

# **12.00.00.00 – CLEARANCE AND DEMOLITION**

# CHAPTER 12

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# 12.01.00.00 – CLEARANCE AND DEMOLITION – GENERAL

## **12.01.01.00    Purpose**

The District Clearance function is responsible for the orderly clearance of property with minimum detrimental effect on the community. Clearance & Demolition as a function refers to the act of demolishing, selling or transferring State-owned improvements or personal property, which includes discarding of improvements or personal property of negligible value or unsellable. All improvements and personal property are carefully inspected to determine whether the improvements should be demolished or sold. Major factors governing the demolition or sale decision are:

- Structural condition and functional utility of the improvements.
- Area in which items/structures are located.
- Local ordinances affecting movement and rehabilitation of improvements.
- Presence of hazardous materials such as lead or asbestos on or within improvements.

The District should remove improvements through the demolition process unless prescribed elsewhere in this chapter. If, for example, an improvement is determined to be historically significant and demolition of the improvement is not an approved clearance option; then the removal of that improvement may occur through sale or transfer.

The District's Right of Way staff member who performs Clearance and Demolition activities is referred to as the Clearance Agent. This could be a dedicated role, or one of multiple duties of a Right of Way Agent. The Right of Way Agent undertaking the role of Clearance Agent will also likely assume the role of Caltrans Contract Manager (CCM) for all Clearance and Demolition contracts.

## **12.01.02.00    Approval Authority**

Approval is in accordance with the delegations discussed in Chapter 2, Policy, and shown on the delegation matrix located at the end of this chapter. Any approvals not specifically delegated are retained by HQ, within the Division of Right of Way and Land Surveys.

### **12.01.03.00**    **Federal Participation in Revenue and Expenses**

Federal funds may be used to cover costs for the clearance of improvements and disposal, maintenance, and protection of real property, per 23 CFR Section 710.203(b)(4). Right of Way must provide Accounting with information to identify and charge Federal participating revenue and expenses accurately. Instructions for completing accounting documents are included on the documents. District Planning and Management (P&M) staff can provide additional information.

### **12.01.04.00**    **Other Applicable Federal Regulations**

Policies and procedures for the management of real property acquired in connection with a Federal-aid transportation project are contained in 23 CFR Subpart D – Real Property Management 710.401 through 710.409. The policies are applicable to all State and political subdivisions that manage real property acquired for transportation projects in which Federal funds are used for any right of way costs.

### **12.01.05.00**    **File Content**

As part of the District's permanent parcel file, the District Clearance Agent maintains a list with the following information for each improved property:

- **Inventory** of all improvements and personal property acquired as a part of the right of way. (See 12.01.11.00)
- **Accounting** of any sale or transfer of such improvements and personal property and the recovery payments received.
- **Methods** used to clear acquired right of way improvements and personal property through sale, salvage, owner retention, demolition, or other means.

Where multiple improved properties (e.g. multiple separate occupying businesses) exist within a single State parcel, a separate list for each improved property is required.

In addition to the District's permanent parcel file, the District Clearance Agent shall create and maintain a separate Clearance file on each parcel requiring clearance or demolition. A complete copy of the Clearance file shall be retained by the District for 5 years from the date of last payment on any contract for demolition on that parcel; the file retention period shall be

extended to 7 years if the demolition contract was audited by another agency or entity, was subject to a California Public Records Act (CPRA) request or part of a lawsuit during those first 5 years. For parcels without demolition contracts administered by the District Clearance Agent or other Right of Way Agent, the initial Clearance file retention period is 5 years from the date of acquisition of the parcel. The file shall contain all Clearance related information regarding the acquired State parcel including, but not limited to:

- Copy of Lead / Asbestos surveys.
- Inventory Disposal Record (IDR) and related Inventory Disposal Authorization (IDA).
- Stormwater plan (WPCP/SWPPP), related inspections, and photos of installed BMPs.
- Any relevant communication between the Clearance agent and other departments within Caltrans, consultants or other agencies/governmental entities.
- All-clear reports/ recycling reports, and debris and hazmat disposal manifests.
- A copy of any permits obtained from the contractor.
- A copy of the "Letter of Disconnect" for electrical and gas service removal.
- Aerial maps and any documents that identify the parcel/project site.
- Invoices.

The Clearance Agent shall keep secure all vendor certified payroll records for any managed contract involving work on the parcel for 5 years after the date of the last payment under the contract; that retention period shall be extended to 7 years for contracts audited by another agency or entity, subject to a California Public Records Act (CPRA) request or part of a lawsuit during those first 5 years. For contracts managed by another District Right of Way Agent, payroll records involving Clearance work may be secured with the District's other contracts, subject to the above retention rules.

On a regular basis, the Clearance Agent shall furnish the Right of Way Property Manager with a copy of pertinent documents contained with the parcel Clearance file to ensure the parcel's data is retained within the District's permanent parcel file.

## **12.01.06.00     Right of Way vs. Construction Item**

Clearing acquired improvements is considered a right of way item when performed separately from the construction contract per 23 CFR 710.307(a). Clearing is a construction item when performed as part of the project construction contract.

## **12.01.07.00     Inventory Disposal Record**

The Acquisition Agent provides all the information required by the Inventory Disposal Record (IDR), Form RW 12-1, as part of the Memorandum of Settlement (MOS) on properties that include the purchase of improvements or personal property. The IDR is used for accountability of improvements and personal property purchased through Right of Way transactions, and to record the discharge of such accountability at the time of clearance. The IDR is prepared by the Acquisition Agent and a Register Number is assigned when the MOS is prepared. (See Acquisition manual section 8.50.03.00 and Property Management manual section 11.03.02.00.) Once acquisition is complete, maintenance of the IDR becomes the responsibility of the Clearance Agent until clearance is complete, then this responsibility passes on to the District Property Manager until the property is sold or turned over to Construction.

## **12.01.08.00     Improvement Disposal Authorization**

The Improvement Disposal Authorization (IDA), Form RW 12-2, is a formal document used to convey the authority to dispose of State-owned improvements or State-owned personal property. Approval of the IDA is authority to proceed with disposition of the improvements as specified. No improvements or personal property shall be disposed of in a manner at variance with the approved IDA without prior approval of a Senior Right of Way Agent with the responsibility for managing the Property Management or Clearance and Demolition unit.



## **12.01.09.00    Preparing the IDA**

As a Best Business Practice, it is recommended that the IDA document be prepared by either the Clearance staff or Property Management staff. The author who drafts the IDA includes an explanation and reason for sale or demolition. Typical examples are:

- A. To clear for construction (specifying proposed project certification date).
- B. Not rentable due to poor condition and not warranting repair.
- C. To prevent theft and acts of vandalism or to uphold public health & safety.
- D. Moving is not feasible or legally permissible.

For requested demolition of State-owned property under example B, *not rentable due to poor condition and not warranting repair*; a financial analysis, prepared by a qualified person and approved by a Senior Right of Way Agent, must be attached to the IDA for any disposal of improvements. Under example B, the financial analysis could contain a bid for rehabilitation and a bid for demolition, along with supportive rationale; this could be illustrated with equations or drafting commentary as to why demolition was the chosen alternative over rehabilitation. Under examples C & D, documentation must be included with the IDA as to why demolition or moving was the chosen alternative. Appropriate documentation to attach to an IDA would include, but not be limited to, police reports, diaries documenting theft/vandalism/degradation of improvements, contractor proposals, photos and any public complaints received by the Department. Comments and recommendations must indicate whether the project has been environmentally cleared.

Recommended minimum acceptable bid must be included in IDAs requesting disposal of items such as buildings, furniture, and equipment by public sale. The minimum bid amount is also set out as a designated percentage of the estimated market value of the improvements or personal property listed in the IDA. Estimated market value of improvements and listed personal property may be developed and provided by Appraisal or Acquisition Agents as part of the parcel Acquisition process. Any large difference between the estimated market value and the recommended minimum bid amount must be explained in writing attached to the IDA when the value of the minimum bid is set any lower than 25% of the estimated market value.

A Senior Right of Way Agent responsible for managing the Property Management or Clearance and Demolition unit approves the IDA.

## **12.01.10.00    Improvement and Personal Property Definition**

For purposes of this inventory procedure, “improvements and personal property” means those structures, improvements, or personal property (such as fixtures and furniture) whose disposal requires an IDA. Miscellaneous items purchased as part of the real estate, such as air coolers, carpets, gasoline pumps, compressors, weigh scales, and underground tanks, are listed on the IDA. This applies whether the items are to be sold, demolished, or transferred to another department or agency. Improvements such as landscaping and driveways that normally are cleared with Right of Way contracts or by the road contractor as part of clearing and grubbing need not be listed.

## **12.01.11.00    Improvement and Personal Property Inventory**

The Clearance Agent specifies the reason and recommended manner of disposal on the IDA.

The IDR, Form 12-1, and the Register, Form 12-3, collectively record the disposition of improvements and personal property and provide accountability during State’s ownership. The demolition, sale, or loss of State-owned improvements or personal property should be documented by updating the IDR in both the Clearance and the District permanent parcel file as those events occur.

## **12.01.12.00    Numbering of IDAs and IDRs**

IDAs and IDRs carry the Parcel Number, Improvement Register Number (generated by the District’s Acquisitions Unit), Project ID number, Co. Rte. and KP/PM, and Federal-aid Project Number. District filing is by Parcel Number.

## **12.01.13.00    Active Inventory of Improvements File**

The District shall maintain a file of active IDRs. A copy of the newly approved IDA for a parcel is placed in this file along with the IDR document. When all improvements have been cleared in accordance with the IDA and the “Disposal Record” section (back) of the IDR has been completed, these two documents are transferred to the District’s permanent parcel file.

When multiple IDAs are required to dispose of improvement items carried under one Register Number, the disposal information may be transcribed from

the multiple reports to the original IDR form. The original IDAs are filed in the permanent District parcel file.

### **12.01.14.00 Security Incident Reporting Procedures for Lost or Stolen Property**

Government Code (GOV) Section 14613.7 requires each State agency to be protected by the California Highway Patrol (CHP). The CHP personnel shall document all crimes, miscellaneous law enforcement-related incidents, or services provided on State-owned or State-leased property for statistical record keeping purposes. All notifications of an incident and/or crime shall be expeditiously directed to the Department's Statewide Operations Security (SOS) Office via email or fax no later than the third working day following the discovery of an incident and/or crime; this same notification shall also be delivered to the District Security Coordinator.

Incidents/crimes involving injury or death of individuals or property losses totaling over \$500 shall be reported no later than the first working day following the discovery or notification.

A STD. 99 form, which is used to "Report Crime or Criminally Caused Property Damage on State Property," shall be prepared for all crimes or incidents occurring on state-owned or state-leased property and sent to:

Caltrans - Statewide Operations Security Office  
1120 N Street, Mail Station 55  
Sacramento, CA 95814

For additional information on the security protocol, see the [Statewide Operations Security Manual](#) (internal Caltrans link).

### **12.01.15.00 California Highway Patrol – STD. 99 Reporting Form**

Whenever CHP personnel respond, the STD. 99 form shall be requested by the Right of Way agent to be prepared by the CHP officer responding to the crime/incident. The STD. 99 shall be forwarded by the SOS or District Security Coordinator (SC) to the CHP area office having jurisdiction of where the incident occurred, so it can be entered into the State Crimes Automated Reporting System (SCARS) within ten (10) days of the date of incident. The District SC will provide a copy to SOS. The SOS will forward a copy to the State Auditor and the California Department of Finance.

For incidents on State-owned or State-leased property resulting in no law enforcement contact, or if a law enforcement agency other than the CHP responds, the STD. 99 must still be completed and submitted by the person reporting the crime/incident and forwarded by the District SC to the local CHP area office having jurisdiction where the incident occurred. The Form should be forwarded within ten (10) business days of the date of the incident. The District SC will forward a copy to the State Auditor and the California Department of Finance.

The STD. 99 is NOT required for lost, stolen or damaged property that was lost, stolen or damaged at a location not owned or leased by the State.

The Clearance Agent shall update the IDR to reflect lost or stolen property; a copy of the STD. 99 should be placed in both the Clearance and permanent District parcel file.

For additional information regarding the California Highway Patrol and the STD. 99 reporting form, please visit the [Crime Incident Reporting System](#).

# 12.02.00.00 – PRE-CLEARANCE CONSIDERATIONS

## **12.02.01.00**    **General**

All property held for future projects shall be rented and cleared of improvements in such a manner that the State receives maximum economic return. The retention of improvements is generally controlled by the date the property is needed; or other considerations outlined in section 12.01.09.

Disruption of a community shall be minimized by scheduling clearance in an orderly manner. The Clearance Agent shall be present daily on active clearance sites to ensure order during the work. The Clearance Agent shall ensure that improvements are tested for Lead, Asbestos and other miscellaneous toxic materials covered in Section 12.05.00.00 of this chapter, prior to clearance work.

## **12.02.02.00**    **Advanced Transfers to Clearance Status**

Occasionally it is necessary to remove improvements prior to normal clearance scheduling when the improvements are:

- Run-down or dilapidated.
- On rescinded routes.
- On excess land.

Advanced clearance of improvements shall be approved by a Senior R/W Agent signing a completed IDA form, as outlined in section 12.01.09.00, with the appropriate level of documentation attached to the completed IDA.

The underlying Department project must be environmentally cleared by the Division of Environmental Analysis (DEA) prior to commencement of the clearance work; see the following section (12.02.03.00) for further information relating to the DEA.

## **12.02.03.00**    **Division of Environmental Analysis**

The Division of Environmental Analysis (DEA) is responsible for the implementation of Caltrans policies, programs, and procedures concerning environmental considerations, analysis, and compliance with environmental

laws and regulations under California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) as well as other state and federal regulations.

The Clearance Agent shall work closely with staff from DEA throughout the clearance process; DEA provides evaluations, guidance and formal recommendations in regard to cultural, biological, historical and hazardous materials on Right of Way Clearance and Demolition projects. See the [Division of Environmental Analysis](#) for more information.

### **12.02.04.00    50+ Year Old Structures**

All Department-owned historic structures are subject to the provisions of Public Resources Code 5024; structures 50 years and older require an environmental evaluation to ensure they are not historically significant; such structures deemed historically significant may not be demolished. DEA is the responsible party for completing that evaluation and will provide acceptable alternatives to demolition when demolition is not permissible. No demolition, sale or transfer of a 50+ year old structure shall occur until a formal evaluation is completed and such action is approved by DEA. If the Department purchased a property with improvements that were built less than 50 years prior to the acquisition, but the improvement(s) have aged to 50 years or older during the Department's ownership period; that improvement shall be re-evaluated by DEA. The District Clearance Agent should ensure project parcels have already been cleared by DEA prior to requesting a formal evaluation.

Prior to right of way clearance of a 50+ year old structure, the Clearance Agent annotates the Clearance file with the appropriate language and supporting documentation as follows:

- The historic structure was evaluated for compliance with Federal and State regulations relative to its sale, transfer, or demolition; and if necessary, all required mitigation work has been completed. A copy of the evaluation document and record of the completed mitigation work shall be included in the Clearance file.
- The sale or transfer is pursuant to the terms of a historic preservation compliance agreement. A copy of or reference to such agreement shall be included in the Clearance file.
- The historic structure was not previously cleared on a project basis; the concurrence of the State Historic Preservation Officer shall be sought prior

to clearance. A copy of the memorandum of concurrence from the State Historic Preservation Officer shall be included in the Clearance file.

### **12.02.05.00     Rodent Control**

To prepare the structure for clearance, the Clearance Agent shall note and document any evidence of rodent infestation on the applicable Property Management Inspection form. Eradication of rodent infestation shall be performed prior to clearance work if there is a risk of the rodent population spreading to adjacent properties.

### **12.02.06.00     Utility Service Disconnect**

Prior to the delivery of a parcel to the demolition contractor or release of a parcel to the winning bidder for the sale of an improvement, it is the responsibility of the Clearance Agent to ensure the disconnection of all utility services. As a prudent measure, electrical and gas services should be removed to the property line, ensuring the improvements can be demolished or moved off-site safely. Water and other supply services should also be terminated, and facilities removed to provide safe access during removal of hazardous materials and demolition. Destruction of wells, storage tanks, and supply and drain lines should be in compliance with the clearance specifications.

The Clearance Agent shall obtain a "Letter of Disconnect" or similarly named document from the utility provider or the contractor (if the contract scope of work requires the contractor to coordinate utility disconnection). This letter formally documents that utilities were terminated and facilities removed.

### **12.02.07.00     California DOT Stormwater Management Program (SWMP)**

The California Department of Transportation Stormwater Management Program (SWMP) administered by DEA ensures compliance with National Pollutant Discharge Elimination System (NPDES) Statewide Storm Water Permit Waste Discharge Requirements Order Number 2012-0011-DWQ, (As amended by Orders WQ 2014-0006-EXEC, WQ 2014-0077-DWQ, WQ 2015-0046-EXEC, and WQ 2017-0026-EXEC), NPDES Number CAS000003. The DEA provides statewide policy direction, technical and regulatory information, guidance documents, specifications, and funding to integrate appropriate stormwater control activities. The DEA also provides water quality monitoring, Best

Management Practices (BMPs) along with implementing compliance guidance and tools.

The Caltrans Permit, which is described later in section 12.02.07.02, directs Caltrans to implement and maintain an effective SWMP. The SWMP is the document that describes how Caltrans plans to implement the Permit requirements. The SWMP describes Caltrans' program and addresses stormwater pollution control related to various activities, including planning, design, construction, maintenance, and operation of roadways and facilities, and presents key implementation responsibilities and schedules. The [SWMP](#) was updated in July 2016.

The Clearance Agent is ultimately responsible for project compliance with the Caltrans Stormwater Management Program. The Clearance Agent shall consider the impacts of a proposed clearance project regarding the Department's Statewide Stormwater Permit. Good planning and communication with the District NPDES unit within the DEA is required for an efficient and compliant project.

Additional resources are available at the [Storm Water website](#).

### **12.02.07.01      Federal Stormwater Regulations**

Federal regulations for controlling discharges of pollutants from Municipal Separate Storm Sewer Systems (MS4s), construction sites, and industrial activities were incorporated into the National Pollutant Discharge Elimination System (NPDES) permit process by the 1987 amendments to the Clean Water Act (CWA) and by the subsequent 1990 promulgation of federal stormwater regulations issued by the U.S. Environmental Protection Agency (EPA). The EPA regulations require municipal, construction and industrial stormwater discharges to comply with an NPDES permit. In California, the EPA delegated its authority to issue NPDES permits to the State Water Resources Control Board (SWRCB).

### **12.02.07.02      Caltrans NPDES Statewide Stormwater Permit**

The SWRCB issued an NPDES Statewide Stormwater Permit (known as the "Caltrans Permit") to the Department to regulate stormwater and non-stormwater discharges from State-owned properties and facilities, and discharges associated with operation and maintenance of the State highway system.



The Caltrans Permit contains three basic requirements:

1. The Department must comply with the requirements of the Construction General Permit (CGP);
2. The Department must implement a year-round program in all parts of the State to effectively control stormwater and non-stormwater discharges; and
3. The Department's stormwater discharges must meet water quality standards through implementation of permanent and temporary Best Management Practices (BMPs) and other measures.

The Caltrans Permit regulates stormwater discharges from the Department's Right of Way during and after construction, as well as from all other State-owned property under the control of the Department. The Caltrans Permit gives the SWRCB the option to specify additional requirements it may consider necessary to meet water quality standards. Copies of the Caltrans Permit can be downloaded from the [SWRCB website](#).

Discharges from the Department's properties that are not composed entirely of stormwater are prohibited unless the non-stormwater discharges are from a source authorized under the SWMP. Therefore, appropriate BMPs must be installed to remove pollutants to the Maximum Extent Practicable (MEP). The permit states: "Discharge of material other than storm water, or discharge that is not composed entirely of storm water, to waters of the United States or another permitted MS4 is prohibited, except as conditionally exempted under... [the Caltrans Permit] or authorized by a separate NPDES permit."

### **12.02.07.03    Construction General Permit (CGP)**

The SWRCB elected to adopt a single statewide general permit for construction activities that applies to all stormwater discharges from land when clearing, grading, and excavation result in soil disturbance of at least one (1) acre or more. Construction activity that results in soil disturbance of less than one (1) acre is subject to this CGP if there is the potential for significant water quality impairment resulting from the activity as determined by the SWRCB; permit criteria dictates that the owner of the land where such impacts occur must develop and implement a Stormwater Pollution Prevention Plan (SWPPP). Additional information is available at the [Construction Stormwater Program website](#).

Other CGPs that may apply, but are less common, include the EPA CGP that applies to tribal and federal lands, and the Tahoe CGP that applies to the Lake Tahoe Hydrologic Unit (i.e., watershed).

#### **12.02.07.04     Stormwater Pollution Prevention Plan (SWPPP)**

The CGP outlines the required contents of a SWPPP. A SWPPP is a document that addresses water pollution controls for a specific project during construction and demolition work. The CGP requires that all stormwater discharges associated with construction activities that result in soil disturbance of at least one (1) acre of total land area must comply with the provisions specified in the CGP, including development and implementation of an effective SWPPP.

The SWPPP is prepared by a Qualified SWPPP Developer (QSD), who is typically hired or employed by the demolition contractor. The Clearance Agent shall have the plan reviewed and approved by the Districts NPDES unit within DEA prior to commencement of soil-disturbing activities. Prior to the start of construction, authorized District stormwater staff will enter a Notice of Intent (NOI) and supporting documents to the State Water Resource Control Board's *Stormwater Multiple Application and Report Tracking System (SMARTS)*. The Clearance Agent will work with their district Environmental NPDES Staff to ensure all required documents are uploaded into SMARTS throughout the project. When construction is complete, and the construction site is stabilized, the authorized District staff responsible for SMARTS submissions will submit a Notice of Termination (NOT). The Clearance Agent is required to include pertinent SWPPP related information in both the Clearance and the District permanent parcel file.

SWPPPs shall be prepared by a qualified vendor using the most recent SWPPP template found on the [Caltrans Construction Stormwater webpage](#).

#### **12.02.07.05     Water Pollution Control Program (WPCP)**

Generally, construction projects with a disturbed soil area of less than one (1) acre are not covered under the CGP and do not require a SWPPP. For all projects that do not require preparation of a SWPPP, the Department requires that a Water Pollution Control Program (WPCP) be prepared. The WPCP is typically prepared by a consultant hired by or an employee of the demolition contractor. The Clearance Agent shall have the plan reviewed and approved by the Districts NPDES unit within the DEA prior to commencement of soil-disturbing activities.

Details on the preparation of the SWPPP or WPCP are found in the supplementary Stormwater Quality Handbook, Stormwater Pollution Prevention Plan (SWPPP) and Water Pollution Control Program (WPCP) Preparation Manual.

WPCPs shall be prepared by a qualified vendor using the most recent WPCP template found on the [Caltrans Construction Stormwater webpage](#).

# 12.03.00.00 – CLEARANCE PROCEDURE

## 12.03.01.00    Initial Clearance Procedures

Prior to environmental clearance, improvements must not be removed except due to:

"a sudden, unexpected occurrence that poses a clear and imminent danger requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services" as defined within the Public Contract Code Section 1102.

After environmental clearance, a no re-rent policy is established on vacant units when the project's funds for normal right of way activities have been programmed; vacated improvements on such projects are immediately cleared. Refer to section 12.01.09.00 for guidance on when clearing of improvements should occur earlier than the project schedule calls for.

The Department's "no re-rent" policy and its exceptions are discussed in Property Management Sections 11.01.04.00 to 11.01.04.01.

Factors the District should analyze in determining clearance schedules are:

- **Loss of Revenue** - to local governmental agencies if rental income to the Department of Transportation (Department) ceases and the local 24% share of such income ceases.
- **Increased Costs** - for debris pickup and weed abatement as improvements are removed.
- **Attractive Nuisance** - increased exposure to personal injury liability as neighborhood children, the homeless, and other individuals are attracted to cleared right of way. (Consider fencing the site, hiring security or boarding up the structure.)
- **Temporary Use Requests** - increased requests by local agencies and others to use cleared right of way temporarily for gardens, parks, and other quasi-public purposes that might result in complications when the Department prepares to construct the project.
- **Rental Income Balanced Against the Cost of Upkeep of the Rental Units** - such items as roof, sewer, plumbing, and heater repairs and management costs such as rent collections and delinquencies are to be considered.

In addition, the District shall issue Notices to Relocate to residential tenants in an orderly manner so the private housing market is not overwhelmed by a large number of households seeking replacement housing at the same time. An orderly relocation of households is imperative to avoid court-mandated replacement or replenishment housing programs.

When a parcel is transferred to clearance status for removal of acquired improvements and/or personal property, the Clearance Agent shall immediately schedule and process the items for clearance by preparing an IDA.

### **12.03.02.00    50+ Year Old Structures**

Prior to demolition, sale or transfer, the Clearance Agent shall ensure that any structure more than 50 years was formally evaluated and approved for such clearance action by the Division of Environmental Analysis (DEA), as outlined in section 12.02.04.00 of this manual.

### **12.03.03.00    Lead and Asbestos**

All improvements shall be inspected for the presence of Asbestos Containing Materials (ACM) and Lead Based Paint (LBP); a copy of the lead and asbestos survey shall be placed in both the Clearance file and the District's permanent parcel file. District Clearance staff coordinates lead and asbestos inspections and removal activities with the District's Hazardous Waste Coordinator (HWC) within DEA. All activities must comply with the Environmental Protection Agency regulations and all State and local government laws, rules, statutes, and regulation (see 40 CFR Section 61.145).

If improvements were not inspected at the appraisal or acquisition stage, the Clearance Agent must ensure that a licensed person completes an inspection prior to sale or demolition of a parcel. Sale for relocation is considered the same as demolition and also requires prior testing.

The Clearance Agent ensures that any improvements containing lead or asbestos are abated prior to demolition, sale or transfer in accordance with applicable laws, regulations, and ordinances and the recommendations of the hazardous materials inspector; refer to section 12.05.00.00 for guidance on Clearance work regarding Hazardous Waste and Hazardous Materials. Section 12.05.09.00 specifically addresses Asbestos, while section 12.05.10.00 addresses Lead.

### **12.03.04.00     Rodent Control**

As noted previously in section 12.02.05.00, to prepare for clearance, eradication of rodents shall be performed prior to clearance work if there is a risk of the rodent population spreading to adjacent properties.

### **12.03.05.00     Authorization to Dispose of Improvements**

The Clearance Agent shall ensure clearance work is supported by an IDA approved by a Senior Right of Way Agent; refer to section 12.01.09.00 on proper procedures regarding the IDA.

### **12.03.06.00     Sale of Tools and Machinery to the Office of Equipment**

Right of Way should advise the Office of Equipment of the proposed sale of any usable tools and shop equipment that is reasonably new or is repairable. Of particular interest are lathes, drill presses, milling machines, metal brakes, metal shears, and automotive tools such as wheel balancers, brake drum lathes, tire truers, and lubrication equipment.

Such items are to be listed by a special IDR and IDA. The Clearance Agent limits the IDR to items of possible interest and includes a statement that the items qualify for transfer to the Office of Equipment. A duplicate copy of the IDR is sent to the Office of Equipment with a statement that the IDA will be approved and the items disposed of by usual procedures unless a response requesting reservation of an item is received within two weeks.

It is not necessary for the District to consult the various shop superintendents. The decision to accept or reject tools and equipment lies exclusively with the Office of Equipment. Should it wish to acquire any items, the Office of Equipment will notify the District.

Transfers are documented as shown on the table entitled "Documentation of Transfer." If coding is required, the Clearance Agent should check with P&M for correct coding.

## DOCUMENTATION OF TRANSFER

<b>Funding</b>	<b>Documents</b>	<b>Value</b>	<b>Process</b>
Federal Participation	<ul style="list-style-type: none"> <li>• A memo to Accounting detailing the transaction</li> <li>• A Shipping Record (Form ADM-0245) prepared by R/W</li> <li>• A Receiving Record (Form FA1226A) prepared by Office of Equipment</li> </ul>	Dollar amount is established by the minimum acceptable bid amount.	Accounting performs the transaction and returns copies along with the TRAMS posting tag to be placed in the Inventory Disposal File in R/W for audit purposes.
State Only Funds	<ul style="list-style-type: none"> <li>• A memo to Accounting detailing the transaction if a fund transfer is made</li> <li>• A Shipping Record prepared by R/W</li> <li>• A Receiving Record prepared by Office of Equipment</li> <li>• These records need not be coded for Accounting if no fund transfer takes place.</li> </ul>	<p>It is at District R/W's discretion whether to charge for transfer of equipment. Consideration can be given to current market value of equipment versus salvage value and to clearance schedule. (For salvage value definition, see 7.08.05.00.)</p> <p>Whether or not fund transfer occurs, the transaction must be detailed in the Inventory Disposal File for audit purposes.</p>	Accounting performs the transaction and returns copies along with the TRAMS posting tag to be placed in the Inventory Disposal File in R/W for audit purposes.

### **12.03.07.00    Sale of Personal Property**

State-owned personal property may be disposed of separately or in conjunction with real estate improvements. If a stripping sale of fixtures is held on a major improvement that must be demolished, the Clearance Agent should take care to assign each fixture, or group of fixtures, an item number on the IDR. A separate list may be prepared, attached, and referenced on Form RW 12-1.

The Clearance Agent should consider the potential cost of auctioning State-owned personal property against the potential income produced from that sale. Sections 7.08.05.00 of the Right of Way Manual addresses the concept of salvage value. The Clearance Agent should consult the District's appraisal unit, or another qualified person to explore the salvage value of State-owned personal property prior to expending time or monies scheduling the sale.

### **12.03.08.00    Public Notification of Proposed Sale**

The Agent prepares a Notice of Sale describing the state-owned property to be sold; either real estate improvements or personal property. The Notice of Sale shall contain the time, place, and manner of sale. Copies are sent to anyone expressing interest in the sale. An electronic copy of this notice should be placed online and be emailed to potential buyers. Copies should also be mailed to local agencies with a request that they be posted in places commonly used for posting legal notices. Posting of the Notice of Sale on each improvement to be sold should also be considered. Take note that the sale of state-owned real estate improvements is rare and generally the result of the inability to demolish a structure due to historical significance.

### **12.03.09.00    Content of the Notice of Sale**

The Notice of Sale is prepared as shown on Forms RW 12-4, RW 12-5, and RW 12-6. Proposal Form RW 12-7 is attached to the Notice for sealed bids. P&M must approve the Proposal Form prior to distribution to verify it has been coded properly. (See Exhibit 12-EX-02 for coding instructions.)

In the event a District is required to sell or transfer a real estate improvement; a surety bond equal to the value of clearing the structure via Right of Way clearance contract shall be required of the buyer to ensure the successful removal of that improvement from the Right of Way. The Notice of Sale must provide that a surety bond is required and state the amount and duration thereof.



### **12.03.10.00    Advertising the Sale**

Sales are advertised as appropriate. The amount spent for advertising should reflect sound business judgment and be in relation to the value of the property. Use of internet marketing should also be considered to more efficiently reach potential buyers.

### **12.03.11.00    Upholstered Furniture and Bedding**

Upholstered furniture and bedding should not be resold; instead, it should be removed from the site by the demolition or other contractor. The scope of work for such a clearance contract shall account for the disposal of upholstered furniture and bedding from the improvements.

### **12.03.12.00    Post-Sale Field Inspections**

Clearance staff must inspect all properties sold to verify the buyer has removed the purchased improvements and conformed with all contractual obligations in the Notice of Sale and the executed proposal or bid form. The Clearance Agent shall inform purchasers in writing that they must immediately correct any unfulfilled contractual obligations. This will ensure that no difficulties arise in clearing the right of way and no dangerous conditions exist that could result in accidents. Special care should be exercised to avoid creating any hazardous conditions to neighborhood children, other individuals, or pets and other animals.

### **12.03.13.00    Annual Purge of Mailing Lists**

The District must perform an annual review of mailing lists per Government Code Section 14911 to determine if current recipients wish to continue receiving notices. A return-addressed verification card should be attached to the material mailed. The card should provide a space on which the recipient can affix postage when returning the card to indicate a desire to remain on the mailing list.

The card should contain a statement similar to the following that states the mailing list is reviewed annually in accordance with State law:

“Your name is on our mailing list to receive notices for public sales of property. If you wish to continue receiving these notices, please sign and return this card. If this card is not returned by (specify date), your name will be removed from our list. This notice is required annually by

Section 14911, Government Code. Please correct the address shown, if necessary; be sure to include zip code."

The District should perform an annual review of email lists to determine if current recipients wish to continue receiving electronics correspondence. An email should be send out to all contacts on the District's email list annually; those who fail to respond within 30 days or who indicate they no longer wish to receive electronic correspondence should be purged from the District's list.

### **12.03.14.00    Conduct of Sale – Sale by Sealed Bid**

Representatives of Accounting and Right of Way open the bids at the District Office at the time prescribed in the Notice in the presence of the bidders. The Right of Way representative shall tabulate all bids and shall immediately turn over bidder's deposits to the Accounting representative.

The Accounting representative must have accurate information (Parcel No., Project ID, Federal Aid Project No., and Object Code) to ensure proper coding of all documents. P&M must verify all coding information before it is given to Accounting.

If the highest bidder defaults in a sealed bid sale, the District may sell to the second highest bidder at the second highest bidder's bid amount.

### **12.03.15.00    Conduct of Sale – Sale by Public Auction**

A public auction to dispose of property is conducted on the premises whenever possible. Representatives of Accounting and Right of Way, or a minimum of two representatives of Right of Way, shall attend the auction. A Right of Way representative is the lead for coordination of the auction.

Improvements to be sold should be opened for general public inspection immediately prior to the auction. The person conducting the auction should have enough copies of the Notice of Sale for people attending the auction. The auctioneer reads all the terms and conduct of the sale, including the minimum bid acceptable, preceding each sale. Adequate time is allowed for bidding before closing the sale.

The Right of Way representative must secure all necessary signatures on Proposal Form RW 12-7. The successful bidder signs the original proposal sheet and fills in their address and telephone number fields. The Accounting representative accepts the deposit in cash, cashier's check, money order, or certified check and delivers a receipt and a duplicate proposal sheet to the buyer. Accounting retains a copy of the proposal sheet to ensure the

Department accounts for the revenue properly. Funds are placed in the special deposit account. In the absence of an Accounting representative, a Right of Way representative shall accept the deposit and deliver a receipt and a duplicate proposal sheet to the buyer; the Right of Way representative shall tender the deposit to Accounting on the same day with a covering field collection sheet.

If the highest bidder is not prepared at the auction to furnish the required deposit in the manner prescribed by the Notice, the bidding may immediately be reopened and the property sold to the subsequent highest bidder. Alternatively, the sale may be rescheduled at the discretion of the Right of Way representative.

### **12.03.16.00    Deposits**

The following deposits are required for sealed bid or auction sales. The deposits shall be based on an estimate of the market value of the items offered for sale, developed by a qualified agent, not on the minimum bid recommended in the IDR.

- **Under \$1,200.00 Market Value** - \$300.00 or full amount of the bid if less than \$300.00
- **Over \$1,200.00 Market Value** - 25% of stated market value

### **12.03.17.00    Deposit Return – Unsuccessful Bidders – Sealed Bid**

Immediately after the bid opening and upon written request of Right of Way, Accounting returns unsuccessful bidders' deposits by certified mail, return receipt requested. Except, the deposit furnished by the second highest bidder shall not be returned until the highest bidder has paid the total amount due the State; in case the second bidder elects to purchase in the event of high-bidder defaults. If an unsuccessful bidder is present when the deposits are released, the check may be delivered to the bidder and a receipt obtained.

### **12.03.18.00    Bill of Sale**

The Bill of Sale must reflect the item number and description shown on the IDR. A Senior Right of Way Agent shall execute the Bill of Sale (Exhibit 12-EX-03) after the purchaser has paid the total amount due.

The purchaser SHALL NOT REMOVE ANY SALE ITEMS until the District has received full payment.

### **12.03.19.00    Breach of Contract**

The Notice of Sale and Terms of Sale contain provisions whereby the State shall retain all money paid to it up to the time the purchaser breaches the contract to offset actual damages sustained by the State as a direct result of the breach. Ordinarily, actual damages are determined by resale of the property that is subject to default. Sections 12.03.20.00 through 12.03.24.00 are based on the premise that, in the absence of proof to the contrary, the original sale price represented market value at the time of the breach of contract. The actual damages sustained are, therefore, the difference between the first and second sale prices, plus expenses.

The procedures detailed below are not applied to those cases where the bidder, after completing payment and furnishing surety bond, does not complete improvement removal in accordance with the agreed-upon obligations stated in Paragraph (1) of Forms RW 12-4, 12-5, or 12-6 or in the performance of any other agreed-upon obligation. In these cases, the State completes the work and bills the bonding company for the additional cost of completing the bidder's work. No refunds are made to the bidder.

### **12.03.20.00    Defaults Not Fault of Bidder**

If the successful bidder defaults because of State's inability to convey title or any other cause not the fault of the bidder, the bidder's money shall be refunded pursuant to Division of Accounting instructions.

### **12.03.21.00    Refunds**

The Senior Right of Way Agent who oversees the responsibilities of Property Management or Clearance and Demolition notifies the Accounting Office by memorandum to prepare refund documents, fully itemizing the transaction per Section 12.03.23.00.

## **12.03.22.00    Notification to Defaulted Bidder**

If there is a breach of contract, the Clearance function must immediately notify the defaulted bidder in writing, including the following information:

- **Nature of Breach of Contract** – e.g., failure to pay the balance due or provide the required bond.
- **Determination of Damages** – the bidder's money is retained pending determination of actual damages sustained by the State as a result of the breach.
- **Refundable Balance** – any refundable balance after deduction of actual damages sustained is remitted with an accounting of said money.

No money is to be returned to the defaulted bidder, whether the money is the required deposit only or the entire purchase price, except as provided in Section 12.03.24.00.

## **12.03.23.00    Resales to Determine Damages Sustained**

The Clearance function schedules a resale of the personal property or real estate improvements as promptly as practicable after the breach of contract. Timeliness is necessary to demonstrate good faith and to avoid any undue hardship a delay might cause a bidder whose money cannot yet be released. Actual damages are determined as follows:

## ACTUAL DAMAGES

Condition	Amount
Property sells for less than the original sales price	Difference between the two sales prices, plus all expenses for resale (actual receipts/invoices required)
Property sells for an amount equal to or more than original sales price plus expenses	Zero
Building cannot be resold, due to lack of interested bidders or impending project certification date	The demolition cost or the actual expenses for initial sale; whichever is less
Highest bidder defaults on sale by sealed bid and the District sells to the second highest bidder	Difference between the two bids
Demolition to be done by the State's highway contractor at a later date	An estimate of cost may be used to determine actual damages sustained by the State. If demolition is in the near future, Right of Way asks the resident engineer to document the actual cost.

### **12.03.24.00    Statement of Damages Sustained**

After determining actual damages, the District provides the defaulted bidder with an accounting statement showing:

- Total amount paid to State on purchase of the property.
- Deduction for actual damages, if any.
- Refundable balance, if any.

If the actual damages sustained exceed the money on deposit, the District retains the entire amount and furnishes an accounting statement to the defaulted bidder.

The defaulted bidder is not billed for losses exceeding moneys paid up to the time of breach unless State has performed, or caused to be performed, work under Section 12.03.19.00. Then, all costs are to be recovered.

The Accounting Office schedules payment to the defaulted bidder when a refund is due.

# 12.04.00.00 – CLEARANCE CONTRACTS

## **12.04.01.00**    **General**

Where the State is obligated under Right of Way Contract to move, relocate, reconstruct, or remove improvements (including Asbestos Containing Materials) to clear proposed right of way, the work may be done by right of way clearance contract. The authority for Caltrans to enter into contracts comes from two primary sources:

1. Delegated Authority from the Department of General Services (DGS)
2. Statutory authority from various state laws, such as:
  - [California Constitution, Article XXII](#)
  - [Public Contract Code \(PCC\) §10351](#) and [10295](#)
  - [Government Code \(GC\) §11256](#) and [19130 \(b\)](#)
  - [Streets and Highway Codes \(S&HC\) §135, 136, 136.1](#)

A clearance contract provides for the demolition or relocation of improvements, as well as for the removal of Lead, Asbestos and other Miscellaneous Toxic Material from State-owned property.

The relocation or sale of improvements shall be avoided statewide, with the exception of historically significant improvements that are ineligible for demolition. There are significant costs, legal risks, regulations and potential time delays associated with the relocation or sale of improvements.

The two types of right of way clearance contracts are demolition clearance contracts and relocation clearance contracts. Information on service contracts, including relocation and demolition contracts, can be found on the [DPAC website](#).

## **12.04.02.00**    **Proper Use of Clearance Contracts**

Clearance contracts are not used for repairing houses, constructing new fences, renting equipment, or performing work within the right of way limits. Clearance contracts are used only for demolishing or moving improvements or obstructions. It would also be an appropriate use of clearance contracts to abate Lead, Asbestos or miscellaneous toxic materials prior to moving or selling an improvement.



### **12.04.03.00    Contract Request**

For either a demolition contract or a relocation contract, the Clearance Agent starts their contract request using the ADM 360 document, which is approved by the District's budgets office, prior to submission to the Department of Procurement and Contracts (DPAC). Right of Way Planning and Management staff can assist the Clearance Agent with coding funding data on the ADM 360 document. The Clearance Agent will become the Caltrans Contract Manager and will administer the contract that is bid and awarded by DPAC.

### **12.04.04.00    Labor Compliance**

State Prevailing Wages are governed by the California Labor Code; Federal Prevailing Wages are governed by the Code of Federal Regulations, Title 29, Part 5 (29 CFR 5 et seq.). Additionally, labor compliance is also governed by regulations of the Federal Highway Administration (FHWA) and the U.S. Department of Labor; and the California Code of Regulations. Collectively, the entities provide the basis for contract administration protocol and the statutory authority to enforce labor compliance contract provisions.

State and Federal law require contractors working on public works contracts to pay prevailing wages to their employees. Prevailing wages are predetermined hourly rates for each craft that are set by both the California Department of Industrial Relations and the U.S. Department of Labor. In addition, these laws set guidelines for the following:

- Overtime,
- Length of shifts or workdays,
- Substantiation of wages,
- Fringe benefits paid; and
- Covered work (work done under control and paid for in whole or in part out of public funds, thus requiring the payment of prevailing wages) and non-covered work.

Each district within Caltrans has a [District Labor Compliance Officer \(LCO\)](#) (internal Caltrans link) who may assist in determining if Prevailing Wages apply to the Scope of Work of Clearance contract's or in enforcing Prevailing Wage requirements in the contract. See the Department's [Division of Construction Labor Compliance](#) resources.)

Some categories of work that require State Prevailing Wage rates include:

- Construction or demolition work
- Maintenance/repairs performed on state-owned real property
- Repairs of installed equipment (affixed to state-owned real property)
- Land Surveying (e.g. survey party chief, roadman/chainman, flagger)
- Materials sampling and testing (e.g. personnel operating drilling rigs/cranes, pile drivers, or testing materials such as concrete/asphalt testing)
- Construction and/or materials inspection on or off the project site

The California Labor Code (LC) governs the payment of state prevailing wages. The LC requires that contracts exceeding \$25,000 for a public works construction project; or \$15,000 for alteration, demolition, repair, or maintenance and installation, shall provide that all workers be paid not less than the predetermined general prevailing wage rate (GPWR), including the GPWR for holiday and overtime work. The prevailing wage rate (PWR) is based upon the worker's actual working classifications for the county in which the work is performed, regardless of the type of contract or the working title of the employee.

In addition to the Division of Construction's Labor Compliance intranet site and the District LCO, the Clearance Agent should refer to the Department's [Division of Construction Manual](#) that covers Labor Compliance; Chapter 8, Section 1.

### **12.04.05.00    Daily Site Inspection**

A Clearance Agent shall make a daily site visit during any active project, documenting that visit in a diary entry.

Included in the diary entry shall be:

- Date/time Agent was onsite,
- First and Last names of all contractor personnel onsite that day,
- The duty that each worker is performing (laborer using hand tools, operator piloting an excavator, driver operating a water truck, etc. etc.)
- Documentation of any complaints or issues noted on the site.

The Clearance Agent shall compare daily diary entries to the contract invoices to verify that certified payrolls match the names of the contractor personnel that the Agent noted in their diary.

## **12.04.06.00    Contract Manager Training**

Public Contract Codes sections 10348.5 and 10351 requires designated Contract Managers be trained and have knowledge of legal contractual arrangements. Caltrans Deputy Directive DD-112 Contract Manager Responsibilities mandates that Contract Managers receive annual Contract Manager training.

DPAC is responsible for [training Contract Managers](#) (internal Caltrans link); the Caltrans Contract Manager shall take this training annually and provide DPAC analysts with a copy of a current certificate upon request.

- [Handbook for Contract Management](#) (internal Caltrans link)

The Clearance Agent should also take the Contract Manager Training for Service Contracts class. This is a two-day class that is presented by the Department's Labor Compliance Division for any staff who manages a Public Works Contract.

## **12.04.07.00    Scope of Work**

Few aspects of Clearance and Demolition contracts are as critical as the Scope of Work (SOW): the directive language within a contract that explains what the contractor is to do, and to what level of quality. Bid values and project outcome are 100% dependent on a clear and detailed scope of work. DPAC provides standardized service contracts and can assist with modifying contract language as directed by the Clearance Agent and/or the Caltrans Contract Manager; if those roles are not shared by one agent. The Clearance Agent must ensure the contract's SOW addresses the particular clearance work appropriately; therefore, the Caltrans Contract Manager shall work with the DPAC analyst and the Department's Legal to modify any clauses in the SOW to meet the District's Clearance needs.

## **12.04.08.00    Demolition Clearance Contracts**

Demolition clearance contracts are used for the removal of improvements; the two types of demolition contracts are site specific contracts and on-call contracts. Site-specific contracts are written for the sole purpose of clearing improvements at the locations identified in the site-specific contract. An on-call demolition contract typically covers a period of up to two years and is written to handle the expected volume of clearance work over that period. Where possible, clearance of improvements should be grouped by proximity or

other common factors so demolition is accomplished in the most efficient manner.

The Clearance Agent and/or the Caltrans Contract Manager will work with a DPAC contract analyst to draft an appropriate scope of work that DPAC will incorporate into the contract bid package. The DPAC contract analyst will ultimately be responsible for verifying all received bids and awarding the contract to the qualified bidder with the lowest responsive bid.

Demolition contractors must be licensed in accordance with the California Department of Consumer Affairs, Contractors State License Board. The license requirement shall be included in the bid documents drafted by the DPAC contract analyst. For additional information on contractor licenses, visit the [California Contractors State License Board](#).

### **12.04.09.00    Relocation Clearance Contracts**

Relocation clearance contracts are used for moving, severing, reconstructing, or relocating structures to clear proposed right of way. Minor amounts of incidental new construction may be included. This type of contract is necessitated by a R/W Contract obligation. Refer to section 12.03.08.00 regarding moving or transferring structures, which should only occur when mandated due to the structure being historically significant. The Clearance Agent would work with DPAC to obtain a relocation clearance contract, starting with the ADM 360 document.

### **12.04.10.00    Unforeseen Work**

Certain conditions may arise during a clearance project that were not anticipated or called for in the original plans. When this work is essential to fulfillment of the State's obligations, such work is classed as extra work and payment is made in accordance with contract provisions. The need for extra work shall be fully documented and approved by a Clearance Agent.

Where unforeseen work exceeding any contingency costs reserves in a contract emerges, the Clearance Agent must submit a revised ADM 360 to DPAC to prepare an amendment to the original contract to cover the extra work. The amendment should define the unforeseen work and the agreed-upon price and set forth any time extension required because of the additional work. Beware that a service contract can only be amended for time or money; up-to either one additional years' time or 30% additional funds; but not both.

### **12.04.11.00    Relocation Clearance Contract Work**

The Clearance Agent should pay careful attention to the extent of the State's obligation and responsibility for the work to be done on any particular project. Legally, the extent of the State's obligation is set forth in the Right of Way Contract. Since it is not practical to embody lengthy and detailed specifications in that document, the Agent must exercise great care in interpreting the Right of Way Contract clauses; prior to Clearance work, care should be taken to ensure the SOW for the Clearance contract aligns with the Right of Way Contract.

In general, the owner's improvements to be relocated or reconstructed shall be left in as good a condition as found and all facilities previously enjoyed shall be replaced or compensated for. The State shall not repair or correct damage or impaired conditions in existence prior to work on the property by the State that are not changed or aggravated by the relocation work. Although some repair work is unavoidable, it should be kept to a minimum. Also, the State cannot assume costs of betterment in relocation of owner's improvements. The Agent must exercise careful judgment to avoid involving the State in costly and unjustified expenditures.

### **12.04.12.00    Inventory of Impaired Conditions**

Before the contractor undertakes any work, the Clearance Agent shall thoroughly inspect, with the owner present, all improvements to be relocated or reconstructed to determine existing conditions. The Agent shall make appropriate written notes of existing conditions and call them to the owner's attention. This will avoid later misunderstanding about responsibility for correcting such conditions. Photographs are useful in documenting conditions prior to, during and after work is completed.

### **12.04.13.00    Liability for Correcting Structure Deficiencies**

Any new work incidental to the relocation or reconstruction of an improvement, such as laying new foundations and utility extensions and connections, shall be done in accordance with applicable building, safety, and health ordinances. Such obligation shall not be construed to impose on the State any liability for correcting an existing condition of an improvement in nonconformity to local building ordinances when such condition is not caused, affected, or aggravated by the proposed work.

When a relocation project involves an improvement (that falls within the local building department's purview) having nonconforming conditions, the Clearance Agent shall explain that the proposed relocation work is being done with public funds to clear an area for a public improvement; and consult with the local building department and the Department's Legal, if the scope of the project warrants it.

Although not attempting to avoid legal responsibility for replacing privately-owned improvements in as good condition as found, the State shall not be placed in the position of spending public funds unnecessarily to improve private property. Such would be the case if the State attempted to correct existing nonconforming conditions not caused by the proposed relocation operations.

Hazardous nonconforming conditions may exist that will be impossible for the local building department to overlook. It is important to note that the local building department has authority at any time to condemn and demand correction by a property owner, who has actual liability, and that correction could be required whether or not the State proposes to relocate the improvements. In such cases, the local building department may require correction made at the owner's expense at the time of, or immediately after, the State's relocation work. The local building department should clearly set forth the above-mentioned facts to limit future misunderstandings.

#### **12.04.14.00    Letters of Acceptance from Property Owners**

The Clearance Agent shall obtain a letter of acceptance from the owner after completion of the work performed. In some cases, the owner may make unreasonable demands for work over and above that to which legally entitled. To avoid these types of misunderstandings, the agent must maintain a careful check to ensure the work performed conforms with the understanding reached with the owner at the time of the Acquisition.

#### **12.04.15.00    Notice of Completion**

In rare circumstances, the District may file and record a Notice of Completion on clearance contracts within 10 days after completion only if it has cause to believe a contractor is in financial difficulty and there is a possibility of claims being made or liens filed. This reduces the time limit for filing liens or claims. Documents should be letter-size to facilitate filing.

If more than one unit (work on one property) is included in a contract, a separate Notice for each unit should be filed and recorded within 10 days after completion of work, even though work on other items under the same contract may still be in progress.

If requested by the Accounting Office at the time a receiver document under the approved clearance contract is submitted, a copy of the filed Notice of Completion and transmittal letter to the County Recorder shall be forwarded to Accounting.

### **12.04.16.00      Certificate of Completion and Final Report**

The Clearance Agent, Contract Manager or other Department personnel assigned to field inspection of clearance contracts certifies in a final report that the items of work have been completed. The report includes, but is not limited to, the following:

- Performance by the contractor as to compliance with the contract requirements.
- Adequacy and condition of equipment and/or materials used.
- Conformance with State and Federal requirements for payment of minimum wages, nondiscrimination practices, and any other applicable regulations or ordinances.

The report is submitted to the Accounting Office with the bill for final payment.

# 12.05.00.00 – HAZARDOUS WASTE AND HAZARDOUS MATERIALS

## **12.05.01.00**    **Policy**

The Department's policy is to consider fully all aspects of potential hazardous waste sites ensuring that adequate protection is afforded to employees, workers, and the community prior to, during, and after construction. District Property Management staff must be aware of all such potential and confirmed sites and any use of hazardous materials on properties held for future projects and excess lands. The District must monitor these sites, terminate leases where required, and consider potential clearance of wastes when planning for right of way certification dates.

This chapter regards demolition only, so references to activities only needed for acquisition and/or property management have been omitted. However, there is a great deal of overlap, as many of the same environmental laws, regulations and issues must be considered by those people involved in acquisition, property management or clearance and demolition activities.

## **12.05.02.00**    **Definition**

A material is hazardous if it poses a threat to human health or the environment. Hazardous Materials exhibit one or more of the following characteristics:

- Flammable;
- Reactive (subject to spontaneous explosion or flammability);
- Corrosive;
- Toxic; and,
- Radio-active.

## **12.05.03.00**    **General**

The Department strives to identify, investigate, and cleanup sites at the earliest opportunity during the project development process. Occasionally these activities may not be accomplished prior to Property Management involvement. Under a normal project development sequence, the entire process is completed in accordance with governmental hazardous waste requirements. The Division of Environmental Analysis (DEA), in coordination with Project Management is the lead unit for the identification, investigation,



and cleanup process. Right of Way assists by obtaining necessary rights to enter for testing purposes and by negotiating cleanup agreements prior to acquisition.

On projects where the normal sequence cannot be followed, Right of Way requests DEA to review and identify potential hazardous waste sites and initiates the cleanup process for all **MINOR** hazardous waste problems not requiring a Hazardous Waste Management Plan, such as underground tanks or hazardous material businesses.

All investigative work performed by the Right of Way Clearance Agent should be in consultation with the District's Hazardous Waste Coordinator (HWC) of the Department's Hazardous Waste Management Branch, of the DEA. If at any time a formal Hazardous Waste Management Plan is required, the District's Hazardous Waste Management Branch, of DEA shall assume the lead role.

#### **12.05.04.00     Hazardous Waste Coordinator (HWC)**

Generally, the Right of Way Clearance Agent works directly with the District's Hazardous Waste Coordinator (HWC) as the point of contact for the Division of Environmental Analysis.

The DEA is responsible for implementing the Department's Hazardous Waste Management program, which provides statewide assistance to districts in managing contaminants and wastes encountered on highway projects and Caltrans properties.

DEA will engage technical experts (biological - cultural - historical - hazardous waste) based upon what specific site conditions require. The Clearance Agent should engage DEA as early as possible to address any potential environmental concerns on a project. Other activities conducted by DEA staff include, but are not limited to: ensuring that the hazardous waste sections of environmental documents prepared for CEQA and NEPA compliance are complete and that contract specifications addressing hazardous waste and substances prepared for construction activities are accurate.

As a Best Business Practice, when Right of Way contracts directly with private sector environmental consultants, copies of those consultant's hazardous waste surveys should be provided to the HWC to ensure awareness of the work, and to ensure such work will not be repeated by environmental staff.

For additional information on DEA, specifically regarding hazardous waste, visit [Hazardous Waste](#).

### **12.05.05.00     Estimating for Hazardous Waste**

There are numerous laws and regulatory organizations at the federal, state and local level, and all the relevant laws and regulations must be considered. For example, the appropriate management of lead-based materials is regulated by:

- The federal Environmental Protection Agency;
- The federal Department of Housing and Urban Development;
- The federal Occupational Safety and Health Administration of the Department of Labor;
- The California Department of Public Health;
- The California Department of Toxic Substances Control; and,
- Local Municipalities.

Complex hazardous waste and environmental compliance issues should be identified as early as possible during project development. Support costs necessary to perform, or contract for, technical Hazardous Waste expertise should be included in Right of Way estimates to address complex issues.

### **12.05.06.00     Inspection of Inventory**

All buildings should be inspected for asbestos, lead; and other miscellaneous toxic materials including universal wastes such as oils, refrigerants, solvents, polychlorinated biphenyls (PCBs), radioactive materials, and mercury should be tested for if there is evidence of, or an increased probability of those materials being present on the site. Copies of those inspections shall be provided to the demolition contractor – preferably as part of the demolition contract bid materials - so that they can provide an accurate abatement plan and cost analysis; DEA shall also receive a copy of hazardous materials surveys when Right of Way contracts with the inspecting consultant directly.

### **12.05.07.00     Underground Tanks – Removal Procedures**

Underground tanks on State property should be removed as soon as possible, as they could leak or have previously leaked, contaminating soil and/or groundwater. While the Hazardous Waste Management Branch of the DEA has basic responsibility for removal of all underground storage tanks, those which have no, or only minor leakage can be removed under a contract initiated by Right of Way. Request for Proposal or service - Scope of Work

documents for any clearance or demolition contract that will be used for underground tank removal should be reviewed by the District's HWC before the Right of Way Clearance Agent works with Department of Procurement and Contracts (DPAC) to bid that contract.

The contractor who performs the removal work must obtain the required permits for removing all existing underground storage tanks on-site. Any contract for underground storage tank removal must include provisions for barricades and clean-up. If any significant leak is discovered, the Hazardous Waste Management Branch of the DEA shall be notified of the leak and shall take over control of the clean-up work.

The DEA HWC will obtain the name of the local permitting agency responsible for underground tanks. Since the contractor must obtain the required permits for operating or closing all existing tanks from the local permitting agency, this information should be included in the removal contract bid documents.

A Phase I Environmental Investigation will indicate the potential or known presence of such tanks, but it is possible that unknown tanks could be encountered. A Phase II Environmental Investigation is normally performed to determine the extent of any suspected leakage. Prior to any tank removal, Right of Way must execute an agreement regarding the allocation of liability with the tenant in occupancy and the owner of the property.

Removal of underground storage tanks and associated piping shall be documented with good quality photographs showing the major tasks performed, including images of the bottoms of the excavations.

Underground storage tanks on State property should be removed as soon as possible. Non-leaking underground storage tanks may have a minor deposit of product under the tank that can be cleaned-up as part of the tank removal contract, if this is included in the contract's scope of work.

## **12.05.08.00    Solvents**

Solvents used for parts cleaning, dry cleaning and other commercial and industrial activities could contaminate soil and/or groundwater. Usages which may have been legal in the past may now be prohibited. A Phase I Environmental Investigation will indicate the potential or known usage of solvents and any signs of improper disposal, but unknown usage may have occurred.

## **12.05.09.00    Asbestos**

Asbestos is a group of heat resistant and nonconducting minerals, used in many common building materials; referred to generally as Asbestos Containing Materials (ACM), with usage peaking in the 1970s, and tapering to almost nothing by 1990. However, some ACM are still legal, such as vinyl floor tile (still legal to make with asbestos) and drywall joint compound. Naturally Occurring Asbestos (NOA) is typically present in rock and aggregate; particularly in concrete and asphalt made with NOA. In areas with known NOA, or where it is reasonable to believe that NOA could have been used to make concrete or asphalt, sampling the concrete and asphalt on parcels shall occur.

An asbestos testing consultant, whenever possible, should be financially independent of and unrelated to the contractor who physically performs the abatement of asbestos to prevent a conflict of interest.

Asbestos is regulated by numerous federal, state and local government organizations. The main regulations for people working with demolition projects are:

- The federal Environmental Protection Agency (EPA) Asbestos National Emission Standard for Hazardous Air Pollutant (NESHAP), found at 40 CFR Part 61, Subpart M (amended several times);
- The Asbestos Hazard Emergency Response Act (AHERA) which created the Asbestos in Schools Rules at 40CFR Part 763, Subpart E which specify training requirements for asbestos removal personnel and the main sampling protocols;
- The federal Asbestos School Hazard Abatement Reauthorization Act of 1990 (ASHARA) which extended the scope of training requirements of AHERA to public and commercial buildings;
- Federal OSHA asbestos regulations for the construction industry contained in 29CFR1926.1101 (summarized in publication OSHA3096, revised in 2002, and available online), and its published interpretation letters;
- California Code of Regulations, Title 8 - Industrial Relations, Division 1- Industrial Relations, Chapter 4 - Division of Industrial Safety, Sub-chapter 4 - Construction Safety Orders, Article 4 - Dusts, Mists, Fumes, Vapors, and Gases, §§1529 Asbestos;

- Chapter 3.2. California Occupational Safety and Health Regulations (CAL/OSHA) Subchapter 2. Regulations of the Division of Occupational Safety and Health Article 2.6. Asbestos Consultants and Site Surveillance Technicians;
- California Code of Regulations, Title 8, Chapter 3.2. California Occupational Safety and Health Regulations (DOSH or CAL/OSHA), Subchapter 2. Regulations of the Division of Occupational Safety and Health, Article 2.5. Registration – Asbestos-Related Work, Sub-section 341.6. Registration Requirements, which defines an Asbestos Containing Construction Material (ACCM) as any manufactured construction material which contains more than 1/10th of 1% (0.1%) asbestos by weight; and,
- AQMD and APCD regulations, such as the SCAQMD Rule 1403 and the BAAQMD Regulation 11.

California has many Air Pollution Control Districts (APCDs) and Air Quality Management Districts (AQMDs). Note that the AQMDs are empowered to develop their own asbestos regulations which add to the other existing regulations.

The Right of Way Clearance Agent should work with a Hazardous Materials Testing consultant who is not only properly licensed to perform the work, but has a thorough working knowledge of local regulations to ensure complete compliance. DPAC and DEA can assist the Clearance Agent in drafting contract language to properly address asbestos in their contracts.

All improvements shall be inspected for the presence of Asbestos Containing Materials, and a copy of the report placed in the District permanent parcel file.

If improvements were not inspected at the appraisal or acquisition stage, the Clearance Agent must ensure that a licensed person completes an ACM inspection prior to sale or demolition.

The Clearance Agent ensures that any improvements containing ACM have the ACM abated prior to demolition in accordance with applicable laws, regulations, and ordinances.

## **12.05.10.00    Lead**

The Clearance Agent shall ensure that all improvements are tested by a qualified consultant for the presence of lead; a survey provided by the inspecting consultant to the Clearance Agent is ultimately furnished to the demolition or clearance contractor. The Clearance Agent shall consult with DEA to ensure complete compliance with local, state and federal law pertaining to lead.

Lead paint was widely used prior to the 1960's, especially on exterior wood and metal materials, interior wood work, and walls in kitchens and bathrooms. The paint chalks as it ages, producing fine lead-containing dust, not just the large chips or flakes which are common when paint has failed. Lead was also widely used in ceramic tile glazes, so demolition of such tiles may release large amounts of lead dust; these tiles were often used in kitchens and bathrooms. Lead was added to older plastic mini-blinds, and the blinds produce lead dust as they deteriorated in the sun. The Consumer Products Safety Commission reduced the allowable amount of lead in residential paints to a trivial level in 1979. Lead use continued in industrial paints for many more years.

Three federal agencies regulate lead paint under Title X of the Housing and Community Development Act of 1992: The Environmental Protection Agency (EPA), the Department of Housing and Urban Development (HUD), and the Occupational Safety and Health Administration (OSHA). The federal lead regulations for construction work are found in 29 CFR 1926.62, the corresponding California regulations at 8 CCR 8 Section 1532.1 add further requirements.

In California, accreditation, certification, and work practices for lead-based paint and lead hazards are regulated by:

- 17, CCR 36000 et seq., generally;
- H&S Code Section 17920.10 on lead hazards;
- H&S Code Section 17961 on local enforcement of regulations; and,
- H&S Code Section 105251-105256 on local enforcement of contractor-created lead hazards.

In California, lead abatement work must be performed by California Department of Public Health accredited (licensed) supervisors and workers.

Hazardous wastes must be disposed of at a hazardous waste landfill and must be hauled under a proper manifest by a licensed hazardous waste transporter.

Whenever possible, a lead testing consultant should always be financially independent of and legally unrelated to the contractor who physically performs the abatement of lead to avoid a conflict of interest.

### **12.05.11.00    Waste Hauling and Disposal**

Owners of properties from which asbestos, lead, and other hazardous wastes are hauled need to obtain a generator identification number. Such numbers are site (generally one address or facility) specific. The [California Department of Toxic Substances Control \(DTSC\)](#) issues ID numbers to generators, transporters, and disposal facilities. This includes federal EPA ID numbers, and State ID numbers for non-RCRA hazardous waste. Temporary ID numbers are issued to people or businesses who do not typically generate hazardous waste. These ID numbers are valid for 90 days and cannot be extended past 90 days. A permanent ID number is needed for longer periods. Permanent ID numbers are issued to people or businesses who routinely generate hazardous wastes.

The Clearance Agent should contact the District HWC in DEA to provide assistance in obtaining this temporary EPA ID and State ID numbers from DTSC.

There is no fee to obtain an ID number. Processing of EPA ID and State ID numbers may take up to 15 working days from the date DTSC verifies the application is complete.

There are numerous regulations for transporting and disposing hazardous wastes; experienced and properly licensed remediation contractors are familiar with them. In all cases, hazardous wastes are hauled under a manifest. Generally, the Clearance Agent signs such manifests as the Department's (Generator's) representative, retaining the Generator's/Shipper's initial copy of the manifest once it is countersigned by the transporter. The transporter should send the Clearance Agent a copy of the Designated Facility Generator sheet of the manifest once the material is delivered to the facility, and the Clearance Agent should forward a copy of this sheet to the HWC for compilation of DEA's annual generator report.

## **12.05.12.00    Potential Surface Contamination**

Many properties have the potential for hazardous waste contamination. Examples include service stations and bulk plants, paint companies, machine shops, plating companies, light and heavy industrial manufacturing, dry cleaning establishments, fertilizer companies, junkyards, auto wrecking yards, and muffler shops.

Right of Way must notify the District HWC in writing when a property containing either identified hazardous waste or asbestos containing materials is to be cleared and should coordinate clearance with the HWC. Special clauses are required in the clearance contract to address surface/soil contamination, and the contractor or subcontractor must have the proper licenses to handle such materials. It is important for the Clearance Agent to consider surface contamination when drafting RFP/SOW documents with DPAC to obtain a demolition contract. DPAC and DEA can assist the Clearance Agent in writing clauses that specifically deal with their project's environmental concerns.



# 12.06.00.00 – DELEGATIONS

## 12.06.01.00    Delegations of Authority

As referenced in Section 2.05.01.00, the delegation matrix for Clearance and Demolition is noted below. The delegation matrix reflects the associated policy and RW Manual reference for each delegated item. The matrix also distinguishes whether an item is delegated to the District or Headquarters (HQ) level, along with the lowest level of sub-delegation authorized.

Reference (Statutory, WBS, Director's Policy, Deputy Directive, etc.)	RW Manual Section	Responsibility	Delegation	Lowest Level of Sub- Delegation
	12.01.08.00 12.01.09.00 12.03.05.00	Approval of Improvement Disposal Authorization (IDA)	District	Senior R/W Agent
	12.02.02.00	Approval of Advance Transfers to Clearance Status	District	Senior R/W Agent
	12.03.18.00	Bill of Sale for Sold Improvements or State Owned Personal Property	District	Senior RW Agent
	12.03.21.00	Request for Refund to Defaulted Bidder	District	Senior RW Agent
	12.04.15.00	Notice of Completion	District	Senior RW Agent

# CHAPTER 12

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### EXHIBITS

<b><u>Exhibit No.</u></b>	<b><u>Title</u></b>
12-EX-01	<i>Held for Future Use</i>
12-EX-02	Coding Chart for Key Property Management Activities
12-EX-03	Bill of Sale

Exhibits are located online:

- [External Exhibits site](#)
- [Internal Exhibits site \(internal Caltrans link\)](#)

(REV 1/2020)

# CHAPTER 12

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### FORMS

<b><u>Form No.</u></b>	<b><u>Title</u></b>
RW 12-01	Inventory Disposal Record
RW 12-02	Improvement Disposal Authorization
RW 12-03	Register
RW 12-04	Notice of Sale – Verbal Bid
RW 12-05	Notice of Sale – Sealed Bid
RW 12-06	Notice of Sale – Sealed Bid (Accompanied by Deposit)
RW 12-07	Proposal

Forms are located online:

- [External Forms site](#)
- [Internal Forms site](#) (internal Caltrans link)

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