

# Annual Local Agency ROW Meeting

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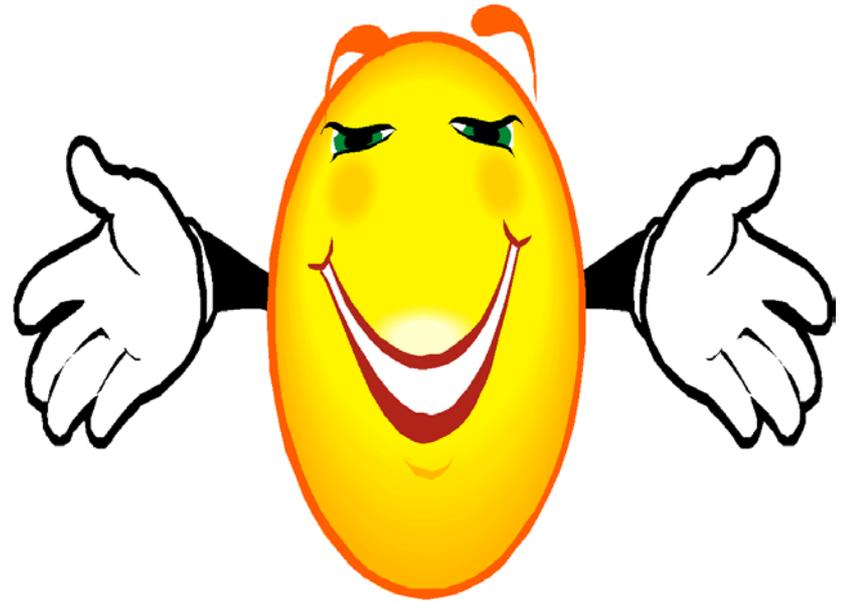
**Dawn Fletcher**  
HQ Local Agency Coordinator – Olympic &  
Southwest Regions

 U.S. Department of Transportation  
Federal Highway Administration

Presented Statewide to Local Agencies & Consultants

# Welcome/Safety

- Presenters
- Safety
- Review Agenda
- Introductions
  - Name, Agency & Role in ROW



# Annual Meeting Objectives

- Program Updates
- Upcoming Policy Changes
- Discuss Issues
- Feedback



# 1:Local Agency Program Updates

- FHWA Update
- ROW Process Evaluation
- LAC Positions
- ROW Training Plan
- eLearning
- ROW Webpage(s)
- LAG Manual Revisions



# FHWA: Final Rule for 23 CFR 710 (and 635 and 810)

- Notice of Proposed Rule Making
- Comment Period
- Current Status



# FHWA: Notice of Proposed Rulemaking for 49 CFR 24

- Section 1521 of MAP-21 also changed the maximum statutory benefit for replacement housing payments and business reestablishment payments
- New payment levels took effect October 1, 2014



# ROW Process Evaluation

- Team Members
- Purpose
- Results



# LAC Positions

- **Current**
  - 6 Positions
  - Unfunded
  - Individual Regions
- **Future**
  - 3 Positions
  - Funded
  - Shared Regions



# ROW Training Plan

## Consistent

- ✓ Statewide Meetings & Trainings
- ✓ Geographically Located

## Predictable

- ✓ Recurring Schedule

## Repeatable

- ✓ Provide Annually
- ✓ eLearning



# 2016 & Recurring Schedule

Month	Annual Recurrence	Date for 2016	Description	General Location
January	2 <sup>nd</sup> Wednesday	1/13/2016	Olympic Region Local Agency Meeting	Olympia Area
February	1 <sup>st</sup> Tuesday	2/2/2016	Northwest Region Local Agency Meeting (South)	Seattle Area
	1 <sup>st</sup> Wednesday	2/3/2016	Northwest Region Local Agency Meeting (North)	Mount Vernon Area
	Last Wednesday	2/24/2016	Southwest Region Local Agency Meeting	Vancouver Area
March	2 <sup>nd</sup> Tuesday	3/8/2016	Eastern Region Local Agency Meeting	Spokane Area
May	3 <sup>rd</sup> Tuesday	5/17/2016	South Central Region Local Agency Meeting	Yakima Area
	3 <sup>rd</sup> Wednesday	5/18/2016	North Central Region Local Agency Meeting	Wenatchee Area
July	3 <sup>rd</sup> Wednesday	7/20/2016	ROW Curriculum Course (East Side)	Moses Lake Area
August	3 <sup>rd</sup> Wednesday	8/17/2016	ROW Curriculum Course (West Side)	Olympia Area





# eLearning

- Administrative Settlement Training
- Sufficient Property Rights (Flow Chart) Training



# ROW Webpage(s)

Two Locations:

1. [LPA/ROW Resources](#) (Old)

- Real Estate Services Website
- Single Page
- Redirected to Local Programs

<http://www.wsdot.wa.gov/RealEstate/LPAROW.htm>

2. [Right of Way Services](#) (New)

- Local Programs Website
- Multiple Pages
- Consistent with other Services

<http://www.wsdot.wa.gov/LocalPrograms/ROWServices/default.htm>

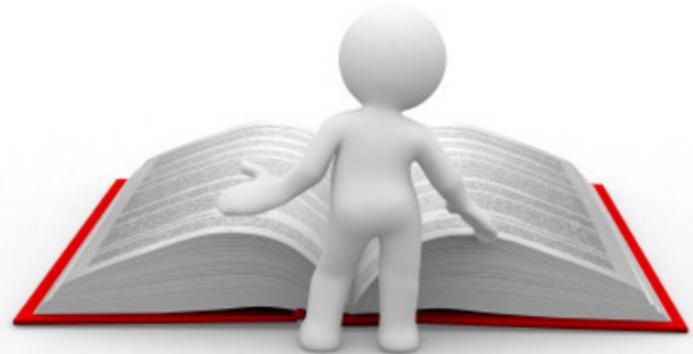


# LAG Manual Revisions

November 2014/April 2015

## Chapter 25:

- Early Notification-new form LPA-002
- Relocation Appeal Procedure-49 CFR 24.10 & .203(5)
- Sufficient Property Rights-Flowcharts
- Statutory Evaluation Allowance-RCW 8.25.020
- ROW Plan Requirements-Delayed from November 2014
- Advance/Early Acquisition



## 2: Upcoming Policy Updates

- Certification vs. URA Compliance Letter
- Eminent Domain Use
- Standardized Consultant Contracts (ROW)
- Time Based ROW Certificate #3
- Preliminary ROW in PE Phase



# ROW Certification vs. URA Compliance Letter

## ROW Certificate

23 CFR 635.309(b) & (c)

Authorizes Construction

- If Federal-aid in CN Phase
- If Federal-aid in RW Phase



## URA Compliance Letter

49 CFR Part 24 (24.101(b))

Ensures ROW Conforms w/URA

- If Federal-aid in PE Phase-ONLY
- If Federal Nexus (NEPA)
- If Project Involves Interstate



# Eminent Domain Use

- Local/State Funded ROW
- Advance/Early Acquisition

(Reminder: No Eminent Domain= No SEA)



# Standardized Consultant Contracts

Professional Services (Appraisal)

A & E Services



LAG Chapter 31



# Time-Based ROW Certificate 3

Every Day Counts

Approval Authority @  Washington State  
Department of Transportation

Cannot Open Bids

Requires ROW Certificate 1 or 2

**FHWA will not participate in any cost increases due to any bid opening delays.**



# Allowable Preliminary ROW Expenses in the PE Phase (Proposed)

Title/Review<sup>1, 3</sup>

ROW Planning/Scoping<sup>1, 3</sup>

ROW Plan Preparation<sup>1, 3</sup>

ROW Design Development<sup>1, 3</sup>

Public Meetings/Hearings<sup>1, 3</sup>

PFE/True Cost Estimate<sup>1, 3</sup>

Appraisal/AOS<sup>1, 2, 3</sup>

Right of Entry (testing)<sup>1, 3</sup>

Relocation Planning<sup>1, 3</sup>

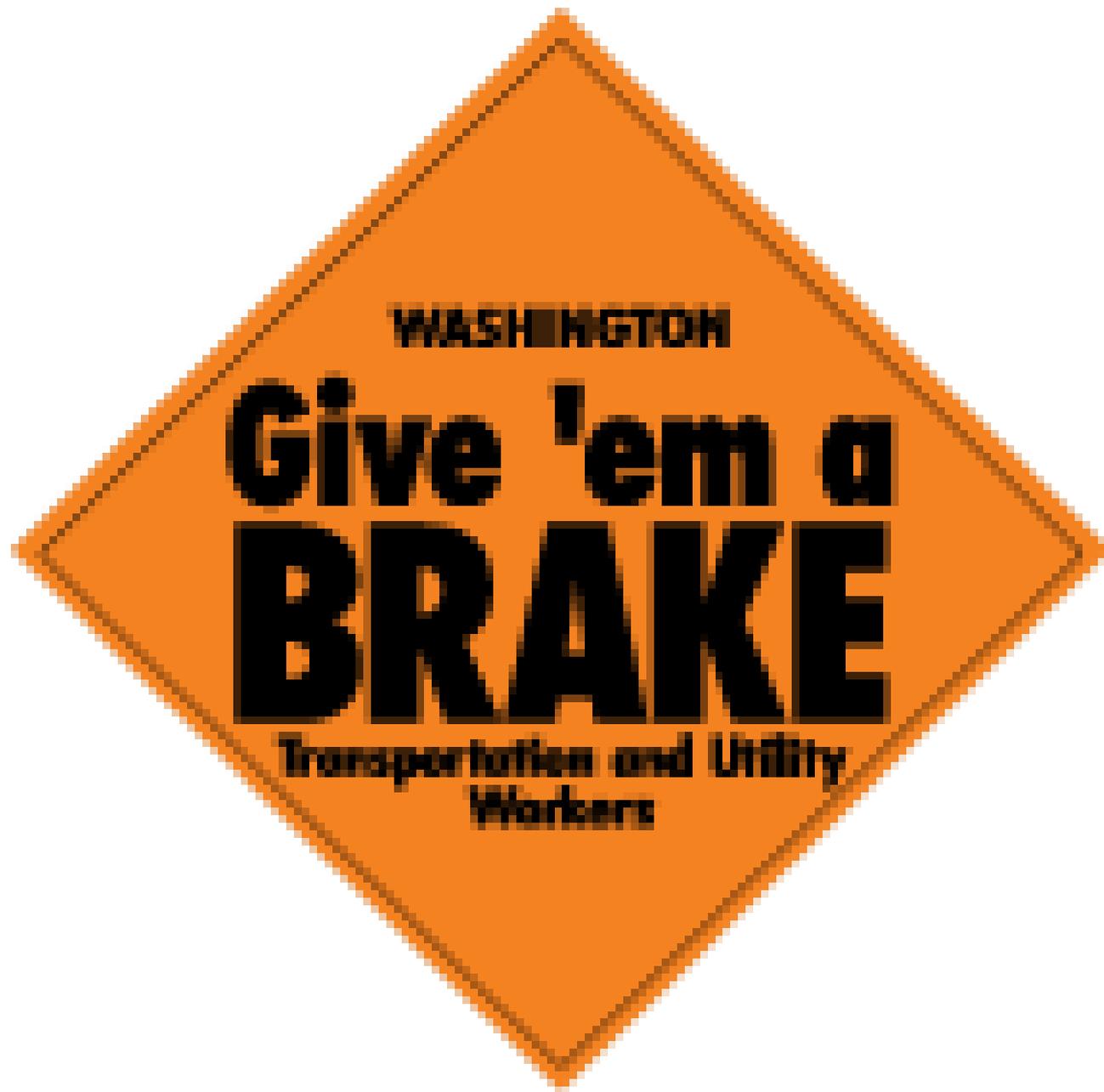
WSDOT Technical Assistance<sup>1, 3</sup>

<sup>1</sup>Agency cannot start activities that could be considered negotiations with property owner pre-NEPA for the project, unless they are acquiring under 23 CFR 710.501 (Agency funded early acquisition).

<sup>2</sup>Appraisal/AOS completion may be authorized as preliminary ROW activity prior to completion of NEPA.

<sup>3</sup>Once the ROW Phase has been authorized/obligated, ROW activities are not considered “preliminary” and no longer eligible for PE funding.





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Transportation and Utility  
Workers

# 3: ROW Oversight & Qualifications



- ROW Procedures Functions
- FHWA Program Review
- ROW Certification



# ROW Procedures Functions

- Protocol for Guidance
- Roles, Responsibilities & Expectations of the ROW Functions
- Staff/Consultant Oversight
- Issues
- Benefits



[Title 23 CFR 710.201\(a\)](#) & LAG 25.2

# ROW Procedures Functions

## Roles, Responsibilities & Expectations

### (1) Program Administration

- ❖ Qualified (Education & Experience)
- ❖ Follow/Share Approved ROW Procedures
- ❖ Consultant/Staff Oversight
- ❖ Approval of AOS & Establishment of JC
- ❖ Review & Approve Agent Recommendations & Payments
- ❖ Review & Approve Administrative Settlements
- ❖ Review & Approve Deliverables (Files, PFEs, AOS's, DVs)
- ❖ Seek/Receive Guidance from LAC/LP
- ❖ Ensure Separation of Functions (Avoid Conflict of Interest)



# ROW Procedures Functions

## Roles, Responsibilities & Expectations

### (2) Appraisal

- ❖ Qualified (WSDOT Approved List)
- ❖ Prepare PFE, AOS & Appraisals (to ROW Plan)
- ❖ Obtain Specialist Reports
- ❖ Identifies Tenants, Personalty & Realty
- ❖ Owner Inspection Offer

### (3) Appraisal Review

- ❖ Qualified (WSDOT Approved List)
- ❖ Review Appraisals for Consistency & Conformity
- ❖ Determination of Uneconomic Remainder



# ROW Procedures Functions

## Roles, Responsibilities & Expectations

### (4) Acquisition

- ❖ Qualified (Education & Experience)
- ❖ Review/Recommend Title Clearance/Acceptance
- ❖ Prepare Administrative Settlement Justification(s)
- ❖ Prepare/Maintain Comprehensive File/Diary
- ❖ Ensures Instruments Consistent with ROW Plans and Valuation (size & type)
- ❖ Avoids Conflict of Interest (AOS/Relo)
- ❖ Provides Disclaimer



# ROW Procedures Functions

## Roles, Responsibilities & Expectations

### (5) Relocation



- ❖ Qualified (Education & Experience)
- ❖ Prepare Relocation Plan & Obtain Agency Approval
- ❖ Prepare & Deliver Required Notices
- ❖ Understand Appeal Procedure & Include in Notice
- ❖ Prepare Calculations for Agency Approval
- ❖ Provide Advisory Services
- ❖ Prepare/Maintain Comprehensive File/Diary
- ❖ Ensure Occupants/Personal Property Vacate ROW
- ❖ Ensures Item is Personalty & No Duplication of Payment

# ROW Procedures Functions

## Roles, Responsibilities & Expectations

### (6) Property Management

- ❖ Qualified (Education & Experience)
- ❖ Ensures Removal of Acquired Improvements
- ❖ Clears Encroachments from ROW
- ❖ Maintain Property Records
- ❖ Account for Use of Proceeds from Sale/Lease of Property Acquired w/Fed \$



# FHWA PROGRAM REVIEW

## “ROW Needed”:

- *Acquisition*
- *Real Property*
- *Right-of-Way*

Defined by 23 CFR 710.105(a)

## “No ROW Needed”:

- Within Existing ROW
- “Beneficial” Work Not Required For Project

Per 49 CFR 24.101(c)(2)

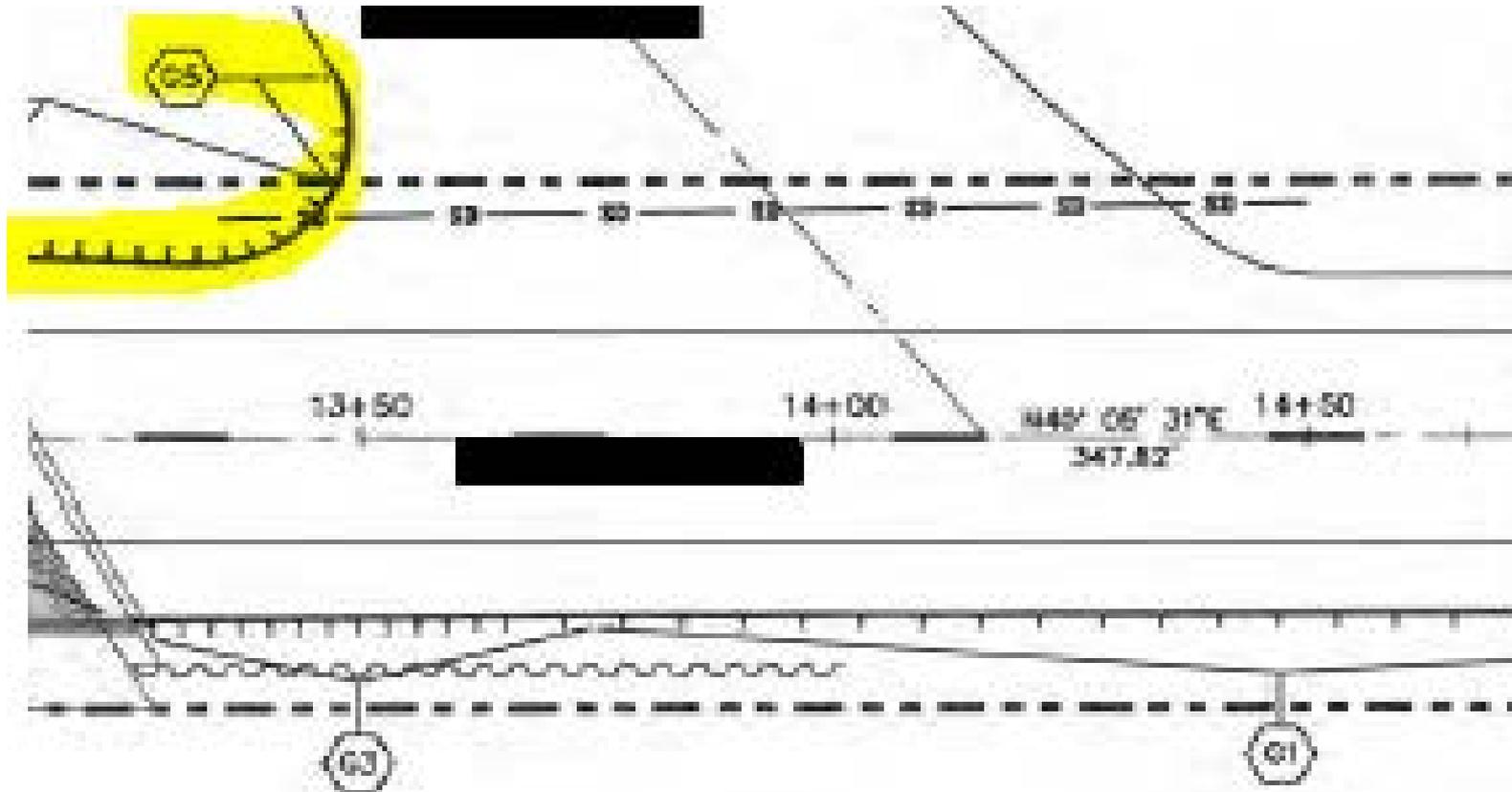


\*Review Case Studies

## Options:

- Review ALL PS&Es
- No ROW Certificate
- Other Ideas?

# ROW Needed?





# ROW CERTIFICATION

- ✓ Includes ALL Work Beyond Existing ROW Limits
- ✓ Sufficient Rights to Construct, Operate AND Maintain Proposed Project (Flow Chart)
- ✓ Timing of Certification
- ✓ Preparing the Certification

23 CFR 710.309(b)&(c); ROW Chapter 17;  
LAG Chapter 25





# ROW CERTIFICATION

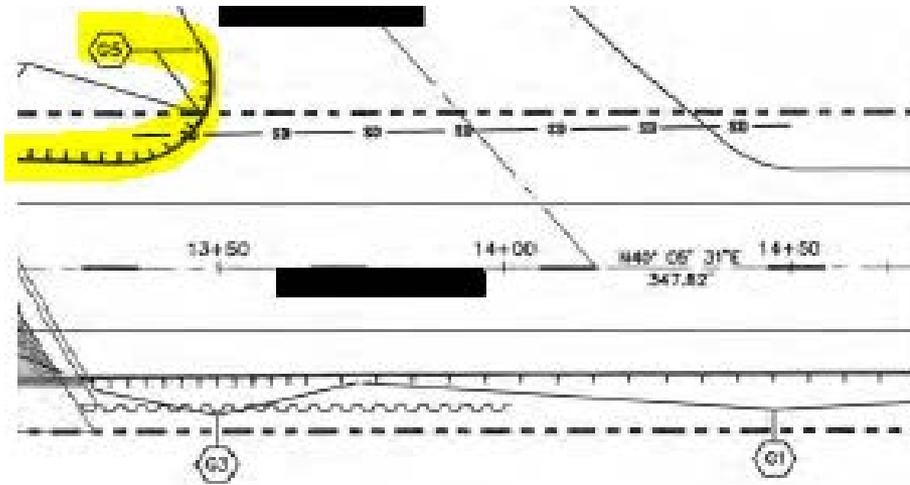
- ✓ Certify to the PS&E
- ✓ Includes ALL Work Beyond Existing ROW Limits
  - Includes Temporary Construction Activities



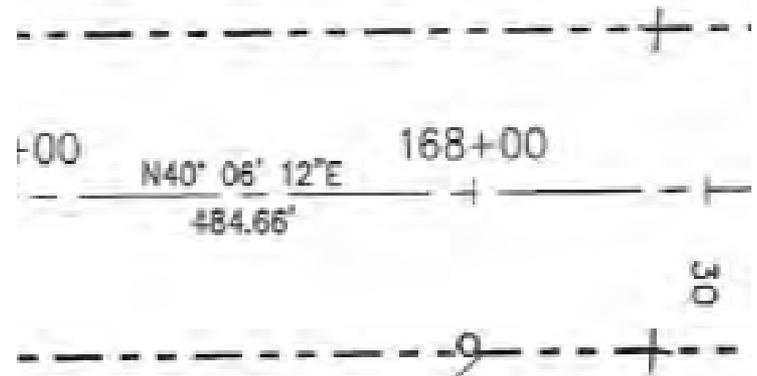


# ROW CERTIFICATION

PS&E



ROW Plan





# ROW CERTIFICATION

- ✓ Sufficient Rights to Construct, Operate AND Maintain Proposed Project
  - Flow Charts
  - LAG 25





# ROW CERTIFICATION

## ✓ Timing of Certification

- Cert 1 or 2: 6 weeks prior to ad
- Cert 3: 2 weeks prior to ad





# ROW CERTIFICATION

## ✓ Preparing the Certification

- Cert 3 Justification
- Forms & Worksheets
- Chapter 17 ROW Manual

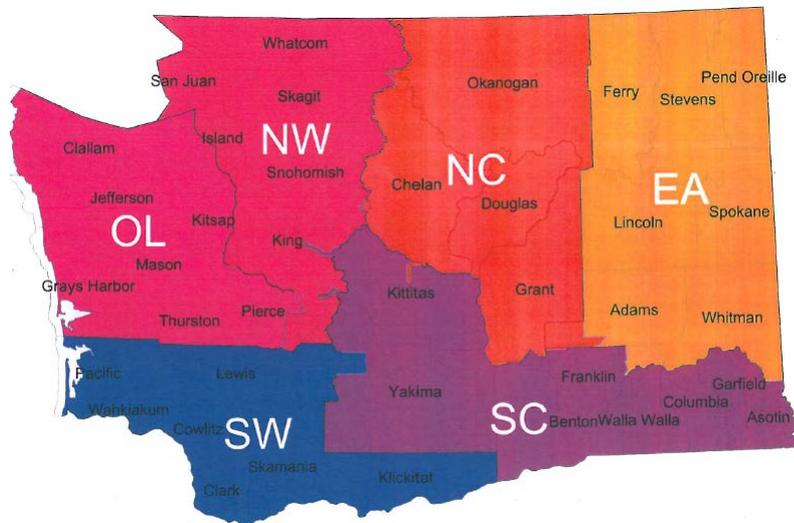








# 4: Words From Your Region Local Agency Coordinator



# 5: Open Discussion



# Additional Resources

- WSDOT Local Programs Website

<http://www.wsdot.wa.gov/localprograms/>

- WSDOT Local Programs ROW Services Website

<http://www.wsdot.wa.gov/LocalPrograms/ROWServices/default.htm>

- LAG Manual – Chapter 25

- ROW Manual



# South Central Region Resources

- South Central Region Real Estate Services Office  
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