

ROW Requirements for Joint FHWA/FTA Projects

Dave Leighow, Realty Specialist
HQ, FHWA
Salem, OR

2012 AASHTO Subcommittee on Right of Way and Utilities Conference

Marriott Waterfront Hotel – Portland, Oregon
April 29 to May 3, 2012



Where Tradition and Transformation Converge

AASHTO

Two Paths, One Goal

FHWA:

- Uniform Act
- 49 CFR 24
- 23 CFR 710

FTA:

- Uniform Act
- 49 CFR 24
- 49 CFR 639
- FTA Circular C5010.1D

2012 AASHTO Subcommittee on Right of Way and Utilities Conference

Marriott Waterfront Hotel – Portland, Oregon
April 29 to May 3, 2012



Where Tradition and Transformation Converge

AASHTO

Same or Similar

- Must comply with Uniform Act & 49CFR24
- “Normal project progression”: *NEPA-Title-Appraisal/Review-JC-(FTA pre-approval)-Offer-Settlement*
- Do not allow global settlements
- Licensing/certification of appraisers
- Appraisal scope of work
- Just compensation approved “in house”

2012 AASHTO Subcommittee on Right of Way and Utilities Conference

Marriott Waterfront Hotel – Portland, Oregon
April 29 to May 3, 2012



Where Tradition and Transformation Converge

AASHTO

Same or Similar

- Both use functional replacement of public facilities
- Both allow use of income from excess property disposals for other eligible projects
- Both require some form of excess property inventory or tracking

2012 AASHTO Subcommittee on Right of Way and Utilities Conference

Marriott Waterfront Hotel – Portland, Oregon
April 29 to May 3, 2012

Where Tradition and Transformation Converge 



Where We're Different

- FTA requires a Real Estate Acquisition Management Plan (RAMP) for all major capital projects; plan addresses real estate goals and methodologies, incl. timing, staffing and procedures
- Appraisal waiver and business reestablishment are limited to \$10,000 caps

2012 AASHTO Subcommittee on Right of Way and Utilities Conference

Marriott Waterfront Hotel – Portland, Oregon
April 29 to May 3, 2012



Where Tradition and Transformation Converge **AASHTO**

Where We're Different

- FTA must review/approve appraisals over \$500,000, whether for settlement or condemnation
- FTA must review/approve administrative settlements over \$50,000 (applies to legal settlements and negotiated settlements)
- Agency must notify FTA & explain use of outdated appraisals (6 months +)

2012 AASHTO Subcommittee on Right of Way and Utilities Conference

Marriott Waterfront Hotel – Portland, Oregon
April 29 to May 3, 2012



Where Tradition and Transformation Converge

AASHTO

Where We're Different

- FTA must approve appraisals of any value for in-kind contributions
- FTA will generally not participate in costs to remediate contamination discovered during construction
- FTA requires there to be as many residential dwellings available as there are families to be displaced

2012 AASHTO Subcommittee on Right of Way and Utilities Conference

Marriott Waterfront Hotel – Portland, Oregon
April 29 to May 3, 2012



Where Tradition and Transformation Converge **AASHTO**

Where We're Different

- FTA's circular specifically addresses the DSS housing requirements on separate bedrooms based on age and gender where local codes do not address the issue
- FTA requires an "excess real property inventory and utilization plan"
- Agency must notify FTA when real property is removed from service

2012 AASHTO Subcommittee on Right of Way and Utilities Conference

Marriott Waterfront Hotel – Portland, Oregon
April 29 to May 3, 2012



Where Tradition and Transformation Converge

AASHTO

Dealing with Our Differences

A Memorandum of Understanding is a great tool for addressing differences and agreeing on a strategy to accomplish the goal of a mutually successful project that focuses on the needs of the customers and the communities served



2012 AASHTO Subcommittee on Right of Way and Utilities Conference

Marriott Waterfront Hotel – Portland, Oregon
April 29 to May 3, 2012



Where Tradition and Transformation Converge **AASHTO**

Questions?



2012 AASHTO Subcommittee on Right of Way and Utilities Conference

Marriott Waterfront Hotel – Portland, Oregon
April 29 to May 3, 2012



Where Tradition and Transformation Converge **AASHTO**