

§ 635.305 Physical construction.

For purposes of this subpart the physical construction of a project is considered to consist of the actual construction of the highway itself with its appurtenant facilities. It includes any removal, adjustment or demolition of buildings or major obstructions, and utility or railroad work that is a part of the contract for the physical construction.

§ 635.307 Coordination.

(a) The right-of-way clearance, utility, and railroad work are to be so coordinated with the physical construction that no unnecessary delay or cost for the physical construction will occur.

(b) All right-of-way clearance, utility, and railroad work performed separately from the contract for the physical construction of the project are to be accomplished in accordance with provisions of the following:

- (1) 23 CFR part 140, subpart I;
- (2) 23 CFR part 646, subpart B;
- (3) 23 CFR 710.403; and
- (4) 23 CFR part 645, subpart A.

[40 FR 17251, Apr. 18, 1975, as amended at 40 FR 25585, June 17, 1975; 64 FR 71289, Dec. 21, 1999]

§ 635.309 Authorization.

Authorization to advertise the physical construction for bids or to proceed with force account construction thereof shall normally be issued as soon as, but not until, all of the following conditions have been met:

(a) The plans, specifications, and estimates (PS&E) therefor have been approved.

(b) A statement is received from the State, either separately or combined with the information required by § 635.309(c), that either all right-of-way clearance, utility, and railroad work has been completed or that all necessary arrangements have been made for it to be undertaken and completed as required for proper coordination with the physical construction schedules. Where it is determined that the completion of such work in advance of the highway construction is not feasible or practical due to economy, special operational problems and the like,

there shall be appropriate notification provided in the bid proposals identifying the right-of-way clearance, utility, and railroad work which is to be underway concurrently with the highway construction.

(c) A statement is received from the State certifying that all individuals and families have been relocated to decent, safe and sanitary housing or the State has made available to relocatees adequate replacement housing in accordance with the provisions of the current Federal Highway Administration (FHWA) directive(s) covering the administration of the Highway Relocation Assistance Program and that one of the following has application:

(1) All necessary rights-of-way, including control of access rights when pertinent, have been acquired including legal and physical possession. Trial or appeal of cases may be pending in court but legal possession has been obtained. There may be some improvements remaining on the right-of-way but all occupants have vacated the lands and improvements and the State has physical possession and the right to remove, salvage, or demolish these improvements and enter on all land.

(2) Although all necessary rights-of-way have not been fully acquired, the right to occupy and to use all rights-of-way required for the proper execution of the project has been acquired. Trial or appeal of some parcels may be pending in court and on other parcels full legal possession has not been obtained but right of entry has been obtained, the occupants of all lands and improvements have vacated and the State has physical possession and right to remove, salvage, or demolish these improvements.

(3) The acquisition or right of occupancy and use of a few remaining parcels is not complete, but all occupants of the residences on such parcels have had replacement housing made available to them in accordance with 49 CFR 24.204. The State may request authorization on this basis only in very unusual circumstances. This exception must never become the rule. Under these circumstances, advertisement for bids or force-account work may be authorized if FHWA finds that it will be in the public interest. The physical