

**Section 5.7**  
**PUBLIC DISCLOSURE**

**TABLE OF CONTENTS**

PURPOSE .....	5-7-1
AUTHORITY .....	5-7-1
SCOPE .....	5-7-1
REFERENCES .....	5-7-1
FORMS .....	5-7-1
5.7.1 Public Disclosure .....	5-7-1
5.7.2 Notification .....	5-7-1
5.7.3 Failure to Disclose .....	5-7-2
5.7.4 Exceptions to Notification and Disclosure.....	5-7-2
5.7.5 Records .....	5-7-2
HISTORY .....	5-7-2

## Section 5.7

### PUBLIC DISCLOSURE

#### PURPOSE

This section prescribes the process for the Department of Public Works Office of Right of Way (Department) to notify property owners of the responsibility to provide public disclosure.

#### AUTHORITY

11 GCA, Chapter 24 Real Property  
21 GCA, §104113 Publication of False Statements Prohibited

#### SCOPE

The principal users of this document are Department of Public Works Office of Right of Way employees and those persons contracted by the Department to perform parcel acquisition functions.

#### REFERENCES

Section 5.2, Negotiation Process

#### FORMS

5.6-4 Public Disclosure Notice

#### 5.7.1 Public Disclosure

**11 GCA, § 24308**, requires persons or entities holding title to real property in the form of a partnership, limited partnership, corporation, trust or any other form of representative capacity to disclose his/her name and address and the names and addresses of every person having a beneficial interest in such real property prior to any conveyance to the state. The person providing disclosure must disclose in writing, under oath and subject to the penalties prescribed for perjury, at least 10 days prior to closing for negotiated transactions or within **48 hours** after the order of taking deposit for parcels acquired by condemnation.

#### 5.7.2 Notification

**5.7.2.1** The Department shall notify via registered mail owners of parcels who hold title in a representative capacity of their responsibility to provide public disclosure. Only those owners holding property in this capacity shall be notified. The Department will notify owners using **Form No. 5.6-4, Public Disclosure Notice**, with enclosures. Notification should be delivered at the time **Form No. 5.2-1, Notice to Owner**, is delivered to real property owners as required by **Section 5.2, Negotiation Process**. However, in no case shall the Department deliver the **Public Disclosure Notice** later than five business days after the date the Department enters into a binding agreement for the purchase of real property.

**5.7.2.2** For parcels acquired by condemnation, where the disclosure affidavit has not been previously received, the Department shall deliver to the property owner via certified mail **Form No. 5.6-4, Public Disclosure Notice**, with enclosures no later than **48 hours** after entry of the Declaration of Taking. The **Public Disclosure Notice**

must contain the date the Department had deposited the required monies into the Superior Court of Guam court registry.

### **5.7.3 Failure to Disclose**

**5.7.3.1** The Department shall not close a real estate purchase with an entity that is required to disclose prior to receipt of a completed **Public Disclosure Affidavit** (see **Form No 5.6-4, Public Disclosure Notice**). If the required affidavit cannot be obtained, affected parcels must be acquired by condemnation.

**5.7.3.2** If condemnation is required due solely to the owner's failure to provide public disclosure, the DPWRS must inform the assigned Attorney General's Office attorney of this fact.

### **5.7.4 Exceptions to Notification and Disclosure**

**5.7.4.1** Notification and disclosure is not required for donated properties.

**5.7.4.2** Notification and disclosure is not required for subordinate interests except where a tenant-owned improvement is being acquired pursuant to **Section 5.2, Negotiation Process**.

### **5.7.5 Records**

Copies of the **Public Disclosure Notice** and **Public Disclosure Affidavits** received from owners shall be permanently maintained in the Department's official project and parcel file with the appropriate conveyance documents.

## **HISTORY**

Original Issue 2009