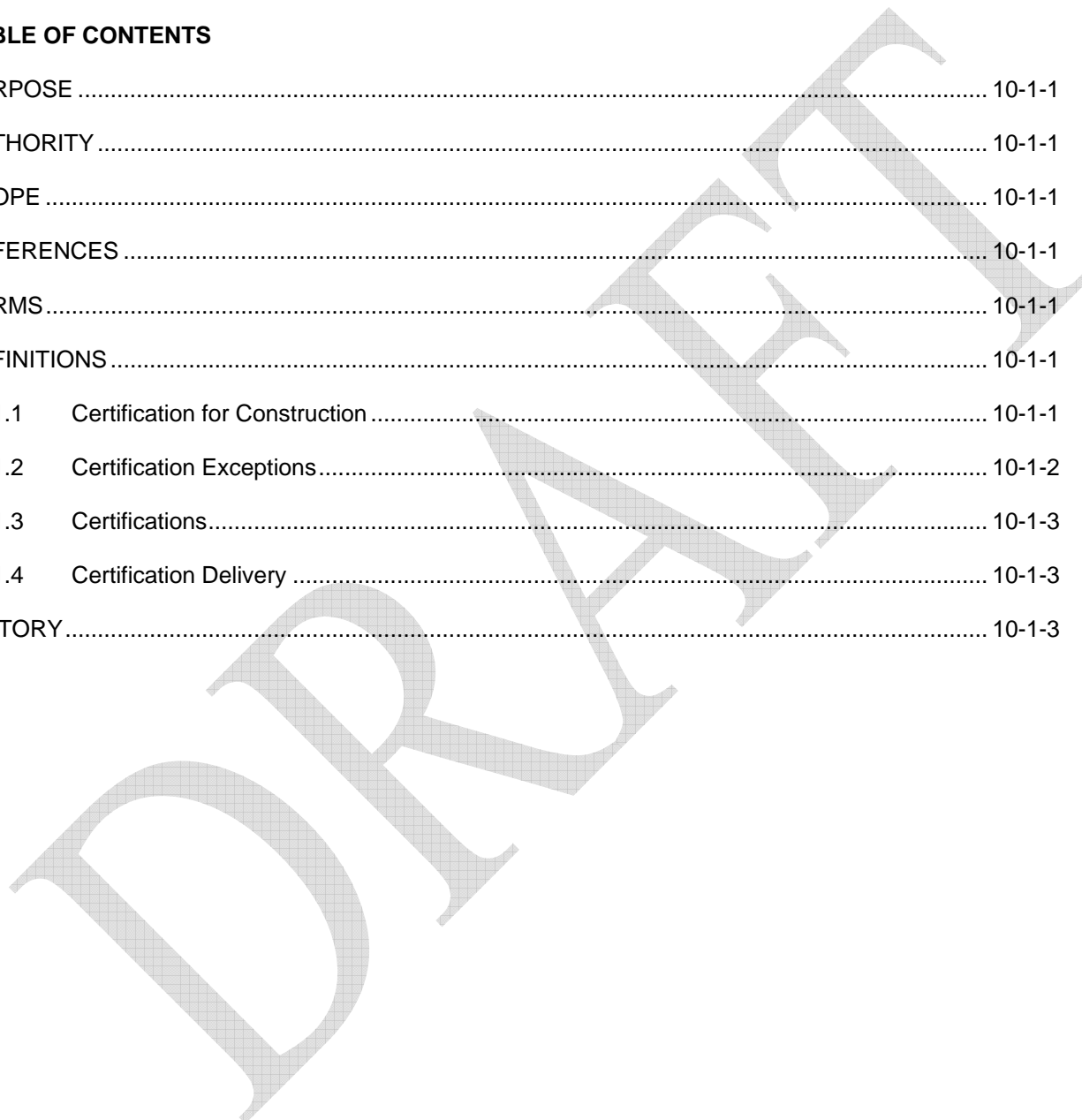


**Section 10.1**

**RIGHT OF WAY CERTIFICATION**

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## Section 10.1

### RIGHT OF WAY CERTIFICATION

#### PURPOSE

The purpose of this section is to establish the process the Guam Department of Public Works Office of Right of Way (Department) must follow for right of way project certifications.

#### AUTHORITY

23 CFR, 635.309(b)(c)(g)(h)&(p)

#### 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 and management functions.

#### REFERENCES

Right of Way Manual Chapter 8.2, Right of Way Clearing  
Right of Way Manual Chapter 8.7, Asbestos Management

#### FORMS

10.1-1 Right of Way Certification  
10.1-2 Right of Way Certification with exception(s)

#### DEFINITIONS

**Buildable Segment:** A segment of a project on which right of way activities are sufficiently complete to allow construction to commence on that segment. Construction cannot interfere with the rights of property owners or tenants whose properties have not been acquired or who have not been relocated.

#### 10.1.1 Certification for Construction

**10.1.1.1** The Department must own and/or control all rights of way needed for construction of its projects. The Director Department of Public Works (DDPW) or designee must certify right of way is available for construction for all construction projects prior to advertisement for bids. **Form No. 10.1-1, Right of Way Certification**, shall be used to certify projects for construction when:

- (A) Title to all property and easements needed to construct the project, as designed, have vested in the Department as follows:
  - (1) The Department has obtained all private property and property rights needed for the project by conveyance, court order, or construction and maintenance easement;
  - (2) Property or property rights owned by the Territory of Guam agencies have been transferred to the Department or alternatively the Department has obtained a permit, lease, license, or other form of consent to construct its project;
  - (3) Property or property rights owned by Federal agencies have vested in the Territory of Guam

pursuant to a conveyance or transfer.

- (B) All persons and businesses who were required to move or move personal property, if any, have been relocated from the project right of way in accordance with ***Right of Way Manual, Section 7.1, Relocation Assistance Program and Section 7.2 General Relocation Requirements***;
- (C) All structures and/or improvements, if any, have been removed from the project right of way in accordance with ***Right of Way Manual, Section 8.2, Right of Way Clearing***, or alternatively will be removed as part of the construction contract. This includes structures and/or improvements encroaching on existing right of way incorporated into the project; and
- (D) Asbestos abatement of buildings and/or structures to be removed by the construction contractor, if any, has been completed in accordance with ***Right of Way Manual, Section 8.7, Asbestos Management***, or alternatively, will be included in the construction contract.

**10.1.1.2** Prior to certification, the Department must conduct a diligent review to fulfill the requirements of ***Section 10.1.1.1*** have been met for right of way acquired for, and existing right of way incorporated into, the project being certified. Review shall include but is not limited to:

- (A) Review of right of way maps and construction plans to confirm necessary right of way is available for construction;
- (B) Field review of the project to confirm there are no remaining structures, encroachments or relocation issues;
- (C) Review of parcel and project files to confirm all necessary right, title and interests in the right of way have been obtained, relocation is complete, and asbestos abatement and demolition are complete or detailed in the construction contract; and
- (D) Review of any additional information available;

#### **10.1.2 Certification Exceptions**

**10.1.2.1** The DDPW may approve exceptions to the requirements of ***Section 10.1.1.1*** on a case by case basis. When requesting an exception the Department of Public Works Right of Way Supervisor (DPWRS) shall provide the DDPW a detailed explanation of the circumstances requiring the exception on ***Form Number 10.1-2, Right of Way Certification with exception(s)***. The DDPW or designee shall coordinate with FHWA as necessary and shall provide the DPWRS a response within **ten business days** after receiving the request

**Note:** Exceptions needed solely to meet certification or production schedules, where project letting is not in jeopardy, are not allowed.

**10.1.2.2** In unusual circumstances and in order to preserve the project letting date, the DDPW may authorize exceptions that extend beyond the letting date. Exceptions involving Federally funded construction projects also require approval by FHWA. Exceptions extending beyond the project letting must be cleared or removed prior to commencement of construction on the affected portion of the project

**10.1.2.3** The DDPW shall notify the FHWA Manager, Federal Aid Management Office, when a certification exception is requested.

### **10.1.3 Certifications**

**10.1.3.1** Projects require an initial certification stating the status of the project right of way as of the advertisement date. For projects to be constructed entirely within existing right of way and/or right of way acquired for the project prior to letting, the certification shall be a certification for construction that complies with the requirements of **Section 10.1.1.1**. For projects requiring acquisition of right of way after letting, the certification shall contain a statement that all additional rights of way to be acquired for the project shall be acquired in compliance with **Section 10.1.2** and applicable Guam and Federal law.

**10.1.3.2** Construction projects may commence before the project is fully certified for construction. However, construction must be restricted to buildable segments of the project as determined by the Department, FHWA on Federally funded projects and in some cases the contractor. Prior to construction, buildable segments must meet the conditions for right of way certification in **Section 10.1.1.1**. For each identified buildable segment, construction may commence when the DDPW has provided the contractor's project manager a "Right of Way Clear Letter" stating that right of way activities are complete and right of way is available for construction.

### **10.1.4 Certification Delivery**

The Department shall include the Right of Way Certification for Construction in the project plans, specifications and estimates (PS&E) package. The Department shall also provide the DDPW a copy of the certification at or before the time the PS&E package is delivered to the Office of Procurement.

## **HISTORY**

Original Issue Date: 2009



The Honorable  
**Felix P. Camacho**  
Governor

The Honorable  
**Michael W. Cruz, M.D.**  
Lieutenant Governor



**public works**  
DIPATTAMENTON CHE'CHO' PUPBLEKO  
Lawrence P. Perez  
Director  
Andrew Leon Guerrero  
Deputy Director

Territory of Guam Department of Public Works  
**ROW CERTIFICATION FOR CONSTRUCTION**

**Project Name:** \_\_\_\_\_  
**Project No.:** \_\_\_\_\_  
**Location:** \_\_\_\_\_  
**Letting Date:** \_\_\_\_\_

The undersigned hereby certifies as Follows:

Title to all property and easements needed for the above construction project is vested in the Territory of Guam. The Territory of Guam has obtained sufficient authority to occupy, use, construct, and maintain the proposed improvements on property and easements owned by the Territory of Guam. Further:

**Acquisition**

- Right of way was not required for this project.
- Right of way was acquired for this project in compliance with the applicable Territorial and Federal law.

**Relocation**

- No persons or businesses were required to move or move personal property from the project right of way.
- All persons and businesses that were required to move or move personal property from the project right of way have been provided relocation assistance in conformance with applicable Territorial and Federal law.

**Demolition**

- No structures or improvements, including encroachments, required removal from the project right of way.
- All structures and/or improvements, including encroachments, have been removed from the project right of way in compliance with applicable Territorial and Federal law or will be included in the construction contract.

**Asbestos Abatement**

- No structures or improvements requiring asbestos abatement were located on the project right of way.
- Asbestos abatement of buildings and/or structures, including those to be removed by the construction contractor has been completed in compliance with Territorial and Federal law, or will be included in the construction contract.

Certified by: \_\_\_\_\_  
Title: Director, Department of Public Works

Date: \_\_\_\_\_



The Honorable  
**Felix P. Camacho**  
Governor

The Honorable  
**Michael W. Cruz, M.D.**  
Lieutenant Governor



**public works**  
DIPATTAMENTON CHE'CHO' PUPBLEKO  
Lawrence P. Perez  
Director  
Andrew Leon Guerrero  
Deputy Director

Territory of Guam Department of Public Works  
**ROW CERTIFICATION FOR CONSTRUCTION**  
With Exceptions

**Project Name:** \_\_\_\_\_  
**Project No.:** \_\_\_\_\_  
**Location:** \_\_\_\_\_  
**Letting Date:** \_\_\_\_\_

The undersigned hereby certifies as Follows:

Title to all property and easements needed for the above construction project is vested in the Territory of Guam. The Territory of Guam has obtained sufficient authority to occupy, use, construct, and maintain the proposed improvements on property and easements owned by the Territory of Guam. Further:

**Acquisition**

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**Asbestos Abatement**

- o No structures or improvements requiring asbestos abatement were located on the project right of way.
- o Asbestos abatement of buildings and/or structures, including those to be removed by the construction contractor has been completed in compliance with Territorial and Federal law, or will be included in the construction contract.

Exception(s) to the above statements and time frame(s) for the exceptions to be cleared or removed are described as follows:

DRAFT

Certified by: \_\_\_\_\_ Date: \_\_\_\_\_  
Title: Director of Public Works