

# Local Agency/Consultant Meeting

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**Dawn Fletcher**  
HQ Local Agency & Consultant  
Reviewer

**Region**  
Local Agency Coordinator

**Elizabeth Healy**  
FHWA, Real Estate  
Program Manager

**Steve Palmen**  
HQ ROW Plans

Presented to Eastern Region Local Agencies

# Welcome

- WSDOT/FHWA Presenters
- Safety
- Review Agenda
- Introductions
  - Name, agency & role in ROW



# Local Agency Program & Policy Updates

- FHWA Local Agency Program Review
- State of the Local Agency Program & Compliance & Level of Involvement Tool
- Administrative Offer Summary (AOS) Policy Change
- Approved Procedures
- “J” Agreements
- LAG Manual Updates
- Local Agency Real Estate Services Webpage



# FHWA Local Agency Program Review

- Review done in 2011
- Why was this review done
- Review Conclusion
- Program Changes resulting from review



# State of the Program

## Compliance & Levels of Involvement

- State of the Local Agency Program
  - More emphasis on Oversight & Accountability
  - Statistics on number of local agency projects certified
  - Number of approved Certificate #3
- Program Goals
  - As few as possible - the # of Oversight Reports
  - Increase training opportunities
  - Provide more tools and resources
- Compliance & Level of Involvement Tool

<http://www.wsdot.wa.gov/publications/fulltext/design/RealEstate/ComplianceResults.pdf>



# Administrative Offer Summary (AOS) Policy Change

## Administrative Offer Summary (AOS) Policy Change

- Effective March 2013
- Mirrors the federal guidelines
- Do not have to offer the property owner the opportunity of an appraisal if the AOS is less than \$10,000
- Must update procedures to be eligible to use new policy

Link to the WSDOT guidance document:

[http://www.wsdot.wa.gov/NR/rdonlyres/DCD5E897-DC16-4C6A-B911-2637734AA37D/0/AOS\\_Waiver.pdf](http://www.wsdot.wa.gov/NR/rdonlyres/DCD5E897-DC16-4C6A-B911-2637734AA37D/0/AOS_Waiver.pdf)

LAG Manual Chapter 25.5(.52)



# Approved Procedures

- Purpose
- Responsibilities
- Contents (LPA-001):
  1. Compliance Agreement
  2. Staff/Qualifications
  3. Appraisal Waiver Procedure (LPA-003)
  4. Administrative Settlement Procedure
  5. Relocation Appeal Procedure (49 CFR 24.10)
- Approval Process

LAG Manual Chapter 25.2



Not following approved procedures will delay or jeopardize ROW Certification for your project!

# “J” Agreements

- WSDOT (Oversight) Services
- Early Involvement
  - \*Prior to Local Agency Agreement
  - \*Required by Approved Procedures
- Reimbursable
  - \*DOT Form 224-102 EF -  
*Project Review Reimbursable Agreement*





# LAG Manual Updates

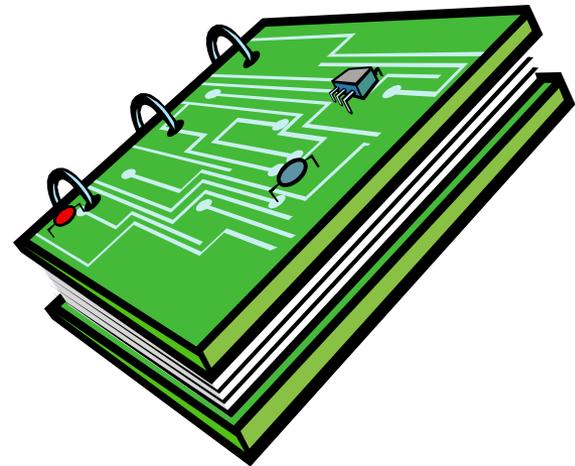
April 2014

## Chapter 25:

- Clarification
- Addition of New Section
- Ties to ROW Sections in Other Chapters
- Reorganization of Subsections/Appendices
- LPA Forms

## Chapters 13, 14, 21 & 22:

- Consistency





# LPA / ROW Resources Webpage

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





# ROW Certification

Items that may affect ROW  
Certification

# ROW Certification Process Review

- Why do this review now
- Two review objectives:
- Cert 3 usage
- No ROW
  - All work can be done with existing ROW
  - If you are working on another agency's land, your project needs ROW
  - April LAG Update goes into details (see handout)
    - \*LAG Manual Chapter 25.2(.21-revised) & (.24-new)





# Sufficient Property Rights

## Pop Quiz

- When my agency signs a ROW Certificate for a project, it is certifying (pick the best answer):
  - A. We have all the rights we need to construct the project.
  - B. We have all the rights we need from private property owners to construct, operate and maintain the project.
  - C. We have all the rights we need to construct, operate, and maintain the project.

# Sufficient Property Rights

- 23 CFR 710.201(e) The real property interest acquired for all Federal-aid projects funded pursuant to title 23 USC shall be adequate for the construction, **operation, and maintenance** of the resulting facility and for the protection of both the facility and the traveling public



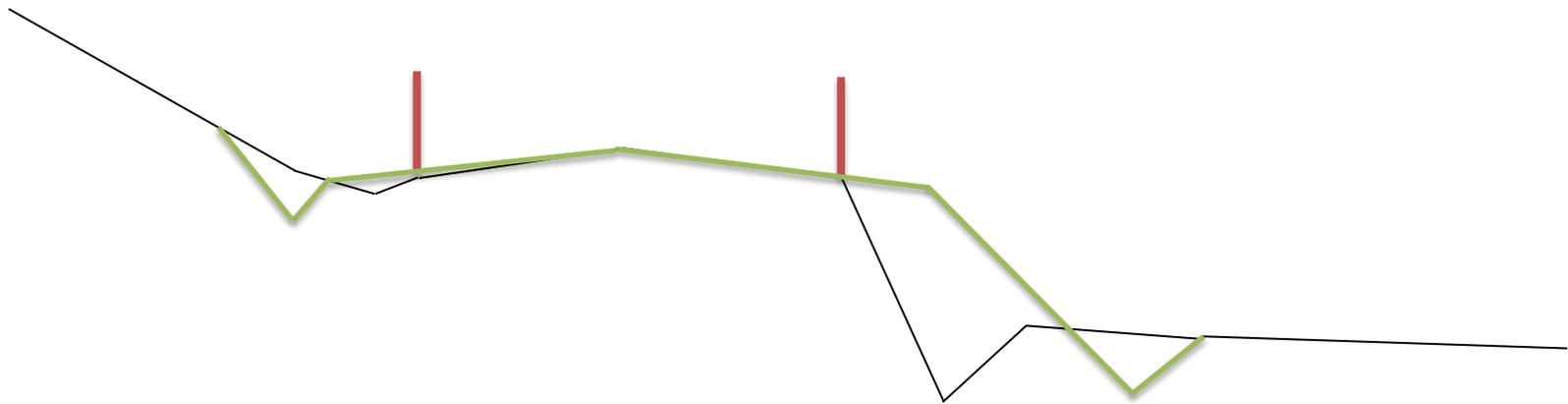
# Sufficient Property Rights Fee, Easement, or Permit?

- Other Agency's property
  - WSDOT
  - USFS
  - DNR/State Parks
- Slopes
- Driveways



# Slope Case Study

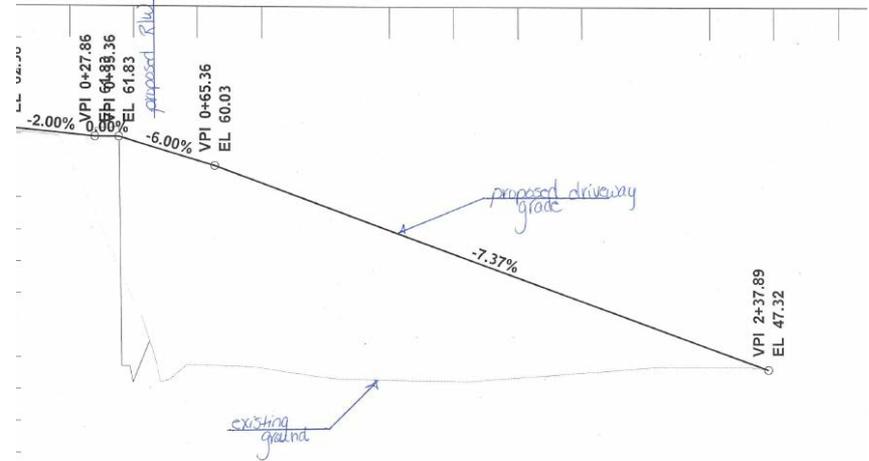
- Where should the new ROW lines be?



- Existing Ground
- Existing ROW limits
- Proposed Improvements

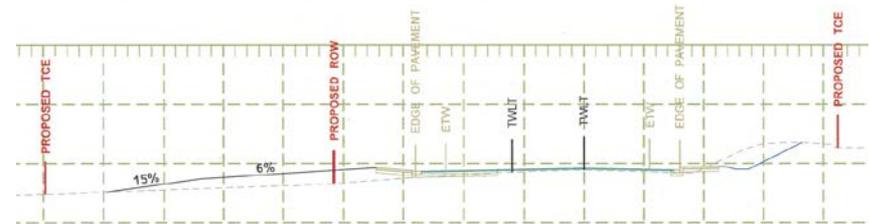
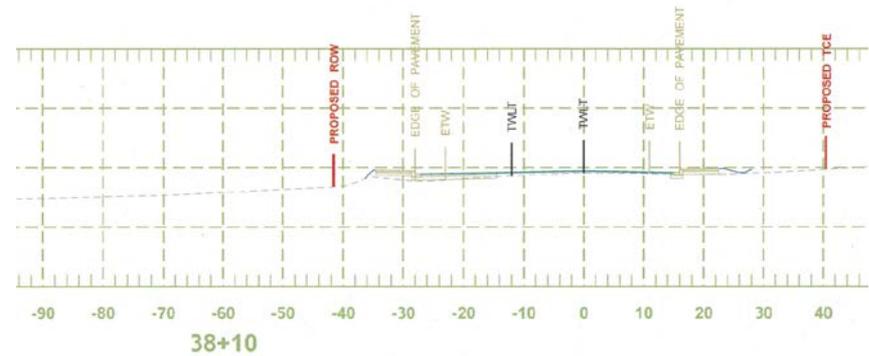
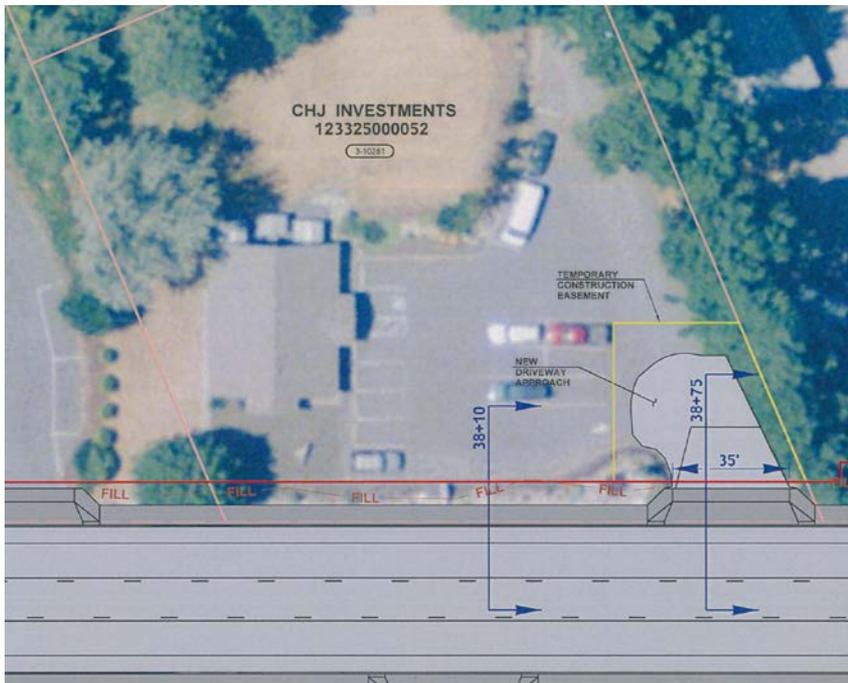
# Driveway Case Study 1

## TCE or permit?



# Driveway Case Study 2

## TCE or permit?





# Early Acquisition

- Sometimes called Advanced Acquisition
- Pre MAP-21
- MAP-21 Additions (codified in 23 USC 108)
- Early Acquisition cannot bias your NEPA decision, regardless of the procedure used
  - Appendix N



# Early Acquisition

## Pre MAP-21 (before 10/1/12)

- Agency Funded (at risk) acquisition with match
  - 23 CFR 710.501
  - Cannot buy 4(f) protected property
- Agency Funded (at risk) acquisition without match
  - 23 CFR 771.113(d)(4)



# Early Acquisition

## Pre MAP-21 (before 10/1/12) (con't)



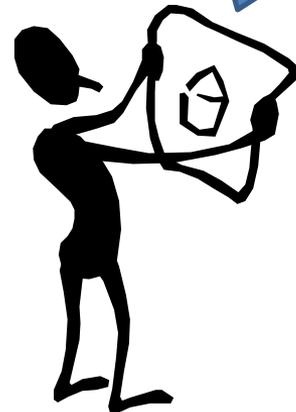
- Hardship Acquisitions

– 23 CFR 710.503(a),  
(c) And (d)



- Protective Buying

– 23 CFR 710.503(a), (b)  
and (d)





# Early Acquisition MAP-21 Additions

- Regulations have not been updated yet to address statutory changes
- Section c Federal reimbursement for agency funded early acquisition
  - No procedures for this
- Section D -Federally Funded Early Acquisition
  - See LAG Chapter 25.46





# ROW Plans

## Complying with Requirements of LAG 25.4 – Funds for Right of Way



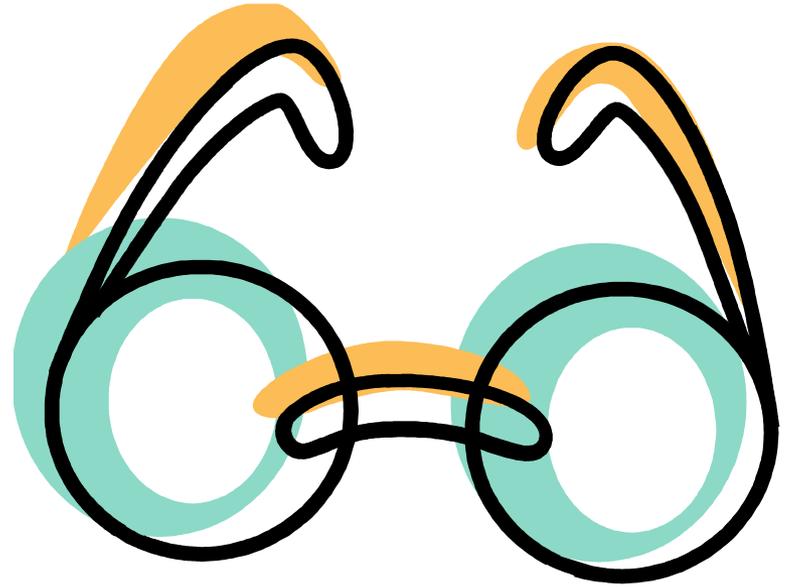
Presented by Steve Palmen  
WSDOT, ROW Plans

# Consultant Oversight

## Responsibility for Oversight of Consultants Performing ROW Activities



- What is oversight?
- Purpose of oversight?
- Who is required to provide oversight?
- Responsibilities?



# What is Oversight?

## Definition

Oversight is the critical governance function provided by management relating to information protection and it is fundamental to **proper operation of a protection program**. It is the job of oversight to assure that **proper duties to protect** are put in place.

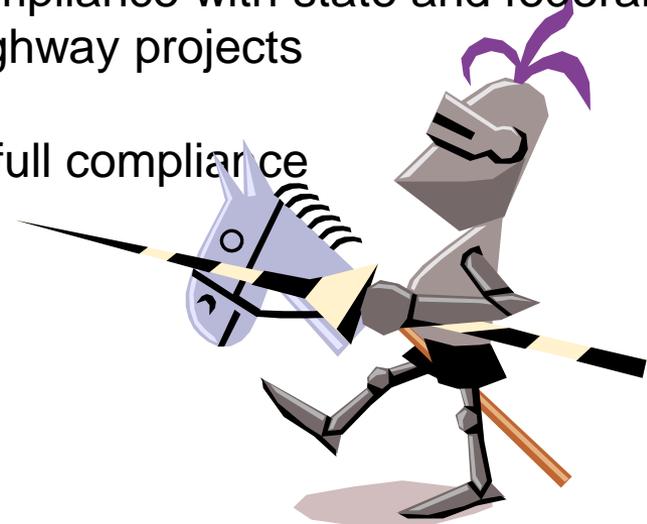
## Oversight activities:

- Protecting property owners & their rights
- Reviewing work performed
- Monitoring work performed
- Supervising work performed
- Meeting compliance requirements



# Purpose of Oversight?

- **Manage** consultants and/or staff
- **Protect** against risk of certification issues
- **Protect** the level of investment provided by FHWA
- **Assure** ROW activities are performed in compliance with state and federal laws and regulations for federally-funded highway projects
- **Certify** to FHWA that ROW activities are in full compliance



# Who is responsible for oversight of the consultant?

## The Local Agency

The agency must manage the consultant (or staff) performing right of way (ROW) activities on federally funded highway projects

### Responsibilities:

- Get your Local Agency Coordinator involved early in the process
- Interaction (meeting, phone call, site visit) to set expectations with consultant
- Provide consultant or agency staff a copy of your approved ROW Procedures
- Understand and make sure rules are being followed
  - Setting of Just Compensation
  - Authorization of Administrative Settlements
- Manage consultant field work (Are diaries being prepared?)
- Consultant Liaison – contract management
- Evaluation of consultant work



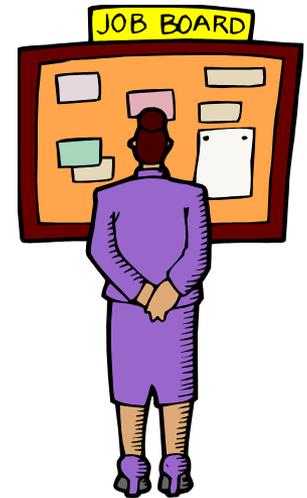
# Words From Your Local Agency Coordinator

- **Common Certification Issues**
- **Real Estate Funding Estimates**



# Northwest Region Resources

- Northwest Region Real Estate Services Office  
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# Eastern Region Resources



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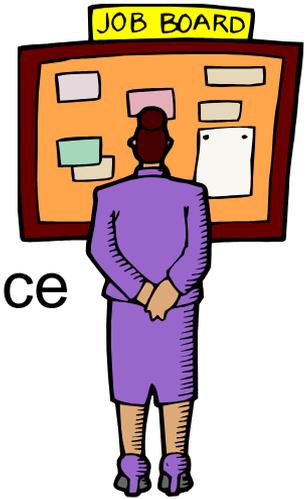


# Southwest Region Resources



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# South Central Region Resources



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# Resources

- Local Programs Office

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

- RES Local Agency Webpage

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

- LAG Manual

- ROW Manual – Chapter 16 (under construction)

