



Flexibilities in Right-of-Way

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Every Day Counts Initiative

- EDC is designed to identify and deploy innovation. Our goals is to:
 - Shorten project delivery
 - Enhance the safety of our roadways
 - Protect the environment



WHAT ARE THE TECHNOLOGIES?

- Warm Mix Asphalt (WMA)
- Precast Bridge Elements (PBE)
- Geosynthetic Reinforced Soil (GRS)
- Safety Edge
- Adaptive Traffic Control Technology (ATCT)





Shortening Project Delivery

- Enhanced Technical Assistance on Ongoing EIS's
- Flexibilities in Utility Relocation
- **Flexibilities in ROW**
- Design Build



Key Elements to Shorten ROW Delivery Time

- Early ROW Involvement
- Integrated Team Approach:
 - Planning, Environment, Design, ROW
- Strong ROW Program Leadership
- Mainstream ROW Flexibilities into your program



Innovation Tools

- Incentive Payments for Acquisition and Relocation
- Conflict of Interest (Appraiser/Negotiator)
- Waiver Valuation
- Conditional Right-of-Way Certification
- Functional Replacement



Acquisition and Relocation Incentive Payments

Description

- The regulations at 23 CFR 710.203(b)(2)(ii) allows Federal participation in relocation assistance and payments provided under the law of the State that may exceed the requirements of 49 CFR Part 24.
- FHWA Policy Guidance issued April 26, 2006, allows the use of incentives to assist in right-of-way acquisition and relocation.
- An incentive payment could be considered as a “cost of construction,” when such payments are used on critical projects.

Benefits

- Savings in project construction costs
- Reduce time to acquire and clear right-of-way

Anticipated Outcomes

- Increase the number of incentive payments used nationally
- Consistency in program application
- Improve and accelerate project delivery process.



Example –Relocation Incentive (Woodrow Wilson Bridge)

Description

- Incentives were offered to tenants in addition to the *full relocation payment*. *Incentive payments were based on moving within an expedited time frame.*

Benefits of this Process

- Reduce time required to acquire and clear right-of-way 403 units acquired in 8 months versus a projected 18 months
- Savings in project construction costs
- \$1.6 Million in incentive payments saved \$6 million in construction project costs



Conflict of Interest (Appraiser -Negotiator)

Description

- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, allows the same person who appraised, conducted the appraisal review, or made an waiver valuation determination to also negotiate the acquisition of the property in situations where the value of the property is estimated to be \$10,000 or less. Refer to 49 CFR 24.102(n).

Benefits

- -Project efficiency: limited staff and remote locations
- -Property owners deal with one person, rather than multiple POCs

Anticipated Outcomes

- -Efficient use of its appraisal and acquisition staffs
- -Reduce project costs



Waiver Valuation

Description

- The waiver valuation is an efficiency provided for both in law and in regulation under 49CFR 24.102(c)(2).
- \$10,000 threshold allows simple, non complex valuations to be performed by qualified personnel.
- \$25,000 threshold requires FHWA Division Approval and owner option for appraisal

Benefits

- -Maximize efficient use of appraisal staff
- -May use a qualified negotiator to make a value determination
- -Cost and time savings

Anticipated Outcomes

- -Efficient use of its appraisal and acquisition staffs
- -Reduce project costs/Shorten project delivery time



Conditional Right-of-Way Certification

Description

- A “conditional” right-of-way certification or “Cert 3” is provided for in 23 CFR 635.309(c)(3). This type of certification is used when there are still some properties on the project which have not been acquired and the agency does not have the right of occupancy and use for some of those properties; and/or, when there are some displaced persons still on the project.

Benefits

- -Standardizing coordination and compliance procedures
- -Improve program consistency
- -Clearly specifying roles and responsibilities of staff involved

Anticipated Outcomes

- -Increase consistency of stewardship agreements
- -Better decision-making
- -Improve and shorten project delivery process



Functional Replacement

Description

- Functional replacement is an option for the acquiring agency, with FHWA permission, to functionally replace a property that is both publicly owned and publicly used (such as a fire department or police station) in lieu of providing compensation. Refer to 23 CFR 710.509.

Benefit

- With early planning, expedites the time required to get a project to construction
- Replaces public facilities with no down time for important public safety services.

Anticipated Outcomes

- Increase number of functional replacement approaches/opportunities
- More consistency in program application
- Accelerate project delivery



WHY YOU ARE ESSENTIAL TO EDC SUCCESS

- Only together can we truly shorten project delivery and accelerate the deployment of innovative technologies!

