



Memorandum

Subject: **ACTION:** SEP-16 Letter of Interest to
Increase Waiver of Appraisal Threshold
for Washington

Date: January 11, 2019

From: Daniel M. Mathis *Daniel M. Mathis*
Division Administrator
Olympia, WA

In Reply Refer To:
HDA-WA/WAP2969M52

To: Cindi Ptak
Managing Director
Washington, DC

The Washington Division Office is forwarding the accompanying SEP-16 Letter of Interest (LOI) from the Washington State Department of Transportation (WSDOT) for your consideration and further action. We request that our Right of Way Program Manager, Dave Leighow, be considered for the Review Team that will review this request.

The purpose of this request is well-described both in WSDOT's LOI and the attached analysis titled *Washington State Department of Transportation's Request to Raise Appraisal Waiver Threshold per 49 CFR 24.7*. For the reasons stated both in the LOI and the analysis, the sharp increase in land values in those parts of Washington where most of the state's significant highway projects are under development has reduced WSDOT's ability to effectively use this important Every Day Counts initiative to streamline project delivery and reduce project costs. Raising the current \$25,000 appraisal waiver threshold to \$50,000 will put this EDC initiative back on track and assist the state in the timely delivery of important projects.

The Division Office has worked closely with WSDOT in the consideration of this request and we are fully supportive, for the following reasons as well as those addressed in the LOI and the analysis accompanying the LOI:

- The appraisal waiver is clearly set out both in law (the Uniform Act) and in regulations (49 CFR 24.102). While it is not commonly championed by Real Estate Appraisers, the law and the regulations make it abundantly clear that agencies may, under the stated conditions of "low-value" and "non-complicated" acquisitions, establish just compensation on the basis of a process other than an appraisal.
- Appendix A of the previously-cited regulation clearly states that the intent of the appraisal waiver "...is to provide Agencies a technique to avoid the costs and time delay associated with appraisal requirements for low-value, non-complex

acquisitions.” Further, the regulation says: “Waiver valuations are not appraisals as defined by the Uniform Act and these regulations; therefore, appraisal performance requirements or standards, regardless of their source, are not required for waiver valuations by this rule.”

- Interestingly, over time the consideration of what constitutes “low-value” for appraisal waivers has increased to address changing land values around the nation. Initially, the waiver threshold was \$2,500. It then increased to \$10,000, and more recently increased to \$25,000.
- Of most significance, relative to WSDOT’s SEP-16 request to raise the threshold to \$50,000, is that Headquarters has stated on various occasions they have proposed to increase the threshold to \$50,000 in the next revision of 49 CFR Part 24. While this is just where WSDOT wants to be, there is no assurance the regulatory revisions will be published as a Final Rule within the next year. However, if and when the revised 49 CFR Part 24 regulations are published, this SEP-16 project can terminate at that time.

Having previously sought the approval of the Office of Real Estate Services for increasing the appraisal waiver threshold to \$50,000 in Washington and thus far being unsuccessful, we ask your consideration of WSDOT’s SEP-16 Letter of Interest. The Division Office strongly supports this request, especially given the immediate and positive impact we expect it to have on WSDOT’s ability to deliver projects timely and cost-effectively.

Attachment



**Washington State
Department of Transportation**

Transportation Building
310 Maple Park Avenue S.E.
P.O. Box 47300
Olympia, WA 98504-7300
360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov

December 5, 2018

Mr. Dan Mathis
Division Administrator
Federal Highway Administration
711 S. Capitol Way, Suite 501
Olympia, WA 98501-1284

Subject: Letter of Interest SEP-16
Appraisal Waiver of Evaluation

Dear Mr. Mathis:

The Washington State Department of Transportation (WSDOT) is submitting this Letter of Interest to initiate the application process for the Special Experimental Project (SEP-16) pursuant to Federal Register Notice 83 FR 47675. WSDOT would like to assume the program level authority for an increase to the Appraisal Waiver Valuation threshold.

Appraisal Waiver Valuation

WSDOT's current Appraisal Waiver Valuation is consistent with the requirements of 49 CFR 24.102 (c)(2)(ii). Currently this process can only be used on properties that are valued at or below \$25,000 and are uncomplicated. The term "uncomplicated" is defined in the WSDOT Right of Way Manual as:

- No change in highest and best use
- No damages other than "Cost to Cure"
- Cost or Income approach to value not required to estimate value

WSDOT would like to explore an increase to the threshold limit of the Appraisal Waiver Valuation. The Department would like the flexibility to increase the use of the waiver process by allowing its use on uncomplicated acquisitions valued at \$50,000 or less.

Reason for the Needed Increase

The real estate market in Washington State, and other parts of the country, has been experiencing a rapid increase in value, as many uncomplicated acquisitions easily exceed the current threshold amount of \$25,000. According to Washington's Office of Financial Management, home prices in Washington accelerated quickly from 2002 through 2007, increasing by over \$121,000, which is a gain of 64 percent. Median

prices continued to trend upward in 2016, increasing 8.9 percent over 2015. Statewide, Washington home prices rose 11.1 percent in February 2017; the most in any state in the country. Also, Washington's home values are expected to rise another 5.5 percent in 2018, as cited in a January 2018 report by Vertos Real Estate Solutions.

Resulting Improvements

Allowing WSDOT a threshold increase of the waiver valuation process has the potential to save projects thousands of dollars in appraisal and appraisal review costs on a per parcel basis. This cost savings occurs because the waiver evaluation can be completed by properly trained staff instead of a licensed appraiser and review appraiser. The savings achieved through a higher threshold increase would result in having additional funds available for roadway improvement projects.

An increase in project efficiency (delivery) will also be recognized because the waiver valuation is a less complicated process that doesn't require a formal review by a second appraiser. Additional time savings will occur as licensed appraisers will be able to focus their attention on property acquisitions that are complex and/or at or above the \$50,000 threshold.

Risk Based Approach

This requested threshold increase also falls in line with the Fixing America's Surface Transportation (FAST) Act as it relates to transitioning from an FHWA "full oversight" to a "risk-based approach".

WSDOT has developed and implemented the following safeguards, as outlined in its Right of Way Manual, to ensure that property owners receive Just Compensation, and that the valuation is adequately supported, well-documented, and consistent with the basic principles of appraising real estate:

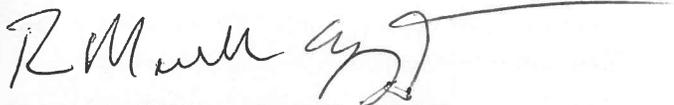
- The assignment of preparing the Waiver Evaluation by a non-appraiser will be made by a Region or Headquarters Appraisal Supervisor or designated staff or review appraiser. The assigning individual is responsible for ensuring such assignments are uncomplicated.
- The waiver threshold preparer must use the appropriate data from project files or other appraisals of comparable properties in order to create consistency.
- Although a formal review of a waiver evaluation by a Review Appraiser is not required, the Region Real Estate Services Manager, Project Manager, or Appraisal Supervisor must provide concurrence with the value prior to offers being made.
- Property owners are notified of the availability of a Statutory Evaluation Allowance (SEA), not to exceed \$750, to help defray actual costs incurred in evaluating the offer received.

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- The offer letter clearly states that a waiver evaluation offer is being made and an appraisal was NOT completed.
- On waiver evaluations that fall between \$10,001 and \$25,000, an additional provision is added to the offer letter stating that an appraisal will be completed at the property owner's request. This will be extended beyond \$25,000 to the new \$50,000 threshold.

WSDOT thanks you for this opportunity to submit a request under the SEP-16 proposal process. We look forward to working with you further on this threshold increase. If you have any questions please contact Kyle McKeon, WSDOT Local Programs Engineering Services Manager at 360-705-7375.

Sincerely,



R. Marshall Elizer, Jr., P.E., PTOE
Assistant Secretary for Multimodal Development and Delivery
Washington State Department of Transportation

KBD:ml:sas

cc: Kyle McKeon, Local Programs Engineering Services Manager, MS 47390
Michelle Newlean, Local Programs Right-of-Way Manager, MS 47390
Terry Meara, Real Estate Services Program Administrator, MS 47338
Hollie Rogge, Acquisition Program Manager, MS 47338

Washington State Department of Transportation's Request to Raise Appraisal Waiver Threshold per 49 CFR 24.7

Action Requested

Raise the current threshold for the appraisal waiver from \$25,000 to \$50,000, as requested by the Washington State Department of Transportation (WSDOT) and with concurrence of the FHWA Washington Division Office (WADIV). This request is made pursuant to 49 CFR 24.7.

Reason for Request

The appraisal waiver process has been effectively used by WSDOT to support the delivery of critical transportation projects in Washington. Due to significant inflation of land values in various parts of the state of Washington, the ability to use the appraisal waiver has diminished. Properties which are determined by WSDOT's appraisal staff to be uncomplicated valuation assignments and could previously be valued with a waiver because the value was not expected to exceed \$25,000, now must be appraised. If the waiver threshold is raised to \$50,000 additional uncomplicated valuation assignments can be addressed with the waiver.

WSDOT's Current and Proposed Appraisal Waiver Process

WSDOT refers to their waiver valuation process as an "Administrative Offer Summary", or simply, an AOS (a copy of the AOS format is attached). The AOS is a format that is used by the preparer, whether an appraiser or a non-appraiser, to document how the value determination has been made and the data used to make that determination. Following is a brief outline of the AOS process:

1. The first step is that an agency appraiser is assigned to determine whether a proposed property valuation is expected to be uncomplicated and not exceed \$25,000. If approved by FHWA, this amount will be raised to \$50,000.
2. If the appraiser determines that an AOS is warranted, the Real Estate Services Manager (RESM) or designee will assign an experienced agent or appraiser to prepare the AOS. WSDOT is developing a formal training program for non-appraisers to be further trained to prepare an AOS. The FHWA Division Office (WADIV) will assist in providing such training.
3. Once assigned, the designated AOS preparer will take the following steps:

- i. Field visit the property. Although not required, the preparer is authorized to invite the property owner to participate in the property inspection.
- ii. Obtain current data specific to that property type in the area where the property is located. This typically includes the use of agency-obtained sales data books and/or other sources of current and applicable market data.
- iii. Prepare an AOS using WSDOT's current approved format.
- iv. Submit the completed AOS form to the RESM or designee to verify the preparer followed the current approved format and adequately documented the resulting valuation.
- v. When approved, the AOS will be provided by the RESM or designee to the acquisition agent who will make the offer to purchase.
- vi. WSDOT provides a copy of the AOS to the property owner, as they do with a copy of an appraisal when just compensation is determined through the appraisal process.

Oversight and Validation of the Appraisal Waiver (AOS) Process¹

To verify that the increased authority for appraisal waivers (AOS) between \$25,001 and \$50,000 is being properly supported and implemented, WSDOT and WADIV will carry out the following oversight:

- WSDOT, in collaboration with the WA Division Office, will conduct oversight audits on no less than ten percent (10%) of AOS's that fall between \$25,001 and \$50,000.
- The Oversight team will consist of the following—
 - The WADIV ROW Program Manager.

¹ Currently, the Washington Division Office periodically conducts both "process" and "spot check" reviews of WSDOT's Right of Way program. In March 2018, FHWA conducted a spot check review of Acquisition files. As a part of that review, as with any reviews of Acquisition files, the review looked at both the appraisals and the waiver valuations (the AOS) that were used for each of the just compensation offers to the property owners. FHWA determined the appraisals and the waiver valuations to be appropriately documented and justified. FHWA did find one Administrative Settlement that was not adequately justified, but it did not involve an appraisal or waiver issue.

- WSDOT Appraisal Program Manager, and/or designee or appropriate Region Office Senior Appraiser where the waiver was prepared.
- The WSDOT Real Estate Services or Right of Way Manager, the Acquisition Program Manager, and/or designee.
- Additional team members, as appropriate.
- The format for this activity will consist of the following steps—
 - Random selection of 10% or more of AOSs above \$25,000 that were prepared during the calendar year.
 - The team will analyze the AOS and the acquisition file related to that AOS.
 - Analysis of the AOS will focus on the sufficiency of the data used to support the valuation, whether the data was current at the time the AOS was prepared, and other value issues identified by the preparer.
 - Analysis of the acquisition file will be to verify that the offer was made in writing, that a copy of the AOS was given to the property owner, and that the negotiations with the property owner are adequately documented. That analysis will also verify that the property owner was paid in a timely manner and before the agency took possession of the property.
 - If the acquisition was concluded with an administrative settlement, the Oversight team will scrutinize the settlement justification and documentation to determine the issue(s) which led to the settlement. If the team determines the settlement issue is one which was not considered in the AOS but would have been addressed in an appraisal, further research (including, if determined necessary, an appraisal) will be conducted. If this becomes a recurring finding, the Division Office may suspend the increased waiver authority until appropriate training and procedural clarification is provided.