughly investigated for contamination in a timely manner so that adequate information is available for risk management decisions related to right-of-way, design, construction, maintenance and operations, and legal liability.

Legal Division:

- Provides legal support for property acquisitions as requested, and in all cases when the Caltrans Chief Engineer's approval is required for a policy exception.

District Maintenance:

- Works with the district project manager, district environmental, district right of way, and district design staff to provide input related to worker safety concerns when contaminated property acquisition is contemplated.

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