

KITTITAS COUNTY
DEPARTMENT OF PUBLIC WORKS
AGENDA STAFF REPORT

AGENDA DATE: September 5, 2017

ACTION REQUESTED: Authorize the Chair's signature for Policy on Right of Way Acquisition Procedures, Personnel Qualifications, Waiver of Appraisal and Administrative Settlement Procedures

BACKGROUND: In 2013 Public Works adopted the Policy on Right of Way Acquisition Procedures, Personnel Qualifications, Waiver of Appraisal and Administrative Settlement Procedures through Resolution 2013-129.

Personnel within Public Works has recently changed prompting the Washington State Department of Transportation to require resolution 2013-129 to be updated by the County to reflect current Right of Way procedures for Public Works capital improvement projects.

WSDOT and the Federal Highway Administration require that the County perform the specific right of way functions of Program Administration and Property Management. All other function such as appraisals, acquisitions, and relocations will be consulted out by the Public Works department at this time.

These procedures must be up to date and in place for Public Works to deliver projects with Federal funding such as the Teanaway Hydraulic Improvement Project and potentially the Manastash Bridge Replacement Project that may have right of way impacts associated with them.

INTERACTION: Public Works

RECOMMENDATION: Move to authorize the Chair's signature for updating the previously adopted Policy on Right of Way Acquisition Procedures, Personnel Qualifications, Waiver of Appraisal and Administrative Settlement Procedures

HANDLING: Return Two (2) copies to Public Works

ATTACHMENTS: Resolution, Right of Way Procedures Agreement

LEAD STAFF: Lucas Huck, County Engineer

**BOARD OF COUNTY COMMISSIONERS
COUNTY OF KITTITAS
STATE OF WASHINGTON**

RESOLUTION NO. 2017 - _____

TO AUTHORIZE THE CHAIR'S SIGNATURE UPDATING THE POLICY ON RIGHT-OF-WAY ACQUISITION PROCEDURES, PERSONNEL QUALIFICATIONS, WAIVER OF APPRAISAL AND ADMINISTRATIVE SETTLEMENT PROCEDURES

WHEREAS: Resolution number 2013 – 129 approved the Government Agreement for Aid, Policy on Right-of-Way Acquisition Procedures, Personnel Qualifications, Waiver of Appraisal and Administrative Settlement Procedures for acquisition of real estate for Federal Aid funded projects; and

WHEREAS: Personnel within Public Works has recently changed prompting the Washington State Department of Transportation to require Resolution 2013 – 129 to be amended by the County; and

WHEREAS: Public Works is required to perform the specific right-of-way functions of Program Administration and Property Management; and

WHEREAS: Public Works will seek to utilize consultant support for all other specific right-of-way functions; and

NOW, THEREFORE BE IT RESOLVED that the Board of County Commissioners, in the best interest of the public, does hereby authorize the Chair's signature for updating the previously adopted Policy on Right-Of-Way Acquisition Procedures, Personnel Qualifications, Waiver of Appraisal, and Administrative Settlement Procedures.

DATED on this 5th day of September, 2017, at Ellensburg, Washington.

BOARD OF COUNTY
COMMISSIONERS
KITTITAS COUNTY, WASHINGTON

Paul Jewell, Chairman

Attest:

☐ Clerk of the Board- Julie Kjorsvik

Laura Osiadacz, Vice-Chairman

☐ Deputy Clerk of the Board- Mandy Buchholz

Obie O'Brien, Commissioner

Right of Way Procedures

The Kittitas County, hereinafter referred to as “AGENCY”, desiring to acquire real property (obtain an interest in, and possession of, real property) in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act and applicable federal regulations (49 CFR Part 24) and state law (Ch. 8.26 RCW), and state regulations (Ch. 468-100 WAC) hereby adopts the following procedures to implement the above statutes and Washington Administrative Code. The AGENCY is responsible for the real property acquisition and relocation activities on projects administered by the AGENCY. To fulfill the above requirements the AGENCY will acquire right-of-way (ROW) in accordance with the policies set forth in the Right of Way Manual M 26-01 and Local Agency Guidelines. The AGENCY has the following expertise and personnel capabilities to accomplish these functions:

1. The following relate to the AGENCY’s request.

- a. Below is a list of responsible AGENCY individual names and positions, for which the AGENCY has qualified staff to perform the specific right-of-way function(s). Attached are resumes for each individual AGENCY staff listed to perform those functions below, and a brief summary of their qualifications pertaining to the specific ROW function(s) for which they are listed. The procedures shall be updated whenever staffing changes occur. The AGENCY will be approved to acquire based upon staff qualifications.

- i. **PROGRAM ADMINISTRATION :**

Oversee delivery of the R/W Program on federal aid projects for the agency. Ensures R/W functions are carried out in compliance with federal and state laws, regulations, policies and procedures.

Responsibilities/Expectations:

- Ensures agency’s approved R/W Procedures are current, including staff qualifications, and provides copies to consultants and agency staff;
- Oversight of ROW consultants;
 - use of consultant contract approved by WSDOT (under construction)
 - management of ROW contracts
 - management of ROW files
 - reviews and approves actions and decisions recommended by consultants
 - Overall responsibility for decisions that are outside the purview of consultant functions
- Sets Just Compensation prior to offers being made;
- Approves administrative offer summaries per policy;
- Ensure agency has a relocation appeal process in place prior to starting relocation activities;
- Oversight of Administrative Settlements;
- Obligation authority for their agency;
- Obtain permits (Non-Uniform Relocation Act (URA));
- Ensures there is a separation of functions to avoid conflicts of interest.
- Verifies whether or not ROW is needed, and that the property rights and/or interests needed are sufficient to construct, operate and maintain the proposed projects (see Appendix 25.176).

Mark Cook, PE, Public Works Director; Lucas Huck, PE, County Engineer; Sara Folk, PE, Construction Manager

(Insert Name and Title of AGENCY Position above & attach resume of qualifications)

ii. APPRAISAL

Prepare and deliver appraisals on federal aid projects for the agency. Ensures that appraisals are consistent and in compliance with state and federal laws, regulations, policies and procedures.

Responsibilities/Expectations:

- Use only qualified agency staff approved by WSDOT to perform appraisal work;
- Use appraiser from WSDOT's Approved Appraiser List if agency does not have qualified staff;
- Prepare Project Funding Estimates (PFE) or, when applicable, True Cost Estimates (TCE);
- Prepare Administrative Offer Summaries (AOS or Appraisal Waiver);
- Obtain specialist reports;
- Coordinate with engineering, program administration, acquisition, relocation, and/or property management as necessary.

Consultant

(Insert Name and Title of AGENCY Position above & attach resume of qualifications)

iii. APPRAISAL REVIEW:

Review appraisals on federal aid projects for the agency to make sure they are adequate, reliable, and have reasonable supporting data, and approve appraisal reports. Ensures appraisals are adequately supported and represent fair market value and applicable costs to cure and are completed in compliance with state and federal laws, regulations, policies and procedures.

Responsibilities/Expectations:

- Use only qualified agency staff approved by WSDOT to perform appraisal review work;
- Use review appraiser from WSDOT's Approved Appraiser List if agency does not have qualified staff;
- Ensures project wide consistency in approaches to value, use of market data and costs to cure;
- Coordinate with engineering, program administration, acquisition, relocation, and/or property management as necessary.

Consultant

(Insert Name and Title of AGENCY Position above & attach resume of qualifications)

iv. ACQUISITION:

Acquire, through negotiation with property owners, real property or real property interests (rights) on federal aid projects for the agency. Ensures acquisitions are completed in compliance with federal and state laws, regulations, and policies and procedures.

Responsibilities/Expectations:

- Use only qualified staff to perform acquisition activities for real property or real property interests, including donations;
- To avoid a conflict of interest, when the acquisition function prepares an AOS, only acquires property valued at \$10,000 or less;

- Provide and maintain a comprehensive written account of acquisition activities for each parcel;
- Prepare administrative settlement justification and obtain approval;
- Prepare Project Funding Estimates (PFE) or, when applicable, True Cost Estimates (TCE);
- Prepare Administrative Offer Summaries (AOS or Appraisal Waiver);
- Review title, and recommend and obtain approval for acceptance of encumbrances;
- Ensure acquisition documents are consistent with ROW plans, valuation, and title reports;
- Provide a negotiator disclaimer;
- Coordinate with engineering, program administration, appraisal, relocation, and/or property management as necessary;
- Maintain a complete, well organized parcel file for each acquisition.

Consultant

(Insert Name and Title of AGENCY Position above & attach resume of qualifications)

v. **RELOCATION:**

Provide relocation assistance to occupants of property considered displaced by a federally funded projects for the agency. Ensures relocations are completed in compliance with federal and state laws, regulations, policies and procedures.

Responsibilities/Expectations:

- Prepare and obtain approval of relocation plan prior to starting relocation activities;
- Confirm relocation appeal procedure is in place;
- Provide required notices and advisory services;
- Make calculations and provide recommendations for agency approving authority prior to making payment;
- Provide and maintain a comprehensive written account of relocation activities for each parcel;
- Coordinate with engineering, program administration, appraisal, acquisition, and/or property management as necessary;
- Maintain a complete, well organized parcel file for each displacement;
- Ensure occupants and personal property is removed from the ROW.

Consultant

(Insert Name and Title of AGENCY Position above & attach resume of qualifications)

vi. **PROPERTY MANAGEMENT:**

Establish property management policies and procedures that will assure control and administration of ROW, excess lands, and improvements acquired on federal aid projects for the agency. Ensures property management activities are completed in compliance with federal and state laws, regulations, policies and procedures.

Responsibilities/Expectations:

- Account for use of proceeds from the sale/lease of property acquired with federal funds on other title 23 eligible activities;
- Keep R/W free of encroachments;
- Obtain WSDOT/FHWA approval for change in access control along interstate;
- Maintain property records;

- Coordinate with engineering, program administration, appraisal, acquisition, and/or property management as necessary;
- Maintain a complete, well organized parcel file for each displacement;
- Ensure occupants and personal property is removed from the ROW.

Mark Cook, PE, Public Works Director; Lucas Huck, PE, County Engineer; Sara Folk, PE, Construction Manager

(Insert Name and Title of AGENCY Position above & attach resume of qualifications)

- b. Any functions for which the AGENCY does not have qualified staff, the Agency will contract with another local agency with approved procedures, an outside contractor, or the Washington State Department of Transportation (WSDOT). An AGENCY that proposes to use outside contractors for any of the above functions will need to work closely with the WSDOT Local Agency Coordinator (LAC) and Local Programs to ensure all requirements are met. When the AGENCY proposes to have a staff person approved to negotiate who is not experienced in negotiation for FHWA funded projects, the LAC must be given a reasonable opportunity to review all offers and supporting data before they are presented to the property owners.
 - c. An AGENCY wishing to take advantage of an Appraisal Waiver (aka Administrative Offer Summary or AOS) procedure on properties valued up to \$25,000 or less should make their proposed waiver procedure a part of these procedures. The procedure outlined in LAG manual has already been approved using form LPA-003. The AGENCY may submit a procedure different than that shown and it will be reviewed and approved if it provides sufficient information to determine value.
 - d. Attached is a copy of the AGENCY's administrative settlement procedure showing the approving authority(s) and the procedure involved in making administrative settlements.
2. All projects shall be available for review by the FHWA and WSDOT at any time and all project documents shall be retained and available for inspection during the plan development, right-of-way and construction stages, and for a three year period following acceptance of the projects by WSDOT.
 3. Approval of the AGENCY's procedures by WSDOT may be rescinded at any time the AGENCY is found to no longer have qualified staff or is found to be in non-compliance with the regulations. The rescission may be applied to all or part of the functions approved.

Chairman, Board of County Commissioners

Date

Washington State Department of Transportation

Approved By:

Local Programs Right of Way Manager

Date