

Local Agency Certification Compliance Results & Level of Involvement

Published October 17, 2013



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Compliance Results & Level of Involvement

The conditions addressed in this document describe actions taken by local agencies or their consultants which do not comply with the statutory, regulatory, or procedural requirements of the FHWA and WSDOT. In some cases, these noncompliance actions may be corrected, and the corrective actions are provided. Some noncompliance actions may not be correctable, in which case WSDOT will consult with FHWA to make a project-specific determination on how to proceed. The Local Agency Coordinator (LAC) needs to consider all aspects of the project acquisition process while determining whether or not they feel a project can be certified. Depending upon the issues found during the review, the LAC may wish to consult the Local Agency Program Manager (LAPM) to confirm the appropriateness of the proposed corrective action.

When it is determined the agency did not follow procedures on a project, the LAC will include a statement in the close-out letter putting the agency on notice that future occurrences could jeopardize funding for future projects. If it is determined that the agency did not follow regulatory requirements, funding for both the current project and future projects may be jeopardized.

Issues @ WSDOT LAC level = Certificate

Issues @ WSDOT LAPM level = Certificate type to be determined

Issues elevated to FHWA/WSDOT level = Qualified Certificate or Not Eligible for Certification

Compliance Results & Level of Involvement

					Authorization to Approve Corrective Action		
Item	Requirement	Law/Regulation And/or Procedure	Condition	Corrective Action, as appropriate	WSDOT	Level	FHWA & WSDOT
Appraisal/Acquisition							
A1	Good faith effort by the appraiser to provide opportunity for the property owner to accompany appraiser. Examples of a failure to make a good faith effort include: merely leaving a card at door, leaving just a phone message, or sending a letter stating appraiser would be there only on a specific date and time to inspect the property.	49CFR 24.102(c)(1) RCW 8.26.180(2) Appendix 4-1-Part 1(A)(5) Chapter 3-4.1.A.2	(A) Good faith effort was not made and the written offer has not yet been made to the property owner.	The agency shall: <ul style="list-style-type: none"> Contact the property owner as soon as possible and arrange for the appraiser to go back out and meet with the property owner and perform the inspection. If the appraisal has already been done, it could be revised or updated, if appropriate, based on the results of the inspection with the property owner. 	X	LAC	
			(B) Good faith effort was not made and the appraisal has been reviewed and approved, the offer made to the property owner and the owner has not been paid for acquisition.	The agency shall: <ul style="list-style-type: none"> Provide the property owner with a written notice of the opportunity to accept or decline an opportunity to have the offer withdrawn or suspended and have the appraisal process restarted or accept the offer as originally presented; or Withdraw or suspend the offer and restart the appraisal process 	X	LAC	

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			(C) Good faith effort was not made and the appraisal has been reviewed and approved, the offer made to the property owner and the owner has been paid for acquisition.	A project specific decision will be required			X
A2	Appraisal waiver – use of the Administrative Offer Summary (AOS)	49CFR 24.102(c)(2) RCW 8.26.180(2) WAC 468-100-102(1) Chapter 4-3.3 LAG 25.5.52	(A) Property owner is not told of their rights to an appraisal when an AOS is used, the value is higher than \$10,000, and the offer has been made.	The agency shall: <ul style="list-style-type: none"> • Inform the property owner in writing that they have a right to an appraisal • If the property owner elects not to have an appraisal made then no further action is required other than documentation • If the property owner elects to have an appraisal made, provide a revised offer based on the approved appraisal 	X	LAPM	
			(B) Property owner is not told of their rights to an appraisal when an AOS is used, the value is higher than \$10,000, and payment to the owner has been made.	A project specific decision will be required			X

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A3	Approve Just Compensation (JC) prior to making offer JC can be no less than the approved appraisal of fair market value/AOS	49CFR 24.102(d) RCW 8.26.180(3) Chapter 3-3.B Chapter 3-4.1.B.1 Chapter 3-4.1.C.1 Chapter 3-4.1.C.4 Chapter 6-1.2.B LAG 25.7	(A) No evidence that JC was approved prior to the offer being made, but payment has not been made.	The agency shall: <ul style="list-style-type: none"> Document approval of just compensation based on AOS or approved appraisal If the offer was less than approved JC, a new offer will be made based on approved JC No further action is required if the offer and the approved JC are the same NOTE: If the offer is greater than an AOS or approved appraisal, LAC shall inform LAPM	X	LAC	
			(B) JC was not established or approved by the agency. Payment has been made.	A project specific decision is required			X
			(C) The amount listed in the offer letter and paid to the owner is less than what the Agency actually set as JC.	The agency shall: <ul style="list-style-type: none"> Pay the owner any additional funds owing based on the approved JC 	X	LAC	
			(D) The amount listed in the offer letter and paid to the owner is more than what the Agency actually set as JC.	The agency shall: <ul style="list-style-type: none"> Provide a written justification of an administrative settlement for the additional funds paid above the approved JC. If additional amount is 	X	LAC	

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				not justifiable, contact LAPM.			
A4	Provide property owner written offer	49CFR 24.102(d) RCW 8.26.180(3) Chapter 3-3.C Chapter 3-4.1.C.5 Chapter 6-1.2.C	(A) Property owner not provided with a written offer to purchase and has been required to vacate the property or condemnation proceedings filed.	A project specific decision will be required			X
A5	Provide property owner with summary statement – include in written offer	49CFR 24.102(e) RCW 8.26.180(3) Chapter 6-1.2.C LAG 25.91	(A) Property owner was provided with a written offer to purchase but it did not summarize the basis for the offer before payment. (B) Property owner was provided with a written offer to purchase but it did not summarize the basis for the offer and payment has been made.	The agency shall: <ul style="list-style-type: none"> • Provide a revised offer letter that explains the basis of the offer 	X	LAC	
				A project specific decision will be required			X

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A6	Provide property owner reasonable opportunity to consider offer ¹	49CFR 24.102(f) Chapter 6-10.1.P	(A) Condemnation is filed less than 30 days from initial offer and owner has refused reasonable offers.	The agency shall: <ul style="list-style-type: none"> Make sure there is sufficient documentation that the owner has refused all reasonable offers which leads to agency decision to condemn 	X	LAC	
			(B) Condemnation is filed less than 30 days from initial offer even though the agency is still negotiating with owner and a reasonable possibility for settlement still exists.	A project specific decision will be required			X
A7	Administrative Settlements	49 CFR 24.102(i) Chapter 6-12	(A) Insufficient documentation to justify administrative	The agency shall: <ul style="list-style-type: none"> Provide adequate documentation 	X	LAC	

¹ **NOTE:** The time frame between when the written offer is made and the condemnation is filed (initiated by the acquiring agency) should not be less than 30 days, and it can be longer if circumstances warrant. Generally thirty (30) days is not an adequate amount of time to allow a property owner to consider the offer. "Good faith negotiations" and "a reasonable amount of time to consider the offer" mean that you afford the property owner an amount of time that any reasonable person should be able to expect in order to consider all of the details of the offer, the impacts of the acquisition on the remainder property, and also time to prepare a counter offer.

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		LAG 25.11	settlement.	that supports the administrative settlement			
			(B) Insufficient justification for the administrative settlement.	A project specific decision will be required			X
A8	Offer to purchase uneconomic remnant from property owner	49CFR 24.102(k) RCW 8.26.180(9) RCW 47.12.160 Chapter 3-4.1.A.5 Chapter 3-4.1.C.6 Chapter 5-5.2 Chapter 6-1.2.F Chapter 6-11.1 LAG 25.6 & 25.61	(A) Appraisal and/or review did not consider whether or not a remnant is uneconomic - offer not made.	The agency shall: <ul style="list-style-type: none"> Determine remnant status and ensure offer reflects decision 	X	LAC	
			(B) Appraisal and/or review did not consider whether or not a remnant is uneconomic - offer made and no settlement.	The agency shall: <ul style="list-style-type: none"> Determine remnant status. If remnant is determined uneconomic revise offer accordingly 	X	LAC	
			(C) Appraisal and/or review did not consider whether or not a remnant is uneconomic - offer made and settled.	A project specific decision will be required			X
			(D) Appraisal and/or review indicate the remnant is uneconomic but the agency does not include the remnant in the offer to purchase and acquisition is not complete.	The agency shall: <ul style="list-style-type: none"> Contact the property owner and make a written offer to purchase the uneconomic remnant 	X	LAC	
			(E) Appraisal and/or review indicate the remnant is	A project specific decision will be required			X

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			uneconomic but the agency does not include the remnant in the offer to purchase and acquisition complete.				
A9	Payment for owner's eligible incidental expenses (closing costs, etc.)	49CFR 24.102(f) 49CFR 24.106 Chapter 6-17.1.2	(A) Agency did not pay all eligible incidental expenses when they purchased the property.	The agency shall: <ul style="list-style-type: none"> Reimburse owner for eligible incidental expenses incurred during the sale of their home and provide documentation 	X	LAC	
A10	Offer to acquire buildings, structures, other improvements	49CFR 24.102(e)(3) 8.26.190 LAG 25.6	(A) Agency failed to include improvements in appraisal – offer not made.	The agency shall: <ul style="list-style-type: none"> Revise the appraisal Establish and approve JC 	X	LAC	
			(B) Agency failed to include improvements in appraisal - offer made and acquisition is not complete.	The agency shall: <ul style="list-style-type: none"> Withdraw offer Revise the appraisal Establish and approve JC Issue new offer 	X	LAC	
			(C) Agency failed to include improvements in appraisal – offer made and acquisition is complete.	A project specific decision will be required			X
			(D) Agency did not include improvements in offer	The agency shall: <ul style="list-style-type: none"> Withdraw offer 	X	LAC	

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			acquisition not complete.	<ul style="list-style-type: none"> Establish and approve JC with improvements Issue new offer 			
			(E) Agency did not include improvements in offer – acquisition is complete.	A project specific decision will be required			X
A11	Property owner cannot be coerced into signing	49CFR 24.102(h) RCW 8.26.180(7) Chapter 3-4.1.C.3 Chapter 6-1.2.E LAG 25.9	(A) Concern that the Agency may have used coercion during negotiations.	A project specific decision will be required			X
A12	An appraiser, review appraiser, or waiver valuation preparer making an appraisal, appraisal review or waiver valuation may be authorized by the Agency to act as a negotiator for real property for which that person has made an appraisal, appraisal review or waiver valuation only if the offer to acquire the property is \$10,000,	49CFR 24.102(n)(3) WAC 468-100-102(5) Chapter 6-1.2.L LAG 25.9	(A) The agency’s Approved Procedures do not authorize any person to both appraise and negotiate up to \$10,000 and the agency allowed the same person to appraise and negotiate and the acquisition is not complete.	The agency shall: <ul style="list-style-type: none"> Use another person authorized under Approved Procedures to review and confirm value (note: if only 1 person under Approved Procedures is authorized to review then contact LAPM) If agency intends to use this process in the future then they must designate authorized person and add to Approved Procedures 	X	LAC	

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	or less		(B) The agency's Approved Procedures do not authorize any person to both appraise and negotiate up to \$10,000 and the agency allowed the same person to appraise and negotiate and the acquisition is complete.	A project specific decision will be required			X
			(C) The agency allowed the same person to both appraise and negotiate over \$10,000.	A project specific decision will be required			X
A13	Offer Statutory Evaluation Allowance (SEA)	23CFR710.201(b) RCW 8.25.020 Chapter 6-17.1.1 LAG 25.9	(A) The Agency did not offer SEA and the property owner incurred and documents expenses.	The agency shall: <ul style="list-style-type: none"> • Reimburse up to the maximum allowable amount by law 	X	LAC	
			(B) The Agency did not offer SEA and the property owner incurred but cannot document expenses.	A project specific decision will be required	X	LAPM	
			(C) The Agency did not offer SEA and the property owner did not seek third party assistance as they did not know the SEA was available to them.	A project specific decision will be required	X	LAPM	

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A14	Negotiate in good faith with the property owner	49CFR24.102(f) and Appendix A	(A) Agency did not adequately consider the property owner’s concerns/issues	The agency shall: <ul style="list-style-type: none"> • Document it’s consideration of the property owner’s concerns/issues and shared the information with the property owner. Documentation must be in the file describing the agency’s considerations. Then the property owner must be informed of the decision either: <ul style="list-style-type: none"> ○ By mail; address concerns via letter ○ By personal contact; document contact in the diary 	X	LAC	
			(B) Agency did not adequately document its consideration of the property owner’s concerns/issues and the acquisition is complete.	A project specific decision will be required			X
			(C) The Agency initiated condemnation without any additional contact after offer was presented.	A project specific decision will be required			X

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Relocation Assistance							
R1	Provide required relocation notices to displaced persons	49CFR 24.203 WAC 468-100-203 Chapter 12-5.4	(A) Displacees were not provided the required notices and have not yet vacated	The agency shall: <ul style="list-style-type: none"> • Provide appropriate notices • Assure displaced persons eligibility for payments and assistance has been adequately explained 	X	LAC	
			(B) Displacees were not provided the required notices and have not yet vacated but have entered into an agreement for replacement location	The agency shall: <ul style="list-style-type: none"> • Provide appropriate notices • Assure displaced persons eligibility for payments and assistance has been adequately explained • Compensate for any nonrefundable commitments made by displaced person • Agency will be responsible for making sure all refundable commitments are returned to displaced persons 	X	LAPM	
			(C) Displacees were not provided the required notices and have vacated	A project specific decision will be required			X
R2	Give displaced persons 90-day written assurance	49CFR 24.203(c) WAC 468-100-203(3) Chapter 12-2.2.A.3	(A) The agency did not provide a written 90 day assurance and did not provide notice to vacate	Procedural violation - WSDOT procedures state the displaced person will receive a written assurance at least 90 days prior to	X	LAC	

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		Chapter 12-5.4.5	to the displaced person and the displaced person vacated on their own	the earliest date displacee must vacate the property. The agency shall: <ul style="list-style-type: none"> Comply w/WSDOT procedures and issue an assurance letter to every displaced person for all future displacements 			
			(B) The agency did not provide a 90 day assurance to the displaced person but they issued a notice to vacate	A project specific decision will be required			X
R3	Offer advisory services	49CFR 24.205 WAC 468-100-205 RCW 8.26.065 Chapter 12-5	(A) The agency did not provide adequate advisory services and the displacee is still in occupancy	The agency shall: <ul style="list-style-type: none"> Identify and provide the appropriate advisory services Document the file 	X	LAC	
			(B) The agency did not provide adequate advisory services and the displacee has relocated	A project specific decision will be required			X
R4	Offer and reimburse displaced persons all eligible moving expenses	49CFR 24.202 WAC 468-100-202 RCW 8.26.035 Chapter 12-2.2.B Chapter 12-5.1.2.A.2	(A) Did not determine and offer all eligible moving expenses and the displaced person has not moved	The agency shall: <ul style="list-style-type: none"> Offer all eligible moving expenses Provide a copy of the brochure or other appropriate written explanation outlining eligible move 	X	LAPM	

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		Chapter 12-6.5 Chapter 12-7.2		costs <ul style="list-style-type: none"> Discuss all eligible moving expenses with displaced person 			
			(B) Did not determine and offer all eligible moving expenses and the displaced person has moved	A project specific decision will be required			X
		49 CFR 24.207(b) WAC 468-100-207(2) RCW 8.26-085(1)(b)	(C) Did not reimburse all eligible moving expenses and the displaced person has moved	A project specific decision will be required			X
R5	Explain move options to non-residential displaced persons (actual direct loss, fixed payment, substitute personal property, etc.)	49 CFR 24 Subpart D WAC 468-100-301 through 305 RCW 8.26.035	(A) The agency did not adequately explain move options and the displaced person has not relocated.	The agency shall: <ul style="list-style-type: none"> Explain all available move options in writing and verbally Document file accordingly 	X	LAC	
			(B) The agency did not adequately explain move options and the displaced person has relocated.	A project specific decision will be required			X
R6	Provide inventories, and monitor non-residential moves as required	49CFR 24.301(i)(1) WAC 468-100-301(9) Chapter 12-7.2.1 and Chapter 12-7.2.1.B.5	(A) The agency did not obtain or create an inventory of personal property to be moved, and the displacee has not yet moved.	The agency shall: <ul style="list-style-type: none"> Create an inventory and get verification from property owner 	X	LAC	

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		49CFR 24.301(i)(2) WAC 468-100-301(9)(b) Chapter 12-7.2.1.B.5	(B) The agency did not obtain or create an inventory of personal property to be moved, and the displacee has moved with a commercial mover.	The Agency shall: <ul style="list-style-type: none"> Obtain a copy of the commercial mover's inventory and put it in the file. Analyze and verify commercial mover's inventory matches items moved 	X	LAC	
			(C) The agency did not obtain or create an inventory of personal property to be moved, and the and completed a self-move	A project specific decision will be required			X
			(D) The agency did not monitor the move and there was an inventory	The agency shall: <ul style="list-style-type: none"> Confirm that property was moved from the displacement location to a replacement location Document file 	X	LAC	
			(E) The agency did not monitor the move and there was no inventory	A project specific decision will be required			X
R7	Offer comparable replacement housing	49CFR 24.204 WAC 468-100-204 RCW 8.26.075(2) Chapter 12-3.2.E	(A) The agency did not offer comparable replacement housing to displaced person and they have not relocated	Agency shall: <ul style="list-style-type: none"> Provide comparable replacement housing to the displacee Document the file 	X	LAC	
			(B) The agency did not offer	Agency shall:	X	LAPM	

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			comparable replacement housing to displaced person, they have not relocated and have made a nonrefundable commitment	<ul style="list-style-type: none"> • Provide comparable replacement housing to the displacee • Document the file • Compensate for any nonrefundable commitments made by displaced person 			
			(C) The agency did not offer comparable replacement housing to displaced person and they have relocated	A project specific decision will be required			X
R8	Offer tenant displaced persons the choice of the down payment assistance option	49 CFR 24.402(c) WAC 468-100-402(3) RCW 8.26.055(2) Chapter 12-6.1.B.2 & 3 Chapter 12-6.3.3.2 Chapter 12-6.6.1.B.	(A) Agency did not offer down payment assistance option to a displaced residential tenant and they have not relocated and they have not put down a deposit for a rental/lease.	The agency shall: <ul style="list-style-type: none"> • First determine if the displaced person wanted to use this option. • If so the displaced person does have available rent supplement entitlement, calculate down payment assistance and present a revised Notice of Entitlement letter to displaced person. 	X	LAC	
			(B) Agency did not offer down payment assistance option to a displaced residential tenant and they have not relocated but they have put down a deposit	The agency shall: <ul style="list-style-type: none"> • First determine if the displaced person wanted to use this option. • If so, agency has to assist displacee in getting deposit back or Agency 	X	LAC/LAPM	

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			for a rental/lease	has to refund the deposit to the displaced person with their own funds (ineligible for federal funds) <ul style="list-style-type: none"> Agency calculates down payment assistance as if the displacee has not expended funds yet, and presents a revised Notice of Entitlement letter to displaced person 			
			(C) Agency did not offer down payment assistance option to a displaced residential tenant and they have relocated	A project specific decision will be required			X
R9	Provide last resort housing options when comparable replacement housing is not available within the monetary limits for owners or tenants	49 CFR 24.404 WAC 468-100-404 Chapter 12-6.4.1.B	(A) Agency did not provide justification in the Housing Comparison Worksheet write up to support housing of last resort.	The agency shall provide: <ul style="list-style-type: none"> Adequate supporting documentation as to why they provided additional or alternative assistance under the provisions of last resort housing. 	X	LAC	
			(B) Agency did not provide last resort housing when RHP exceeds regulatory cap (super payment) or alternative option and they have not moved yet	The agency shall: <ul style="list-style-type: none"> Determine an appropriate last resort housing option Offer option to displaced person Document file 	X	LAC	

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			(C) Agency did not provide last resort housing when RHP exceeds regulatory cap (super payment) or alternative option and they have moved	A project specific decision will be required			X
R10	Compute eligible RHPs	49 CFR 24.401(b) & (c) 49 CFR 24.402(b)&(c) WAC 468-100-401(2) & (B) WAC 468-100-402(2)&(3) RCW 8.26.045 RCW 8.26.055(2) Chapter 12-6.3.1.1.B Chapter 12-6.3.3.B.1 Chapter 12-6.1.B.2&3 Chapter 12-6.3.3.2 Chapter 12-6.6.1.B.2.C	(A) The agency did not properly compute correct initial RHP entitlement and displaced person has not obtained replacement housing	The agency shall: <ul style="list-style-type: none"> • Evaluate what RHP payments were eligible • Re-compute proper RHP • Offer RHP to displaced person • Document file 	X	LAPM	
			(B) The agency did not properly compute correct initial RHP entitlement and displaced person has obtained replacement housing	A project specific decision will be required			X
R11	Pay eligible RHPs	49 CFR 24.401 49 CFR 24.402 WAC 468-100-401 WAC 468-100-402	(A) The agency did not reimburse displaced person for eligible RHP	A project specific decision will be required	X	LAPM	

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		Chapter 12-6					
R12	Pay mortgage interest differential (MIDP)	49 CFR 24.401(d) WAC 468-100-401(4) Chapter 12-6.3.1.1.D	(A) Displacee was eligible, but the agency did not pay an MIDP at the time of closing.	The agency shall: <ul style="list-style-type: none"> • Obtain necessary documentation from displaced person in order to calculate an MIDP • Compute the MIDP • Make payment and provide proof of payment in file 	X	LAC	
R13	Pay closing costs on replacement dwelling	49 CFR 24.401(e) WAC 468-100-401(5) Chapter 12-6.3.1.1.C	(A) The agency did not reimburse the property owner for eligible closing costs on the replacement dwelling.	The agency shall: <ul style="list-style-type: none"> • Obtain certified copy of the closing statement in order to confirm eligible closing costs that need to be reimbursed. • Make payment and provide proof of payment. • Document file 	X	LAC	
R14	Perform inspection of comparable replacement dwelling	49 CFR 24.403(b) 49CFR 24.2(a)(6)(i) 49CFR 24.2(a)(8) WAC 468-100-403(2)	(A) The agency did not inspect the comparable to determine whether or not it was decent, safe, and sanitary (DSS)	The agency shall: <ul style="list-style-type: none"> • Inspect the comparable replacement dwelling • Document file that comparable is 	X	LAC	

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		WAC 468-100-002(6) and (8) Chapter 12-5.1.4.A.10 & 16	(B) The agency was not permitted to inspect the comparable to determine whether or not it was decent, safe, and sanitary (DSS)	DSS A project specific decision will be required			X
R15	Perform DSS inspection of replacement dwelling	49 CFR 24.403(b) WAC 468-100-403(2) Chapter 12-6.2	(A) Agency did not inspect replacement dwelling	The agency shall: <ul style="list-style-type: none"> Perform Replacement Housing Inspection and provide proof of inspection in file. 	X	LAC	
			(B) Agency inspected replacement dwelling after making payment and inspection resulted in a finding of DSS	The agency shall: <ul style="list-style-type: none"> Agency shall document the file. 	X	LAC	
			(C) Agency inspected replacement dwelling after making payment and inspection resulted in a finding of non-DSS	A project specific decision will be required			X
R16	Document "actual, reasonable" costs	49 CFR 24.9(a) 49 CFR 24.207(a)	(A) Agency does not have copies of payment vouchers in the files	The agency shall: <ul style="list-style-type: none"> Provide proof of payment based on 	X	LAC	

Compliance Results & Level of Involvement

					Authorization to Approve Corrective Action		
Item	Requirement	Law/Regulation And/or Procedure	Condition	Corrective Action, as appropriate	WSDOT	Level	FHWA & WSDOT
		WAC 468-100-009(1) WAC 468-100-207(1)	at the time of the certification review	paid receipts or invoices and put in file			
			(B) Agency does not have payment vouchers or other document to support moving payments	A project specific decision will be required			X
Property Management							
P1	Charge fair market rent on a lease-back for property acquired with federal funds	23 CFR 710.403(d) Chapter 11	(A) The Administrative Settlement includes a short-term ² lease-back at less than FMV and the file does not contain justification (public interest finding).	Justification for rent at less than FMV needs to be added to the file. (Training will be provided on what adequate justification is)	X	LAC	
			(B) The Administrative Settlement includes a long-term ³ lease-back at less than FMV	Justification for rent at less than FMV needs to be prepared and sent to FHWA for approval.			X
			(C) Short-term lease-back was at less than FMV and was not part of an Administrative	Justification for rent at less than FMV needs to be prepared and sent to FHWA for approval.			X

² Short-term can generally be considered to be about 3 months. Consult with the LAPM if LAC has any questions

³ Long-term can generally be considered to be greater than 3 months.

Compliance Results & Level of Involvement

					Authorization to Approve Corrective Action		
Item	Requirement	Law/Regulation And/or Procedure	Condition	Corrective Action, as appropriate	WSDOT	Level	FHWA & WSDOT
			Settlement				
			(D) The agency overcharged for rent.	The agency shall: <ul style="list-style-type: none"> • Refund the excess rent and provide proof of payment in the file 	X	LAC	
P2	Account for use of proceeds from sale and lease for property acquired with federal funds on other eligible Title 23 activities	23 CFR 710.403(e) LAG 25.14 Chapter 11	(A) The agency did not track or account for funds.	A project specific decision will be required			X
P3	Leases contain provision to insure the safety and integrity of the facility	23 CFR 710.407(a) LAG 25.14 Chapter 11	(A) Lease does not include provisions on lease revocation (termination clause for no cause), removal of improvements at no cost to FHWA, insurance to hold WSDOT and FHWA harmless, access by WSDOT and FHWA for inspection, maintenance and reconstruction of the facility	If lease has termination clause, lease will be terminated and a new lease is executed with the required clauses	X	LAPM	
				If lease does not allow for termination at no cause or if the remainder of the term of the lease is longer than 3 months, then no corrective action for the lease is possible. FHWA may request repayment of funds spent on the acquisition of the property.			X
				The agency shall: <ul style="list-style-type: none"> • Get an after the fact approval from FHWA through WSDOT; or • Payback the federal funds used for the conversion and restore facility 			X

Compliance Results & Level of Involvement

					Authorization to Approve Corrective Action		
Item	Requirement	Law/Regulation And/or Procedure	Condition	Corrective Action, as appropriate	WSDOT	Level	FHWA & WSDOT
			WSDOT approval	to original condition with their own funds.			
		23 CFR 710.407(c)	(C) Proposed uses allowed by the lease do not follow current design standards and safety criteria for the highway type (interstate, NHS, non-NHS streets)	The agency shall: <ul style="list-style-type: none"> Restore facility to original condition with their own funds, or Modify facility using current design standards⁴ 	X	LAPM	
P4	Dispose or lease ROW along the Interstate with FHWA approval	23 CFR 710.401 Chapter 11 LAG 25.14	(A) The agency leases/disposes of interstate property without notifying and/or completing turn back to WSDOT (relinquishment).	The agency shall: <ul style="list-style-type: none"> Get an after the fact approval from FHWA through WSDOT; or Reacquire the property without federal participation and incorporate back into the project⁵ 			X
P5	Dispose of property	23 CFR 710.409 Chapter 11 LAG 25.14	(A) Agency disposes of property acquired with federal funds without getting WSDOT pre-approval	The agency shall: <ul style="list-style-type: none"> Get an after the fact approval from WSDOT; or Reacquire the property without federal participation and incorporate back into the project⁵ 	X	LAPM	

⁴ LAC may need to have Region LPE review use for consistency with appropriate design standards

⁵ Property would need to be reacquired if it was determined to be necessary for safety, maintenance or operation needs.

Compliance Results & Level of Involvement

					Authorization to Approve Corrective Action		
Item	Requirement	Law/Regulation And/or Procedure	Condition	Corrective Action, as appropriate	WSDOT	Level	FHWA & WSDOT
P6	Keep ROW free of unapproved uses (encroachments)	23 CFR 710.403(a) and 23 CFR 1.23(b) Chapter 11 LAG 25.14	(A) The agency has known encroachments that have been left uncleared.	The agency shall: <ul style="list-style-type: none"> • Clear encroachment (e.g. removal of encroachment or curing of encroachment through a lease) • Provide documentation 	X	LAC⁶	
P7	Obtain approval from FHWA for change in access control along the Interstate	23 CFR 710.401 Chapter 11	(A) Did not obtain approval to change access control	The agency shall: <ul style="list-style-type: none"> • Get an after the fact approval from FHWA through WSDOT; or • Take action to restore access control to original location using their own funds 			X

⁶ If LPA is resisting clearing the encroachment, LAC should immediately elevate to LAPM

Compliance Results & Level of Involvement

					Authorization to Approve Corrective Action		
Item	Requirement	Law/Regulation And/or Procedure	Condition	Corrective Action, as appropriate	WSDOT	Level	FHWA & WSDOT
P8	Evaluate the environmental effects of disposal and leasing actions	23 CFR 710.403(c) Chapter 11	(A) Did not evaluate the environmental effects of the disposal or leasing action.	A project specific decision will be required - If interstate property, an after the fact NEPA document must be prepared that also shows compliance with ESA and National Historic Preservation Act (Section 106). If the NEPA document identifies impacts requiring mitigation, further discussion is needed to determine if a solution is possible.			X
				A project specific decision will be required - Non-interstate property, environmental documentation must meet state requirements. If the environmental documentation identifies impacts requiring mitigation, further discussion is needed to determine if a solution is possible.	X	LAPM	
General ROW Program							
G1	Follow approved procedures	23 CFR 710.201(h) and Procedural – LAG 25.1	(A) The agency did not follow approved procedures (excluding regulatory requirements) and the review results show that property owners were not materially impacted by the procedural non-compliance	Identify which procedures were not followed and determine if the property owner was harmed. Take actions required to correct procedural deficiencies (presuming compliance with all regulatory requirements) If this is a first offense and there were no procedural deficiencies, a written warning will be issued.	X	LAPM	

Compliance Results & Level of Involvement

					Authorization to Approve Corrective Action		
Item	Requirement	Law/Regulation And/or Procedure	Condition	Corrective Action, as appropriate	WSDOT	Level	FHWA & WSDOT
				If this is not a first offense, sanctions may be applied (e.g. require remedial training, changing Approved Procedures limiting allowable LPA staff activities, loss of federal funding, etc.)			X
			(B) The agency did not follow approved procedures (excluding regulatory requirements) and the review results show that property owners were materially impacted by the procedural non-compliance	A project specific decision will be required - FHWA and LAPM will determine what remedial actions are possible. <ul style="list-style-type: none"> • Remedial action must be completed in order for the project to be certified. • If remedial actions are not possible, the project cannot be certified. 			X
G2	Adequate documentation in project files	49 CFR 24.9 WAC 468-100-009 LAG 25.16	(A) The agency does not have adequate documentation and support for decisions made and actions taken as required by the regulations (e.g. payments, diaries, etc.), and the action is not complete	The agency shall: <ul style="list-style-type: none"> • Provide adequate documentation 	X	LAC	
			(B) The agency does not have adequate documentation and support for decisions made and actions taken as required by the regulations (e.g. payments,	A project specific decision will be required			X

Compliance Results & Level of Involvement

					Authorization to Approve Corrective Action		
Item	Requirement	Law/Regulation And/or Procedure	Condition	Corrective Action, as appropriate	WSDOT	Level	FHWA & WSDOT
			diaries, etc.), and the action is complete				
G3	Underpayment / Overpayment Issues This could cause a reimbursement issue with FHWA.	23 CFR 1.36	(A) The agency underpays	A project specific decision will be required			X
		23 CFR 1.9(a) and 1.36	(B) The agency overpays	A project specific decision will be required			X