

Washington Division



# FHWA Update

Dianna McKeon, SR/WA, R/W-RAC  
Realty Officer – ROW Program Manager



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# ROW Program Updates



# Final Rule – 49CFR Part 24



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Uniform Act

## Timeline

- June 2012 – MAP-21 legislation passed
- October 2014 – Relocation changes took effect
- December 2019– Notice of Proposed Rule Making Issued
- March 17, 2020 - comments period ended
- Currently with the Office of Information and Regulatory Affairs for review
- Interagency circulation – comments received from other federal agencies that are being address
- Still in coordination - no “Final Rule” yet



# ROW Manual

Uniform Act



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- Extension of 5-year Federal Certification
- Re-write of WSDOT ROW Manual



# Uniform Act Conference



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Uniform Act

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- Held February 6-8, 2024
- 160 Federal participants – in person
- Over 500 virtual attendees
- Looking at offering the conference again



# Direct Recipient Projects



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Uniform Act

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- Oversight provided by Federal Highways & WSDOT Local Programs
- Safe Streets for All (SS4A) Grants – cannot go through WSDOT Local Programs



# Uniform Act Statistics



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- Report period – October 1, 2023 to September 30, 2024
- Division offices deadline to collect data – Nov 15th
- New dashboard
  - Analyze trends of Uniform Act data for State DOTs
  - See national trends
  - Posted on FHWA Realty webpage



# Equity

Uniform Act



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- Research projects underway
  - Advancing the Use and Impact of Relocation Planning State of the Practice Analysis, and Synthesis of Best Practices and Prototype
  - Displacement Prevention and Mitigation Toolkit
  - Relocation Retrospective Project for Residential Occupants
- Equity Inventory discussions w/WSDOT



# Realty Training/Technical Assistance

Uniform Act



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## **2024 Call for Service**

- Local Programs requested training
  - ✓ Acquisition & Title (handling of encumbrances)
- WSDOT Real Estate Services
  - ✓ Managing Consultants – including Design Build discussions
  - ✓ ROW Program and Project Management



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# ROW Consultant Oversight



# Discussion Goal

ROW Consultant Oversight

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Gain a better understanding of the **oversight** expectations once the ROW consultant is hired to perform Right of Way Services



# What is Stewardship & Oversight?



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- Stewardship
  - Exercise sound judgment
  - Good decision making
  - Managing federal funds
- Oversight
  - Agree to deliver program consistent with laws and regulations
  - Ensure federal aid transportation system is delivered effectively
  - Make decisions on who is responsible



# Why is Oversight Needed?



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## ROW Consultant Oversight

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- ✓ Required in order to use federal funds
- ✓ Optimize full amount of federal funds
- ✓ Get projects certified
- ✓ Protect federal level of investment
- ✓ Requirements outlined in Agency's Approved ROW Procedures



# Why is Oversight Needed?



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## State DOT has overall responsibility for Program Oversight

- Organization
- Program Oversight

23 CFR 710.201(a) and (b) – State Responsibilities



# How does WSDOT Oversee Local Agencies?



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## State DOT responsibility for Local Agency Oversight

- Through agreement (ROW Procedures) Local Agencies carry out WSDOT authorities
- Monitor
- Imposing sanctions in cases of non-compliance

23 CFR 710.201(g) and (h) – State Responsibilities



# What are Agency Approved ROW Procedures?



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- Identifies who is approved to do what function in overall acquisition process
- If you are not approved for the function - you cannot do it
- Requires specialized training – must have Local Programs approval to replace/add staff



# Why Use Consultants?



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- One time project
- Project demands
- Special expertise
- Seasonal demand
- Limited need for Real Estate Services



# Why Use Consultants?



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## Staffing Issues

- Little or no staff
- Peak work demands
- Limitation on new hires
- Pressure to downsize or privatize work



# Consultant Management



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## Steps of Consultant Management

- Proposal
- Contracting – Not covering today
- Monitoring
- Scheduling
- Auditing



# The Proposal

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- Proposal Elements
- Project Description
- Scope of Work





# The Proposal

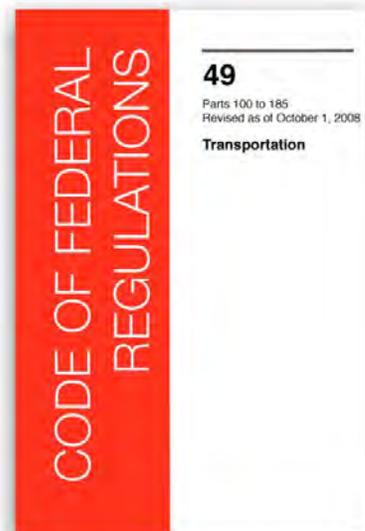


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## Scope of Work – The Key to a Successful Project

- Define roles, responsibilities and deliverables
- Must follow URA



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# The Proposal

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## Scope of Work – Scope of Services

- Title
- Appraisal
- Appraisal Review
- Acquisition
- Relocation
- Property Management
- Project Management
- Condemnation Assistance



# Monitoring

## ROW Consultant Oversight



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### Agency Responsibilities:

- Agency Project Consultant Coordinator
- Kick off Meeting
- Agency Information
- Consultant Requirements
- File Management
- Reporting Requirements
- Changes in Scope
- Schedule
- Work Product
- Oversight Review
- Performance Review



# Monitoring

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## Project Coordinators:

- Great Communication Skills
- Authority /Decision Maker
- Schedule
- Knowledge of Work Products
- Contract Amendments / Terminations



# Monitoring

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## Kick Off Meeting:

- Introduce Staff
- Project Schedule
- Provide Forms
- Expectations
- Establish Rapport
- Reporting Requirements
- Responsible Parties



# Monitoring

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## Agency Information:

- Manuals
- Agency Forms
- Environmental Reports
- Title Reports
- Appraisals
- Key Contacts
- Approval Authority



# Monitoring

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## Consultant Requirements:

- Experienced Personnel
- Staffing Levels / Plan
- Response Times
- Personal Changes
- Subcontractors (prior approval)
- Project Management Plan
- File Management
- Project Office (if required)



# Monitoring

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## File Management:

- Access to Electronic State ROW System
- Paper/Hard Copy Project/Parcel Files
- Location
- Availability
- Review and Access to Working Files
- File Organization / Naming Conventions
- Final Close Out and Retention



# Monitoring

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## Reporting Requirements:

- How Often (weekly, monthly)
- Report Requirements (presentation)
  - ✓ Written – Standard Form
  - ✓ Oral
  - ✓ Email
  - ✓ Electronic ROW System



# Monitoring

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## Scope Changes:

- Additional Parcels
- Additional Relocations
- Design Changes
- Delay in Possession

## Scope Changes Effects:

- Additional Costs
- Documentation
- Notice to Proceed w/Changes
- Revise Contract
- Agency Declines Changes



# Scheduling



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## Schedule:

- Delays Outside of ROW
- Schedule Adjustments
- Incentive/Disincentive
- Turn Around Times/Decisions
- Manage Dollar Commitments
- Meeting Milestones
- Advertising Dates
- Changes in Personnel
- Plan B

## Benefits of a Schedule:

- Ensure a Quality Project
- Anticipate Problems
- Prevent Problems
- Track Performance



# Auditing

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## Work Product:

- Meet Federal Laws and Regulations
- Meet State Requirements
- Follow Contract Provisions
- State DOT ROW Manual
- Timely Completion
- Positive Representation of the State
- Invoicing for Completed Work



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## Oversight Review:

- Reviews
  - ✓ Spot Check
  - ✓ ROW Certification Review
- Review Forms
- Personnel to Review Files
- Corrections
- Turn Around Timeframes
- Non-Compliance
- Final Acceptance



# Auditing

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## Performance Review:

- Staffing
- Reporting Requirements
- Schedule Compliance
- Work Product Review
- Budget
- Compliance Issues
- Communication Skills
- Resolution of Issues
- Unfinished Work
- Future Work
- Appeals
- Feedback Provided



# Local Agency Responsibilities



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## ROW Consultant Oversight

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- Follow federal and state laws and regulations
- Follow approved state DOT Manuals
  - ROW Manual & LAG
- Manage consultant during ROW process
- Obtain **complete** ROW files from consultants
- Maintain official agency files
- Be available to answer questions during certification reviews



# Local Agency Responsibilities



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- Manage consultant field work
- Review agent's diary and supporting documents
- Read emails and be involved in conversations consultants have with WSDOT and make sure they are noted in the diary
- Review and approve actions/decisions recommended by consultant



# Consultant Responsibilities



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- Name a Project Manager
- Assure Compliance
  - Laws, regulations, ordinances
- Provide Equipment
- Subcontractors – prior approval
- Project Management Plan
- File Management
- Schedule Order of Activities
- Experienced Personnel
- Staffing levels/plan
- Response Times
- Reporting Requirements
- Personnel Changes
- Scope Changes



# Past Consultant Oversight Issues



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## ROW Consultant Oversight

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- Lack of tracking oversight activities
- Non-qualified consultants performing ROW activities
- Not following Approved ROW Procedures
- Non-compliance issues
- Consultants making agency decisions
- Timely submittals for review
- Lack of documentation for certification reviews



# Past Consultant Oversight Issues



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## ROW Consultant Oversight

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- Concerns local agency projects are handed off to ROW consultant without involvement from the local agency
- Lack of communication
- Files lack documentation of LPA involvement in decision making process
- Lack of Expectations
- Lack of understanding what is meant by oversight of consultants



# Best Practices



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## ROW Consultant Oversight

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- Know your agency's authorities
  - ✓ Who approves Just Compensation, administrative settlements, waiver valuations, etc...
- Share Approved ROW Procedures w/consultant
- Research federal regulations to find answers
- Take classes and attend WSDOT's annual meetings
- Sign up for Gov Delivery Email & LTAP (Local Technical Assistance Program)
- Manage project schedules and scope creep



# Benefits of Proper Oversight



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- Protects against risking loss of federal funds and/or federal participation
- Provides ability of agency to “certify” to FHWA that their project is in full compliance so the ROW can be certified for construction
- Protects level of federal investment
- Assures ROW files are complete and in compliance with federal/state laws and regulations
- Assures property owners/occupant were treated fairly and consistently



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# Questions

# Contacts

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Dianna McKeon  
FHWA WA Division

[Dianna.McKeon@dot.gov](mailto:Dianna.McKeon@dot.gov)

(360) 753-8655



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