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16. Abstract Right-of-way acquisition is an integral component of the overall planning and implementation of highway and transportation projects. This process has become more complex, expensive, time consuming, and socially sensitive over the last few decades. For this reason, the valuations of the parcels and the negotiations with the property owners have been focused on to improve the acquisition process. In order to recommend some best practices for successful valuation and negotiation, the research team considered property owners' experiences, different practices among Texas Department of Transportation district offices, factors that may affect possession type, as well as a thorough literature review. Guidelines, supported by recommended practices and practices to avoid, were identified for each valuation and negotiation. The guidelines and practices focused on promoting good relations between the Texas Department of Transportation and property owners.					
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Best Practices in Right-of-Way Valuations and Negotiation Report

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1. Introduction

Right-of-Way (ROW) acquisition is an essential part of the complex process of highway project development, and it is fundamental to all forms of project development. Because the acquisition process occurs immediately prior to the construction of highway infrastructure, the pressure is always high to acquire property quickly so that the project can begin. In fiscal year 1999, the Federal Highway Administration (FHWA, 2003b) reported that the federal government spent nearly \$1 billion for ROW acquisition.

ROW acquisition can be divided into five phases: planning, valuation (appraisal), negotiation, management, and relocation. The negotiation process is considered a vital part of the process that can have a major impact on overall success. Successful ROW negotiations require the satisfaction of three critical performance measures: time, cost, and public relations.

However, because such objectives typically compete, it is difficult to achieve all three at once. While project plans, surveys, and construction have relatively finite timelines, property acquisition can last longer than expected or desired, primarily because condemnation processes are so unpredictable and time-consuming (NCHRP, 2000). Furthermore, a series of complex statutes, rules, and regulations create additional challenges to ROW negotiators.

As part of its effort to reduce the time and cost for land acquisition, and build good rapport with the public, the Texas Department of Transportation (TxDOT), in association with the Center for Transportation Research of The University of Texas at Austin (UT/CTR), sponsored this research project to survey and to synthesize best practices in ROW valuations and negotiations. This project includes a comprehensive review of current practice and literature synthesis, a review of pertinent laws, identification of factors that influence the process, and development of a guidebook for effective ROW valuations and negotiations. As part of the documentation for this TxDOT research project, this report focuses on best practices for valuation and negotiation.

1.1 Need for Research

Among the most vital elements of the ROW acquisition process are valuation and negotiation with property owners. These usually lie on a project's critical path and so have important impacts on project schedule and cost. Also, these elements may have a significant role in the acquisition process, not only because they affect relationships with property owners but also because they can engender public trust in transportation planning and in the right-of-way acquisition process. However, a variety of added factors can impede the process.

Two technical reports highlight the difficulties encountered in the acquisition process. First, Hakimi and Kockelman (2005) argue that time, cost, and public satisfaction are essential performance parameters of successful ROW acquisition for state departments of transportation. They emphasize that inefficient negotiation processes typically frustrate the public and contribute to an increase in project cost and duration.

Secondly, Chang (2005) lists several types of delays in ROW acquisition. These are delays due to pricing, compensation, and impact disputes; title curative and ownership delays; parcel

characteristics/improvement delays; environmental issues; legal activity and litigation delays; and design change and revision delays.

Conversely, some practices help eliminate such complexity. According to a Federal Highway Administration (FHWA) study, the timing of the involvement of property owners in the design process and the frequency of agency contact with them can have a major impact on successful acquisition. Establishing this connection could result in more timely purchases and the reduction of damages to the affected properties. Similarly, having in-depth interviews with the property owners affords a better understanding of how owners use the property, and helps agents form a comprehensive estimate of just compensation, both of which facilitate negotiations with property owners (FHWA, 2002). This report on current ROW practices in Europe identified several successful strategies for ROW valuations and negotiations. These practices include early involvement of property owners in the design process, assignment of the same person to serve as appraiser and negotiator, and passage of special legislation. Also, many experiments are underway in various U.S. states involving the use of incentive payments and the expansion of the conflict-of-interest limits that allow the same person appraising a property to also negotiate for it (FHWA, 2002).

Further research is needed to identify best practices for better valuation and negotiation results, and the findings of this research needed to be synthesized into useful guidelines.

1.2 Research Objectives

The objectives of this research were:

- to identify current existing practices, problems and issues, legal constraints, and other factors related to ROW valuations and negotiations; and
- to synthesize best practices and create guidelines for ROW valuations and negotiations to improve the effectiveness of these processes (i.e., to reduce time and cost of parcel acquisition, and most importantly to maintain public trust).

These objectives were achieved by investigating property owners' experiences, conducting interviews and surveys to identify valuation and negotiation methods and practices, reviewing literature and laws, analyzing ROW property data, and forming recommendations based on these.

1.3 Scope of Research

In order to avoid both the shortsightedness that would result from too narrow a scope, and the decreased applicability that comes from too broad an approach, the scope of this research report is limited as follows:

- Practices related only to the valuation and negotiation phases of the acquisition process are discussed.
- The process preceding negotiations (i.e., appraisal review) and the subsequent processes (i.e., condemnation or relocation) are not included in the study.

- From the TxDOT parcel data collected from the Right-of-Way Information System (ROWIS), only parcels that were acquired later than the year 2000 are considered. Additionally, parcel records with missing data were discarded.

1.4 Structure of Report

This report is organized into seven chapters. Chapter One presents the report's introduction, objectives, scope, and structure. Chapter Two offers a description of the research methodology, giving a phase-by-phase account of the work. Chapter Three surveys the right-of-way acquisition process across U.S. states, highlighting the valuation and negotiation processes, and reviews the pertinent laws and statutes including federal and state laws, and the Uniform Standards of Professional Appraisal Practice. Chapter Four summarizes and discusses TxDOT's Property Owner Satisfaction Survey, factors that potentially affect possession type, and the results of District ROW personnel interviews and surveys. Chapter Five gives an overview of TxDOT's valuation and appraisal processes and offers guidelines and recommended practices for valuations. Chapter Six presents an overview of TxDOT's negotiation process, along with guidelines and recommended practices for negotiating with property owners. Finally, Chapter Seven presents the conclusion of the research.

2. Research Methodology

The following chapter illustrates the methodology used to achieve the research project's objectives, via a flowchart and detailed discussion.

2.1 Flowchart

Figure 2.1 illustrates the research processes of the study. The sections that follow explain the research process in further detail.

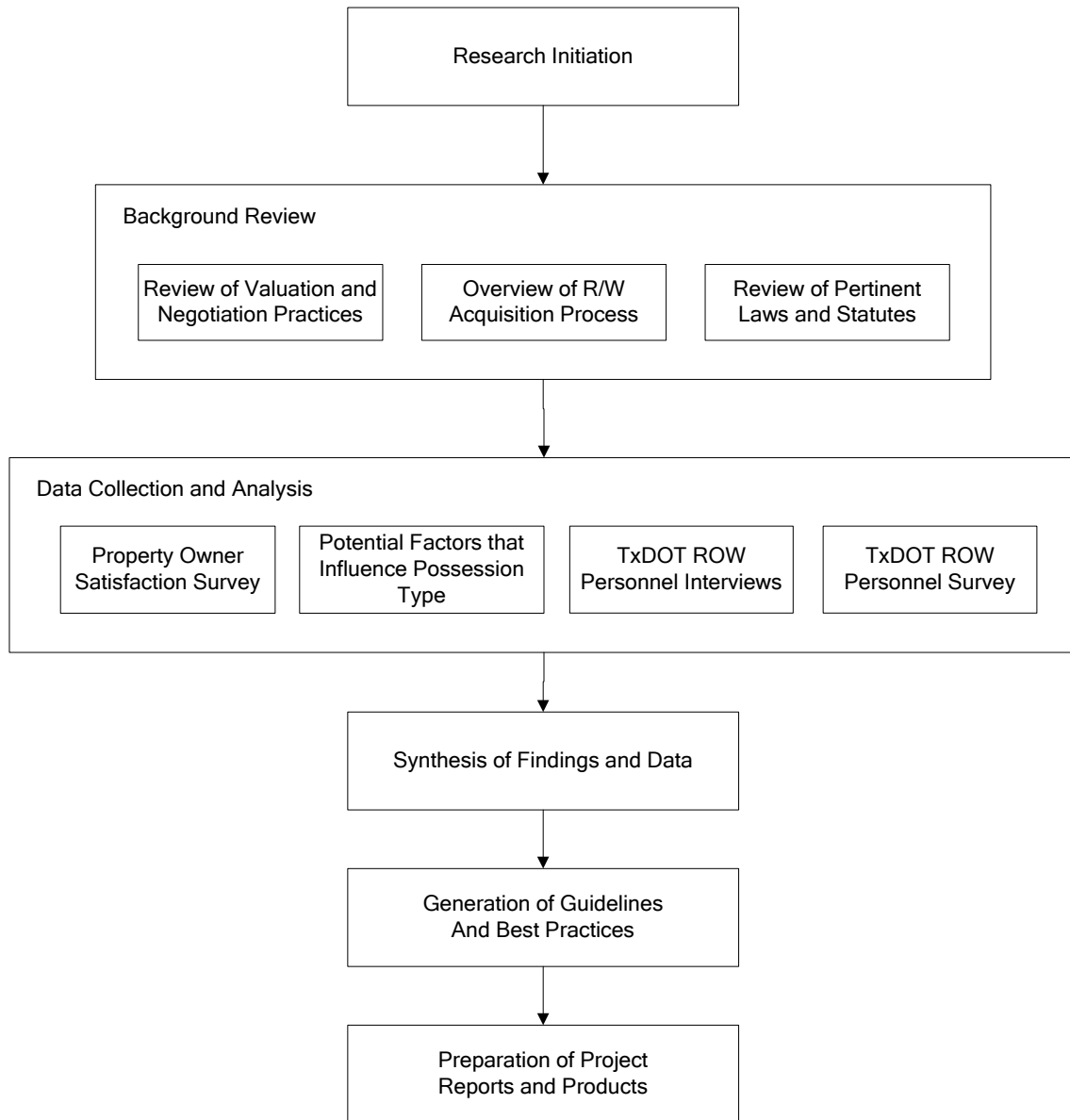


Figure 2.1 Research Methodology Flow Chart

2.2 Background Review

To synthesize key existing information, three steps were undertaken: (1) an overview of the right-of-way acquisition process was done; (2) a review of the current practices was made; and (3) pertinent laws and statutes were reviewed. The following section is a description of the research methodology for each of these steps.

2.2.1 Overview of Right-of-Way Acquisition Process

To understand the requirements of the ROW acquisition process at the highest level, federal publications, such as the Real Estate Acquisition Guide for Local Public Agencies (FHWA, 2006), were reviewed. TxDOT Right-of-Way acquisition manuals and the flowchart of TxDOT's ROW acquisition process were offered a more detailed look at the state-level acquisition process. Finally, other state Department of Transportation (DOT) acquisition manuals, and relevant laws, such as the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, were reviewed, to help clarify the process. The purpose of this overview was mainly to provide background information and to bring the overall process to light.

2.2.2 Review of Valuation and Negotiation Practices

The review of current practices included technical reports from previous research: federal reports such as those published by the FHWA, and the American Association of State Highway and Transportation Officials; TxDOT manuals, internet sources, and brochures; other state DOT manuals¹; and other resources. In addition to providing background information and an overview of the ROW acquisition process, the literature review uncovered several overarching considerations of the process: the complexities of preparing an accurate appraisal report, the difficulties of negotiating effectively with the property owners, different practices of other states DOTs, and other factors that influence valuation and negotiation.

2.2.3 Review of Pertinent Laws and Statutes

A review of the laws and statutes pertinent to the valuation and negotiation processes was carried out for a better understanding and assessment of ROW valuation and negotiation practices. Both Federal laws and state laws were reviewed.

According to the *Real Estate Guide for Local Public Agencies* (LPAs) (TxDOT, 2004), The Code of Federal Regulations (CFR) is "a codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the federal government." The Public Law 49 Code of Federal Regulations (CFR) Part 24, the Uniform Act regulation, is the regulation most pertinent to real property acquisition activities by federal and federally-assisted state projects.

The principal law for ROW acquisition on federal projects is Public Law 91-646, the *Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970*, as amended, also called the Uniform Act, mentioned above. It is applied to all the ROW acquisition projects funded by the federal government. The Uniform Act consists of three sections (or titles). The

¹ For example, Illinois, California, New York, Arkansas, Minnesota, and Florida

most relevant part is Title Three, "Uniform Real Property Acquisition Policy," which governs acquiring real property for federal and federally-assisted projects. The provisions of Title Three encourage agencies to acquire real property through negotiation, and accordingly to minimize the possibility of litigation (FHWA, 2006).

In addition to the Federal laws, state and local laws also govern public project and program activities, including projects that do not receive federal funds. The Real Estate Guide for LPAs (TxDOT, 2004) lists as the principle state and local laws – the Texas Status, Transportation Code, Title Six, Chapters 201-250 and Property Code, Chapter 21. Moreover, other regulations support these statutes, such as the administrative rules that are provided in the Texas Administrative Code (TAC), Title 43, Part 1, Chapters 1,2, 5,6, 15, and 21 (TxDOT, 2004). All these federal and state laws greatly affect valuations and negotiations.

2.3 Data Collection and Analysis

The assessed data was compiled from four sources; (1) a property owner satisfaction survey; (2) ROWIS records for parcels acquired by TxDOT; (3) interviews with TxDOT ROW district office staff; and (4) a TxDOT ROW staff survey. Each source will be further explained in the following sections.

2.3.1 Property Owner Satisfaction Survey

TxDOT conducted a survey to property owners who had been affected by the acquisition process, and handed the results to the research team. The results from TxDOT's property owner satisfaction survey were compiled from surveys conducted between fiscal years 2003 to 2006. A total of 1,063 owner satisfaction surveys included ratings for five questions, listed below:

1. How well did we answer your questions about the proposed transportation project?
2. How well did we explain the need for your property and the process used to purchase your property?
3. Was the Right of Way Agent informed and responsive to your questions?
4. Was the Right of Way Agent courteous and professional?
5. How would you rate the usefulness of the printed material provided by the Department?

For each question, the respondents rated the level of satisfaction on a scale from 1 to 5, 5 being the most satisfied. Additionally, an optional general comment on the overall acquisition process was solicited. These general comments from the survey were categorized as either positive or negative.

Additionally, data from ROWIS was extracted and merged with the data from the property owners' satisfaction survey, adding variables such as land type, location of the parcel, and possession type (i.e., whether acquired through negotiation or condemnation).

2.3.2 ROWIS Records for Parcels Acquired by TxDOT

Using ROWIS data, the research team identified factors that may influence valuation and negotiation, including issues that typically lead to condemnation proceedings. A total of 21,310 parcels are listed in the database, but the total number of entries with the information for Possession Type (condemnation or negotiation) was 9,686. For some variables there were undetermined or unknown values as well as missing values, therefore the total number of parcels

(N) for each variable may differ. The variables analyzed were Possession Type, Project Type, Property Use, Taking Type, Improvements, and District.

2.3.3 Interview with the TxDOT ROW District Office Personnel

The research team conducted interviews with the TxDOT ROW personnel in Bryan and San Antonio District offices. The TxDOT ROW staff interviewed included ROW administrators, agents, negotiators, appraisers, and appraisal reviewers. The main purpose of the interviews was to collect detailed information from the district offices regarding staff members' experience of problems and issues, and their opinions on best practices.

2.3.4 Survey of TxDOT ROW Personnel

A survey was conducted in order to identify the problems/issues experienced by ROW personnel and to formulate recommendations for effective valuations and negotiations in each TxDOT district office. A number of common problems/issues as well as a body of best practices emerged from the comprehensive findings from the literature review, the review of pertinent laws, the property owners' satisfaction survey analysis, and interviews.

The TxDOT ROW personnel were asked the approximate frequency of the problems they had experienced during the valuation process. The most difficult problems they reported having often are the following:

- Property owner distrust of agency and/or disagreement with appraised values;
- Right-of-Way plan changes and revisions affecting nature and extent of acquisition on many parcels;
- Delays in the delivery of appraisal reports;
- Insufficient right-of-way staff to obtain appropriate appraisals in a timely manner
- Lack of qualified fee appraisers;
- Inconsistencies among appraisal reports (e.g., significantly different values for the same parcel);
- Poor quality of appraisals produced by fee appraisers;
- Appraisers do not have time to meet with property owners personally; and
- Disagreement over prioritization criteria used by outsourced appraisers to select which parcels will be appraised first.

Furthermore, the TxDOT ROW personnel were asked how often they employ the carefully selected best practices from the research sources and whether they would recommend the practices to improve the valuation process. The selected best practices from these sources are as follows:

- Give the property owner an opportunity to accompany the appraiser during the appraiser's inspection of the property;
- Share copies of complete appraisal reports with property owners, voluntarily and routinely;
- Encourage fee appraisers and ROW staff to meet property owners in person;
- Assign projects according to appraiser's experience;
- Provide the outsourced appraisers with pre-appraisal information obtained by district personnel;
- Evaluate appraisers periodically on their performance;

- Reduce the time-lapse between the appraisal valuation date and the initiation of negotiation;
- Share and discuss the project's preliminary ROW map with all the property owners;
- Prioritize parcels according to complexity/appraisal difficulty and contract appraisals for those that are most complex first;
- Utilize most appropriate technology to expedite appraisal production;
- Use the same agent for the valuation and negotiation process; and
- Offer training courses for staff, fee appraisers, and appraisal reviewers.

Moreover, the TxDOT ROW personnel were asked the approximate frequency of the problems they had experienced during the negotiation process. The most difficult problems that they reported as experiencing often are the following:

- Property owners complaining of low payment;
- Property owners distrusting the agency and/or its appraisal methods;
- Property owners complaining of a slow negotiation process;
- Property owners complaining of ROW brochures being too technical and difficult to understand;
- Negotiator not contacting the property owners in person;
- Negotiator not being courteous or professional;
- Negotiator not keeping owners updated on the status of the process;
- TxDOT 30-day period for property owners to present a counteroffer being insufficient; and
- All administrative settlements over \$50K being reviewed by the Division office, even when the counteroffer differs by only a few percentage points.

In addition, the TxDOT ROW personnel were asked how often they employ the selected best practices from the research sources and whether they would recommend the practices to improve the negotiation process. The selected best practices from these sources are as follows:

- Allow the same person to perform the valuation and negotiation for any given parcel;
- Use incentive programs for early completion of the negotiation process (e.g. incentive payments for early completion and penalties for late completion);
- Require negotiators to meet owners prior to the beginning of the negotiation process, in order to discuss the project, the right-of-way acquisition process, and the justification of valuation results (thereby reducing the need for later queries, calls, and visits);
- Require negotiators to present and discuss the offer in person;
- Use a closing manual which lists pertinent contacts, phone numbers, and directions to, and inside, the courthouse in order to reduce staff time at courthouse;
- Conduct an 'open-house' event explaining the right-of-way acquisition process for a specific project to the public;
- Use a streamlined process to provide immediate payment to property owners for low-valued property rights;
- Create a guidebook to assist property owners on writing an acceptable counteroffer
- Allow more than 30 days for owners to present a counteroffer;
- Encourage negotiators to assist property owners on preparing and negotiating a counteroffer;

- Employ land consolidation (i.e., the purchase of remainder parcels on either side of a new highway that leaves the owner with a consolidated property); and
- Allow exchange of previously purchased property outside the acquisition area for the needed parcel.

Finally, additional recommendations and a description of problems experienced were provided by the respondents at the end of the survey. (Please see Appendix C for the survey instrument used and Appendix D for all survey responses.)

2.4 Synthesis of Best Practices

With the information drawn from the background review and data analysis, the research team formulated best practices and guidelines to promote fast project delivery time, reasonable cost, and good rapport with the public during valuations and negotiations. First, the researchers searched for the best practices that were most emphasized in the literature.² By reviewing the interview notes and by analyzing the results of both the property owner satisfaction survey and the ROW personnel survey, certain practices that were not applicable to TxDOT were removed from consideration. Those remaining were categorized by type, and then synthesized into sets of guidelines. Findings from the analysis of the property owners' negative comments and general comments volunteered in the ROW personnel survey were also categorized and provide support to the guidelines as practices to avoid.

² That is, federal publications, academic reports, and DOT manuals and guidelines.

3. Background Review

This chapter summarizes the findings from the various research sources including technical reports, federal publications, manuals published by TxDOT and other state DOTs, and additional resources. The literature review provided the background information needed for identifying potential best practices and for distinguishing the different practices used by other state DOTs. Additionally, a number of problems/issues experienced by agents during the valuation and negotiation processes are listed in order to highlight difficulties in valuing properties and negotiating with property owners.

3.1 Overview of Right-of-Way Acquisition Process

ROW acquisition begins with planning, collection of preliminary ROW and utility data, and request for release of ROW (TxDOT, 2000). Once ROW is released and the district offices are authorized to acquire the needed properties, a formal valuation of each property to be acquired is obtained, the state DOT or local agency presents an offer to the property owner, and the negotiation process is initiated. If the owner accepts the offer, acquisition and possibly relocation takes place. However, if the owner rejects the offer after negotiations, condemnation proceedings typically follow (TxDOT, 2000).

According to the *Real Estate Acquisition Guide for Local Public Agencies* (TxDOT, 2004), the ROW acquisition process in Texas is comprised of five phases.

- 1) Planning,
- 2) Valuation (i.e., appraisal),
- 3) Negotiation,
- 4) Property Management, and
- 5) Relocation.

These phases outline the organization of this overview. Each of these five ROW acquisition activities is discussed in greater detail. The purpose of the overview is to provide background information on the entire acquisition process.

3.1.1 Planning

Planning is the first phase of the ROW acquisition process and mainly involves environmental assessments, location and design studies, and public involvement activities. During the planning phase the laws require environmental assessments that mainly measure the social, economic, and environmental impacts of a project's ROW acquisition and any relocation it might occasion. For instance, these assessments include analyzing the number of people or businesses displaced by the project; they also assess any impacts it will have on community services, wetlands, wildlife habitat, and so forth. (FHWA, 2001).

Public involvement is as critical as the environmental assessment during the planning phase. The purpose of initiating public involvement is to notify a community of the agency's intentions and to communicate the necessity of a project. Moreover, in public forums, the people of affected communities can learn about a project's possible social and environmental impacts, and they can voice their opinions on the project and on the ROW acquisition process. There are several

avenues for such communication with the public: public meetings, newspaper, television advertisements, and letters. However, the degree of public participation can vary depending on the complexity or size of a project and its impact on a community (TxDOT, 2004).

The *TxDOT Right-of-Way Acquisition Manual* (TxDOT, 2005) requires that after the ROW acquisition project has been released, the agency must provide further information about the project; this information must include explanations of the need for acquiring the owner's property, the basic legal protection the property owner can have, the general procedures of the acquisition, and so forth. Furthermore, prior to the next phase (i.e., appraisal), the agency should contact the property owner in person. The manual further recommends obtaining information during these meetings on any improvements, or hazardous or underground materials on the property, or any liens against them.

3.1.2 Appraisal and Appraisal Review

The second phase, appraisal, is the process of having a parcel appraised and having the appraisal reviewed to establish the amount of just compensation. The Uniform Act requires the determination of an amount that the agency believes to be just compensation. Also, the Act requires that the property be appraised before an acquiring agency begins negotiations to acquire it, and that the amount of the approved appraisal be the basis of the offer of just compensation.

A detailed appraisal should reflect the nationally recognized standards, such as the *Uniform Appraisal Standards for Federal Land Acquisition* (UASFLA) and the *Uniform Standard Practices for Appraisal Professionals* (USPAP) (TxDOT, 2004). In accordance with the federal regulations, the state law requires that the appraisal report include particular items, such as the purpose of the appraisal, a description of the physical characteristics of the property, and a description of comparable sales.

The requirement for an appraisal can be waived if a parcel is donated, or if the proposed acquisition is uncomplicated and low-valued. The local agency can determine whether the proposed acquisition is uncomplicated and low-valued and may proceed acquiring it by means of negotiation; the agency may take this unfettered action only if the anticipated value of the proposed acquisition is estimated at \$10,000 or less, based on a review of available data.

The Uniform Act requires that the appraiser give the property owner the opportunity to accompany him or her during any investigation of the property made in preparation of the appraisal. This requirement allows property owners to advise the appraiser or indicate features of the property that might affect the valuation of the property, or that might not be obvious to the appraiser. The state laws also require that the invitation to accompany the appraiser be made in writing in advance.

Once the appraisal is complete, it must be reviewed by a qualified appraisal reviewer. The purpose of the appraisal review is to ensure that the appraiser has followed all the legal requirements, and that the appraisal contains accurate information. If any inaccuracies are identified, the reviewer is required to correct them.

3.1.3 Negotiation

The phase following appraisal is negotiation. In this phase, agencies make offers to property owners for acquisition of real property and improvements. Agencies also make payments for

properties and give notice to property owners to vacate during this phase. When all reasonable efforts to negotiate the written offer of just compensation have failed, another option, an administrative settlement, can be pursued before the negotiation shifts to condemnation (FHWA, 2006). The Uniform Act requires agencies to attempt to acquire real property by negotiation rather than eminent domain authority. The negotiation process will also be discussed in more detail in Chapter 5 of this report.

3.1.4 Property Management

The fourth phase of the acquisition process is property management, a phase in which the clearing of the ROW takes place. This phase can also be time consuming and full of unexpected, sometimes extensive, schedule delays. However, if the revenue from the sale of excess property purchased during the ROW acquisition process can be maximized, it can be a very useful phase; agents who are good property managers can partly recover the large investments made during acquisitions. Other activities may also take place in this phase, such as assessments of distant future use of the excess properties, i.e., expansion of ROW. This phase is a process that requires a number of advanced skills that include time management, marketing, financing, etc.

3.1.5 Relocation

Finally, in the relocation phase, residences, businesses, farms, and non-profit organizations are displaced due to federal or state programs designed to benefit of public. However, the law specifies that the displaced persons should not undergo disadvantage as a result of projects done for the public good.

According to the *Real Estate Acquisition Guide* (FHWA, 2006), the relocation process is divided into four parts. Relocation planning comes first and requires the analysis of the location, size, and schedule of the displaced residents. Secondly, the Uniform Act requires supplying the affected residents with general information on their eligibility for relocation, and on the 90-day minimum notice provision that guarantees that they do not have to vacate their property without a 90-day written notice. Next, an advisory service is provided to ensure that relocated owners are fully informed and that they have access to counseling and advice. Finally, payments must be made to affected residents.

3.2 Review of Pertinent Laws and Statutes

To gain better understanding and assessment of ROW negotiation practices, the research team conducted a review of the pertinent laws and statutes that affect the valuation and negotiation process. Federal and state laws were found to greatly affect the valuation and negotiation processes and are discussed in this section.

3.2.1 Laws and Statutes that Govern ROW Acquisition

Federal laws

The principal laws for ROW acquisition on Federal projects are Public Law 91-646 and The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, also called The Uniform Act. The Uniform Act protects property owners whose property and/or

improvements are acquired or who are displaced from ROW acquisition by federal or federally-assisted state projects (FHWA, 2006). Three sections (or titles) comprise the Act. Title Three, the "Uniform Real Property Acquisition Policy," governs acquiring real property for federal and federally assisted projects. The provisions of Title Three encourage agencies to acquire real property through negotiation, and to minimize the possibility of litigation (FHWA, 2006). The bulk of this chapter addresses this part of the Uniform Act.

The Public Law 49 Code of Federal Regulations (CFR) Part 24, the Uniform Act regulation, is the regulation most pertinent to real property acquisition activities done for federal and federally-assisted state projects. According to the Real Estate Guide for LPAs (TxDOT, 2004), the CFR is "a codification of the general and permanent rules published in the Federal Register by the Executive departments and agencies of the Federal Government."

State Laws

State and local laws also govern public project and program activities. As indicated by the Real Estate Guide for LPAs (TxDOT, 2004), the Texas Status, Transportation Code, Title 6, Chapters 201-250, and Property Code, Chapter 21, are the primary state laws that govern ROW acquisition. Moreover, other regulations can be found that support these statutes, such as administrative rules provided in the Texas Administrative Code (TAC), title 43, Part 1, Chapters 1,2, 5,6, 15, and 21 (TxDOT, 2004).

3.2.2 Federal and State Laws that Influence Valuation and Negotiation

Appraisal requirement

After the planning phase of ROW acquisition, the valuation of the particular property begins. The Uniform Act requires the determination of an amount that the Federal Agency believes to be just compensation. Also, The Act requires that the property be appraised before an acquiring agency begins negotiations to acquire it, and that the amount of the approved appraisal be the basis of the offer of just compensation.

According to the TxDOT appraisal and review manual (TxDOT, 2006), the Texas Constitution allows "the acquisition of private property for public use, while requiring that any such acquisition entitles the owner to just compensation." The manual further states that the purpose of the property valuation is to develop an estimate that reasonably reflects the owners' property. Though the agency must offer the amount that the property owner is entitled to, state law prohibits paying more than the agency is required to pay.

Pre-appraisal contact

The ROW acquisition manual (TxDOT, 2005) requires agents to contact the property owner in person prior to the beginning of the appraisal. At the pre-appraisal meeting, the agent should provide property owner with a statement of the agency's intention to acquire the property, an explanation of the need for the acquisition, notification of the property owner's right to donate the property to the agency, and an enumeration of the property owner's basic legal protections. However, the manual cautions agents "not to make a commitment to value or make an offer before receiving approved values."

Appraisal standards

According to the Federal Highway Administration guide book (2006), the Uniform Act regulations require agencies to conduct detailed appraisals for all complex appraisal issues, whether the acquisition is a whole or partial taking. In developing a detailed appraisal, the act states that the acquiring agency has a legitimate role in the appraisal process, especially in defining the scope of work of the appraisal problem. Also, the agency has the responsibility to assure that the appraisals are appropriate to its programs' needs and that they reflect established and commonly accepted federal program appraisal practice.

The real estate acquisition guide for LPAs (TxDOT, 2004) suggests that a detailed appraisal should reflect standards that are nationally recognized, such as the Uniform Appraisal Standards for Federal Land Acquisition (UASFLA) and the Uniform Standard Practices for Appraisal Professionals (USPAP). Complying with the federal regulations, the state requires that the appraisal report include certain items, such a statement of purpose for the appraisal, a description of the physical characteristics of the property, and a description of comparable sales.

Appraisal waiver

As stated in the Uniform Act, the federal agency allows the state transportation departments to develop procedures for waiving the appraisal requirement when an appraisal is unnecessary; such waivers apply when the valuation problem is uncomplicated and the anticipated value of the proposed acquisition is estimated at \$10,000 or less, based on a review of available data. State laws also waive the appraisal requirements in these cases, as well as when property owners donate the property. Moreover, the federal agency may approve a waiver for properties with values exceeding the \$10,000 threshold and sometimes reaching a maximum value of \$25,000, as long as the Agency acquiring the real property offers the property owner the option of having the property appraised.

Owner Accompaniment

The Uniform Act requires giving the property owner the opportunity to accompany the appraiser during the examination of the property. When agents comply with this requirement, property owners can advise or indicate features of the property that might affect the valuation of the property or that might not be obvious to the appraiser.

Likewise, the state requires that the property owner be given the opportunity to accompany the appraiser during the examination. The state laws also require that the invitation be made in writing, with sufficient lead time for the owner to arrange to be present or to request an alternative time. If the owner declines the invitation to accompany the appraiser, the refusal should also be in writing and be retained in the agency's file.

Appraisal and acquisition of improvements

For appraisal and acquisition of improvements, Texas laws require the LPA to include all buildings, structures, or other improvements located on ROW parcels in appraisal reports, if they are determined to be real property under state standards.

Basic acquisition requirements

The Uniform Act states that when the agency moves to obtain necessary ROW properties it should attempt to the greatest extent possible to do so by negotiation rather than through its condemnation authority. The act further requires a qualified member of the agency's staff to conduct the negotiations. However, fee negotiators may be hired when the agency's negotiation staff is insufficient.

The basic requirements for ROW negotiation stated in the Uniform Act listed below, and will be discussed in detail in subsequent sections:

- 1) Prior to the beginning of negotiation, present a written offer of the approved estimate believed to be just compensation for the real property;
- 2) Contact the property owner in order to explain the acquisition process, the basis for establishing just compensation, etc;
- 3) Give the owner a chance to consider whether to accept or reject the offer of just compensation;
- 4) Have the appraisal updated if new appraisal information is needed or a significant delay occurs; and
- 5) Negotiate without any coercive actions in order to reach an agreement.

Written offer

After the valuation phase is complete, the Uniform Act requires the presentation of a written offer to the property owner explaining the amount of just compensation and the basis for that amount. Delivery of this offer constitutes initiation of negotiations and is the principal date for determination of relocation assistance entitlements (FHWA, 2006).

In addition the requirements of the Uniform Act, the state laws also require the presentation of a written offer to the property owner, initiating the negotiation process. The state laws also require including the following items in the written offer: (1) a statement of the established amount believed to be just compensation, including damages; (2) a description of the ROW parcel to be acquired; (3) a copy of the appraisal as a basis for justification of the amount offered; and (4) a description of the administrative settlement process (TxDOT, 2005).

Negotiation contacts

The Uniform Act requires an acquiring agency to make "all reasonable efforts" to contact each real property owner in order to give an explanation of the negotiation process and the responsibilities of both the acquiring agency and the property owner. The *Real Estate Acquisition Guide* (FHWA, 2006) encourages the agency to contact the owners, explaining that the contact can promote good rapport with the property owner.

While the FHWA strongly encourage acquiring agencies to contact owners in person, TxDOT places less emphasis on it; the TxDOT manual makes this clear when it describes negotiations as "usually conducted through personal contacts, but [also] conducted via other appropriate means" (TxDOT, 2004). However, the manual does provide a guideline for personal contact, discussing the presentation of the offer letter, recommending full discussion of the offer, and advising agents to explain the administrative settlement process.

Coercive action

The Uniform Act for ROW negotiation prohibits agencies from using coercive actions to make an agreement. The act also forbids advancing the time of condemnation, or deferring negotiations or condemnation. The *Real Estate Acquisition Guide* (FHWA, 2006) further recommends that the negotiator should not imply that the negotiation is a "take it or leave it" proposition, nor should condemnation be used as a threat.

Administrative settlements

An administrative settlement is set in motion when the landowners refuse the initial offer; settling with owners is the last effort made before the agency involves its condemnation authority (FHWA, 2006). According to the Uniform Act, the amount is typically more than the initial offer of just compensation due to the consideration of the even larger cost of litigation and project delays. Furthermore, a written statement of the basis for such a settlement should be developed.

As with the federal regulations, the state laws allow agencies to acquire properties by administrative settlements. To initiate the administrative settlement process, the property owner's written counteroffer is required and must include his or her signed proposal for full settlement setting forth a specific value with information to support the proposal. This counteroffer, which is allowed only once, or written for an extension of time, must be received by the district office no later than thirty days after the property owner's receipt of the initial offer letter. Any counteroffers/administrative settlement requests or requests for time extension received after the expiration of the thirty-day period will not be considered (TxDOT, 2005).

Uneconomic remainders

If partial property acquisitions leave the property owner with a remainder that has no value to the property owner due to a partial taking, the Uniform Act obliges the agency to make an offer to acquire the remainder along with the portion of the property necessary for the project (FHWA, 2006).

The State laws prohibit acquiring properties in excess of ROW requirements, except in the case of "uneconomic remnants." Transportation Code, §203.0521 gives TxDOT the statutory authority to acquire uneconomic remainders. However, the state statutes require that the property owner must consent to the acquisition. For TxDOT to acquire the uneconomic remainder, it must be determined that an uneconomic remainder "(1) has little or no value or utility to the property owner, or (2) that the entire tract could be acquired for substantially the same compensation as the partial tract, including damages to the remainder property" (TxDOT, 2006).

3.2.3 Uniform Standards of Professional Appraisal Practice (USPAP)

Organization

As discussed above, Texas law requires that a detailed appraisal should reflect nationally recognized appraisal standards, such as the USPAP practices. The purpose of the USPAP is to maintain a high level of public trust in appraisal practices by establishing requirements for appraisers. Certain ethical obligations are placed on the appraiser because his or her role as guardian of the public trust is so important. USPAP reflects the current standards of the appraisal profession.

USPAP is composed of five main sections: definitions, rules, standards, standards rules, and statements. The definitions section sets out the terminology used in USPAP. The rules section delineates the requirements for ethics, competency, scope of work, and jurisdictional exception. The standards section, which is the main body of the USPAP, establishes the requirements for appraisal, appraisal review, appraisal consulting service, and the manner in which each is communicated. A number of standards are discussed below that are related to the process of valuation and negotiation. In addition to the standards, the statements on appraisal standards clarify, interpret, explain, or elaborate on a rule or on standards rules. Comments are an integral part of USPAP and have the same weight as the components they address. Furthermore, advisory opinions are addressed as addenda to the document. Advisory opinions are issued to illustrate the applicability of appraisal standards in specific situations and to offer advice from the Appraisal Standards Board for the resolution of appraisal issues and problems. However, these opinions do not establish new standards or interpret existing standards.

Related Standards

Ten standards address the requirements for appraisal, appraisal review, and appraisal consulting services, but only a few are related to the scope of the present research project (TxDOT 0-5379). Those pertinent standards are: Standard One, Real property appraisal development; Standard Four, real property appraisal consulting, development; and Standard Nine, business appraisal, development.

Standard One addresses the substantive aspects of developing credible appraisals of real property. *Real property* means the interests and rights inherent to the ownership of an identified parcel of land, including improvements. The requirements set forth in Standard One follow the order of the appraisal development process, and can be used by appraisers and the users of appraisal services as a convenient checklist.

The purpose of an assignment under Standard Four is to develop an analysis, recommendation, or opinion that involves at least one value estimate. However, an opinion of value or an opinion of the quality of another appraiser's work cannot be the purpose of an appraisal consulting assignment.

Standard Nine is directed toward the substantive aspects of developing a credible appraisal of an interest in a business enterprise or intangible asset.

3.3 Review of Potential Best Practices

Most of the publications emphasized the importance of having a well-trained and qualified group of staff, fee appraisers, and review appraisers. Several practices were suggested and are stated below:

- Offer localized in-house training courses for staff, fee appraisers, and review appraisers in order to ensure their understanding of state law relating to ROW valuations (FHWA, 2002; AASHTO, 2003; NCHRP, 2000);
- Use highly qualified, licensed, or certified appraisers that can deliver the appraisal product on time (AASHTO, 2003; FHWA, 2003); and

- Instruct appraiser to limit the appraisal analysis to one specific valuation approach, unless the inclusion of the additional approaches would significantly add to the reliability and support of the final estimate (Arkansas DOT, 2001).

Inclusion of the property owner in the acquisition process early on was also emphasized as having a positive impact on the valuation process. Following are practices related to property owner involvement:

- The property owner or the owner's designated representative should be given an opportunity to accompany the appraiser during the appraiser's inspection of the property. The purpose of this requirement is to ensure that the owner has the opportunity to advise the appraiser of any features of the property which might affect the valuation of the property as well as indicate any elements of the property which might not be obvious to the appraiser (Arkansas DOT, 2001 ; TxDOT, 2006a; TxDOT, 2000; Illinois DOT, 2004).
- Explain to the property owner the offer to purchase the property, including appraisal basis for the offer to purchase and real property acquisition policies and procedures (TxDOT, 2005).
- It is advisable not to attempt to answer questions of a specific technical or engineering nature, but rather to advise the owner of the appropriate personnel to contact for the information requested (TxDOT, 2000).
- The owner is furnished with information on the overall anticipated timing of the acquisition process, the general type of facility to be constructed, and the appraisal procedures which will follow (TxDOT, 2000; AASHTO, 2003).
- The agent should show the preliminary ROW map for the project to the owner and discuss it fully. Any discrepancies in the map should be noted and changes made, if necessary, before appraisal assignments are issued (TxDOT, 2000).
- The owner should be informed as to the method for selecting qualified appraisers, the estimating value, and what information the owner can provide that will be helpful to the appraiser (TxDOT, 2000).

Some of the potential best practices are related to maximizing production time, and cost and efficiency benefits. The implementation of these practices helps speed the property acquisition process. These practices are listed below:

- Use the same agent for the appraisal and the negotiation process (FHWA, 2002; AASHTO, 2003).
- Obtain and store electronic copies of appraisal reports (FHWA, 2002; AASHTO, 2003; NCHRP, 2000).
- Streamline appraisal review procedures; develop short form review for low-valued and uncomplicated appraisals (FHWA, 2002; AASHTO, 2003).
- Reduce the time lapse between the appraisal valuation date and the initiation of negotiation (FHWA, 2003).
- Utilize most appropriate recent technology to expedite appraisal production. Provide digital cameras, GIS mapping and land use information, cost indexes services, and market data information (FHWA, 2002; AASHTO, 2003).

To promote efficiency, some practices encouraged the modification and simplification of value determinations and reporting procedures. These are the following:

- When property values go up or down because of the proposed public improvement, the appraiser must disregard such changed value when estimating the before value but not the after value, as permitted by state law (FHWA, 2005; Illinois DOT, 2004);
- Agencies are encouraged to allow use of the Value Finding Appraisal format to reduce appraisal time and costs (FHWA, 2005);
- No appraiser or review appraiser shall have any interest, direct or indirect, in the real property being appraised for the department that would in any way conflict with the preparation or review of the appraisal (Arkansas DOT, 2001); and
- The waiver of appraisal is handled by the appraisal section during the appraisal assignment process. The reviewing appraiser or his designated agent determines if the appraisal problem is uncomplicated and the fair market value of the acquisition is estimated to be \$10,000.00 or less. At that point, appraisal waiver procedures may be implemented (Arkansas DOT, 2001; FHWA, 2005; Illinois DOT, 2004).

Emphasizing compromise on issues related to just compensation is very important in the acquisition process. Practices related to compromise are stated below.

- Before initiation of negotiations, appraise the real property to establish just compensation. An exception to this requirement is when a parcel will be donated and the property owner waives the establishment of just compensation through the appraisal process (TxDOT, 2006).
- The amount of just compensation will not be less than the approved appraisal, taking into account the value of allowable damages or enhancements to any remaining property (TxDOT, 2006a; Illinois DOT, 2004).

Many publications emphasize the importance of ROW agents' frequent coordination and communication among themselves and with property owners. The results of this approach may be the reduction of costs and time, and the improved quality of the negotiation process. Key recommendations are listed below:

- Allow the same person to execute both the appraisal and negotiation practices (AASHTO, 2003; FHWA, 2002);
- Use the findings from an in-depth interview with owners, and from expert analyses (AASHTO, 2003; FHWA, 2002);
- Use incentive payment programs for early relocation of the property owners (AASHTO, 2003; FHWA, 2002);
- Ensure that negotiating agent is made a party in discussions about the project and the parcels during project development, or during the appraisal preparation phase (AASHTO, 2003);
- Use any current electronic technology to enhance communication between field forces and central offices (AASHTO, 2003);
- Emphasize compromising on issues related to just compensation (AASHTO, 2003; FHWA, 2002); and
- Generate negotiation reports and recording all contacts with property owners and keep in District files (Arkansas DOT, 2001; TxDOT, 2005).

Simplifying the negotiation process is another effective way to reduce delivery time and costs, and improve the quality of the acquisition process. Detailed examples of ways to simplify negotiations include:

- Contact owners by phone to discuss the project and make an oral offer followed by a written offer by mail (AASHTO, 2003; FHWA, 2006).
- Require negotiators to meet with owners before the beginning of negotiations to discuss the project in order to reduce the number of questions, calls, or visits later (AASHTO, 2003).
- Make all reasonable efforts to get donations of permanent/temporary easement parcels (AASHTO, 2003; FHWA, 2006; NYSDOT, 2003).
- Make prompt payments and have warrants available at the beginning of negotiations (AASHTO, 2003; FHWA, 2002).
- Reduce staff time at courthouse by using a closing manual which lists pertinent contacts, phone numbers, and directions to and inside the courthouse (AASHTO, 2003).
- Require only final plans to be submitted and filed in the central or headquarters office in a decentralized agency (AASHTO, 2003).
- Use sketch maps to accompany offers made on administrative determinations of just compensation to avoid waiting for final maps (AASHTO, 2003).
- Attempt to get all consent, grant, and disclosure forms executed at the same time that the owner inventory form is signed (AASHTO, 2003).
- Attempt to get all plan revisions and corrections completed before proceeding to negotiation (AASHTO, 2003).
- Conduct an 'open-house' explaining the project to property owners, and then negotiate individually. Alternatively, on rural projects involving strip takings, consider negotiating en masse with all affected owners at a public meeting (AASHTO, 2003; NCHRP, 2000).
- Attempt accelerated negotiation by mailing an offer letter, the summary statement of just compensation, a deed or option form, and a property plat or sketch showing the effect of the acquisition (FHWA, 2006).

Moreover, conducting negotiations in a manner that builds owner confidence is stressed in a number of papers and state DOT manuals. Recommendations for this confidence building include the following:

- Require agents to deliver the department's offer to owners in person (AASHTO, 2003; ILDOT, 2004; FHWA, 2002);
- Open discussions with owners with informal conversation in order to ascertain as much information as possible about them (ILDOT, 2004);
- Voluntarily and routinely share copies of complete appraisal reports with property owners (AASHTO, 2003);
- Provide each owner a professional folder of information regarding the project and how it affects their property (AASHTO, 2003); and
- Use a process that provides immediate payment to the property owner for low-valued property rights (AASHTO, 2003; FHWA, 2002; FHWA, 2006).

When disagreement between property owners and the acquiring agency leads to litigation, it often results in the incursion of considerable damages; examples of these damages include unpredictable schedule delays, high purchase costs, and more importantly, an erosion of the relationship with property. Therefore, it is crucial to avoid or minimize condemnation proceedings to the greatest extent practicable. A few of the practices recommended for reducing disagreements are:

- Use mediation to settle acquisitions that have entered preliminary eminent domain processes (AASHTO, 2003; FHWA, 2002; FHWA, 2006; NCHRP, 2000);
- Adopt an administrative settlement policy to allow negotiators authority for settlements for up to a set maximum dollar amount (AASHTO, 2003);
- Prior to submitting a property owner's file to the legal division for condemnation proceedings, provide the file to a condemnation specialist to ensure that condemnation is the only alternative (AASHTO, 2003); and
- Require a joint committee of ROW and legal staff to meet before condemnation in order to assess risks involved and to determine one final settlement offer (AASHTO, 2003).

The literature also highlights the importance of providing property owners pertinent information about the project. This information includes:

- the agency's interest in acquiring ROW parcels³;
- the basic protections guaranteed to the property owner⁴;
- the acquisition functions⁵;
- the necessity for acquisition⁶;
- influence of the proposed improvement on the property⁷; and
- the ability of appraisal staff⁸.

Additionally, a few other best practices recommendations appear as follows:

- Conduct negotiations without any attempt to coerce the property owner into reaching an agreement (CalTrans, 2001; FHWA, 2006);
- Require negotiators to maintain a checklist for the purpose of recording all information pertinent to the job, ownership, addresses, encumbrances, dates and signed records of each visit (Arkansas DOT, 2001);
- Require negotiators to have a minimum of two years of appropriate negotiation experience in real property acquisitions (NYS DOT, 2003); and
- Adapt training programs in project management, consultant contract administration, and information technology in addition to traditional training in the core skills, e.g. appraisal, relocation, negotiations, and property management (NCHRP, 2000).

These best practices have already proven to be effective at improving the negotiation process in many different locations. However, all of them may not be applicable to the state of Texas due to difference in laws, income per capita, rural and urban populations, rural and urban highway mileages, educational levels, and percentage of land owned by the federal government (Hakimi and Kockelman, 2005). To determine which of these best practices are applicable to TxDOT, further data analysis and interviews was necessary.

³ (ILDOT, 2004; TxDOT, 2004; TxDOT, 2005)

⁴ (ILDOT, 2004; TxDOT, 2004; TxDOT, 2005)

⁵ (CalTrans, 2001; ILDOT, 2004)

⁶ (CalTrans, 2001; ILDOT, 2004)

⁷ (CalTrans, 2001; ILDOT, 2004)

⁸ (CalTrans, 2001; ILDOT, 2004)

Problems during acquisition process

A number of difficulties experienced during the negotiation process are discussed in the publication of AASHTO (2003). They are:

- Materials provided to property owners are insufficient or too hard to understand; property owners have confusion about the project, the design, the impact of the property after acquisition, and damages;
- Property owners often do not believe the negotiators are making every effort to reach a reasonable valuation of the property; and
- Property owners feel the agency is hiding something from potential sellers by furthering or fostering negotiation efforts.

Additionally, in project 0-4617, the Center for Transportation Research (CTR) identified other problems, especially those causing delivery time delays, in its in-depth research on the time required for the entire ROW acquisition process. CTR evaluated fifty-five completed projects. For each project, the parcels that took the longest to acquire after ROW release of their deeds were analyzed in detail (Chang, 2005). The root causes for delays in these sample projects were as follows⁹: pricing, compensation and impact dispute delays (44%); title curative and ownership delays (29%); third party delays (27%); parcel characteristics/improvement delays (20%); environmental sensitivity and expert witness delays (18%); legal activity and litigation delays (16%); utility delays (9%); design change and revision delays (9%); and terrain features dispute delays (7%). These results may underscore opportunities for process improvement and they further illustrate the need for the articulation of best practices in ROW acquisition processes.

⁹ Some parcels had more than one root cause

4. Data Collection and Analysis

For further analysis, data was compiled from four sources: a property owners' satisfaction survey; ROWIS records of parcels acquired by TxDOT; a TxDOT ROW District office personnel interview; and a TxDOT ROW personnel survey. Results from the analysis of each data source are presented in the following sections.

4.1 Analysis of Property Owner Satisfaction Survey

From FY 2003 to FY 2006, a total of 1063 owner satisfaction survey forms were collected by TxDOT and analyzed by the research team. In each survey, owners were asked five questions on their satisfaction with the ROW acquisition process, and a space for free comments was provided. On a scale of 1 to 5, with 5 being most satisfied, the average scores for each survey question are presented in the following table.

Table 4.1 Average Scores for Survey Questions by Fiscal Year

Number	2003	2004	2005	2006	Question
Q1	4.58	4.53	4.32	4.61	How well did we answer your questions about the proposed transportation project?
Q2	4.62	4.51	4.35	4.59	How well did we explain the need for your property and the process used to purchase your property?
Q3	4.69	4.60	4.44	4.60	Was the Right of Way Agent informed and responsive to your questions?
Q4	4.75	4.77	4.63	4.80	Was the Right of Way Agent courteous and professional?
Q5	4.29	4.38	4.21	4.47	How would you rate the usefulness of the printed material provided by the Department?

The average scores for each question ranged per year between 4.21 and 4.80, a result that confirms an overall satisfaction with the service received. Also, Question 4, regarding the negotiator's courteousness and professionalism, has the highest satisfaction score in every year. However, the responses to Question 5 revealed that every year owners were less satisfied with the agencies' written materials.

Out of the total of 1063 surveys, 259 surveys included additional comments. These have been categorized as either positive or negative, with 188 in the positive category (17.69%) and 71 in the negative category (6.68%). Table 4.2 and Table 4.3 show that the overall average satisfaction score for the owners who included positive comments was higher for every question than that of owners whose were negative.

Table 4.2 Average Scores for Survey Questions by Fiscal Year for Positive Comments

Questions	2003	2004	2005	2006	Question
Q1	4.70	4.84	4.78	4.94	How well did we answer your questions about the proposed transportation project?
Q2	4.70	4.82	4.84	4.94	How well did we explain the need for your property and the process used to purchase your property?
Q3	4.80	4.87	4.86	5.00	Was the Right of Way Agent informed and responsive to your questions?
Q4	4.85	4.91	4.90	5.00	Was the Right of Way Agent courteous and professional?
Q5	4.30	4.77	4.53	4.82	How would you rate the usefulness of the printed material provided by the Department?

Table 4.3 Average Scores for Survey Questions by Fiscal Year for Negative Comments

Questions	2003	2004	2005	2006	Question
Q1	2.33	4.00	3.54	3.67	How well did we answer your questions about the proposed transportation project?
Q2	2.56	3.85	3.28	3.33	How well did we explain the need for your property and the process used to purchase your property?
Q3	2.25	3.96	3.50	2.83	Was the Right of Way Agent informed and responsive to your questions?
Q4	2.63	4.44	3.92	4.17	Was the Right of Way Agent courteous and professional?
Q5	2.78	3.59	3.24	3.00	How would you rate the usefulness of the printed material provided by the Department?

Further analysis was made by further categorizing and by sorting the positive comments in order to identify some of the best practices. Also, negative comments were further categorized and sorted to identify some of the main problem areas. Table 4.4 lists and shows the frequency of the subcategorized positive comments, and Table 4.5 does the same for the subcategorized negative comments.

Table 4.4 Categorization of the Property Owner Satisfaction Survey Results for

	Category	Number	Example
A	General Compliment	59	Very good; Thanks; All people were pleasure to work with.
B	Polite & Courteous	43	Ms Houdeman has been very courteous and professional.
C	Good Response & Informative	34	She was able to answer all my questions in a knowledgeable and friendly manner. Cobb & Fendley were very good about any questions that we had.
D	Fast & Nice Transaction	11	I have been very pleased with the way I was treated in the whole process; Very efficient operations; We were pleased with the process and promptness with all concerned.
E	Cooperative	7	Everyone was very cooperative. We complement them.
F	Helpful Info, Mat.	5	The material was great, but your people were fantastic at answering any question.
G	Other	4	Nelda did a wonderful job. She explained in English and Spanish everything we needed to know.

Table 4.5 Categorization of the Property Owner Satisfaction Survey Results for Negative Comments

	Category	Number	Example
A	Slow Process	14	It took 7 months before we got the money for the property we sold you.
B	Low Payment	12	Not satisfied with money proposed for demolition.
C	Information Materials	9	Too much duplicated materials / Needs to be explained in simpler terms.
D	Contact issues	7	Would be better to talk in person / I had to call TxDOT, lawyers, etc myself.
E	Not Courteous	6	I'd like to know where the State of Texas found the rude appraisers.
F	Feeling of "Loss"	5	This is our home not just a tract of land the State can add to what it owns.
G	Unprofessional Rep	5	Lied about the amount of the HOA & issued me an incorrect check amount. When I objected she said Wilcrest Walk Association told her too.
H	Keep informed	3	Would like to be up dated often on progress of FM 8 project.
I	Job site issue	3	Did not ask about taking my fence down and they didn't put it back. Parked truck's trailer all on my corner lot and tracked it all up. Cut down a pecan tree on my land. You need to come to talk to me about what you will be tearing up while you work on the road.
J	Other	11	

Further results of analysis, including the numbers of positive and negative comments by district, are shown in Appendix A.

4.2 Analysis of Potential Influence Factors on Possession Type

Using data from ROWIS, the research team identified potential factors that influence valuation and negotiation, including issues that typically lead to condemnation proceedings. A total of 21,310 parcels are listed in the database, but the total number of entries with the information for Possession Type (condemnation or negotiation) was 9,686. For some variables there were undetermined or unknown values as well as missing values, therefore the total number of parcels (N) for each variable may differ. The variables analyzed were Possession Type, Project Type, Property Use, Taking Type, Improvements, and District. The detailed results are in Appendix B. Following are the preliminary findings.

The first analysis is a frequency count of possession types among parcels. There were nine times more parcels that were settled by negotiation than those that went to condemnation (see Table 4.6). The total of data in this analysis is 9,686.

Table 4.6 Frequency Percentage of Possession Type

Percent of parcels that lead to condemnation is (n=945)	9.80%
Percent of parcels that lead to negotiation is (n=8741)	90.20%

The percentages of parcels that were referred to condemnation were analyzed according to their "Property Use" classification. Table 4.7 shows these values. The property uses that had the highest percentages of condemnation proceedings were "Retail Store" and "Industrial," both with similar values. All the residential categories congregated at the lower end of the table. The areas classified as "Rural" were also calculated to be at the lower end, while the areas classified as "Vacant" stood in the middle.

Table 4.7 Percent of Parcels by Property Use That Went to Condemnation

Property Use	Percentage that lead to Condemnation
Retail Store (n=62)	19.40%
Industrial (n=103)	18.40%
Commercial (n=2122)	14.90%
Vacant Acreage (n=1141)	9.60%
Special Use (n=153)	9.20%
Vacant Lot(n=492)	8.70%
Agriculture (n=740)	8.60%
Rural Land (n=402)	8.50%
Rural Residential (n=950)	6.40%
Ranch (n=203)	6.40%
Residential(n=1745)	6.10%
Residential Lot (n=329)	5.80%

Some of the parcels had improvements. These improved parcels were analyzed to determine whether the changes to the properties had any influence on the Possession Type. Table 4.8 shows this analysis. That the percentages did not vary significantly indicates that improvements do not seem to affect a parcel's tendency toward condemnation.

Table 4.8 Percent of Parcels with/without Improvements that Went to Condemnation

Parcels with Improvements that lead to Condemnation (n=5348)	8.70%
Parcels without Improvements that lead to Condemnation (n=4338)	11.10%

Another consideration in the acquisition process is the relationship between the different types of projects and the frequency of condemnation. The project types with the greatest percentage of parcels that went to condemnation were interstate projects and Principal Arterial Street Systems (PASS) (see Table 4.9). These two had significantly greater percentages than the rest of the project types; this may be because these projects are greater in magnitude.

Table 4.9 Percent of Parcels by Project Type that Went to Condemnation

Project Type	Percentage that went to Condemnation
Interstate (n=557)	33.80%
PASS (Principal Arterial Street System) (n=23)	30.40%
Alternate Procedure (n=4768)	8.30%
CMAQ (Congestion Mitigation Air Quality Improvements) (n=86)	8.10%
90% Reimbursement (n=182)	7.10%
100% State (n=810)	6.80%
Farm-to-Market (n=165)	3.60%
County/City (State Highways) (n=35)	2.90%
Enhancements (n=40)	2.50%

When parcels are acquired, they are not always needed in their entirety; in these cases they are divided and only a “Partial” type taking of the property is necessary. These types of takings were compared to the “Access Rights Only” type of taking to analyze the differences in percentages of parcels that went to condemnation (see Table 4.10). There was very little difference between the two primary types of takings.

The possession types were then analyzed and compared by district and no specific trends were found for the percentages of “rural” districts and “urban” districts (see Table 4.11). The district with the highest percentage of parcels that went to condemnation was San Antonio.

Table 4.10 Percent of Parcels by Taking Type that Went to Condemnation

Taking Type	Percentage that went to Condemnation
Whole (n=1169)	9.90%
Partial (n=7861)	9.80%
Access Rights Only (n=116)	1.70%

Table 4.11 Percent of Parcel by District that Went to Condemnation

District	Percentage that went to Condemnation
SAT (n=252)	27.00%
HOU (n=823)	24.00%
LBB (n=201)	18.40%
PAR (n=222)	15.30%
BRY (n=539)	14.70%
BMT (n=376)	14.60%
AUS (n=342)	13.70%
DAL (n=903)	13.70%
BWD (n=148)	10.80%
FTW (n=770)	8.40%
ATL (n=537)	7.10%
LFK (n=264)	6.40%
ABL (n=338)	5.60%
LRD (n=55)	5.50%
WFS (n=279)	5.40%
PHR (n=859)	4.90%
WAC (n=675)	4.10%
CRP (n=232)	3.90%
TYL (n=891)	3.30%
CHS (n=326)	3.10%
ELP (n=134)	3.00%
YKM (n=384)	1.60%
AMA (n=51)	0.00%
ODA (n=36)	0.00%
SJT (n=49)	0.00%

Parcel's entries in ROWIS date back to 1986, but not all of the entries include information on possession type. The research team calculated the percentage of parcels with information on possession type for each year. Table 4.12 shows this analysis. According to the results, the entries dating from 2000 include the possession type of the parcel.

Table 4.12 Percent of Total Parcels by Year with Information on Possession Type

Year	Percentage that has Possession Type Information
1986 (n=2)	0.00%
1989 (n=9)	0.00%
1996 (n=29)	0.00%
1997 (n=199)	0.00%
1998 (n=406)	0.00%
1999 (n=584)	0.00%
2000 (n=1583)	53.60%
2001 (n=1820)	60.20%
2002 (n=1823)	68.40%
2003 (n=2721)	59.90%
2004 (n=4255)	59.30%
2005 (n=5026)	46.60%

The entries from 2000 to 2005 were then analyzed to identify any trends among possession types (see Table 4.13). Condemnation rates were found to have increased each year, but it must be noted that the number of parcels recorded on ROWIS also increased each year.

Table 4.13 Percent of Parcels by Year that Went to Condemnation

Year	Percentage that went to Condemnation
2000 (n=849)	3.50%
2001 (n=1096)	4.60%
2002 (n=1247)	5.60%
2003 (n=1629)	8.00%
2004 (n=2521)	13.50%
2005 (n=2344)	13.80%

A regression analysis was conducted to determine if there is any potential correlation between the independent variables (Property Use, Improvements, Project Type, Taking Type, and district) and the dependent variable (Possession Type). If found, the research team hoped that such a correlation could be used to predict the likelihood of a parcel going to condemnation. The results of this analysis showed no correlation between the independent variables and the dependent variable. In other words, it is not feasible to use a regression model to predict condemnation.

4.3 Analysis of TxDOT Right-of-Way Personnel Interviews

The interviews were conducted with the ROW agents in the Bryan and San Antonio District

offices. The issues these agents believed were important are described below:

1. Staff constraints
 - A. The ratio of projects to personnel is too large; each staff member is working with various projects at the same time and cannot dedicate enough time to each project.
 - B. In spite of the fact that the more often contacts are made with property owners the better, the work load does not allow staff to meet with any one property owner more than one or two times.
2. Time constraints
 - A. Property owners usually want to take their time to think about the offer, but TxDOT allows them only thirty (30) days to accept or present a counteroffer, otherwise the agency will proceed with condemnation.
 - B. If the district office has time, they make pre-appraisal contact and work with the owner to establish good relations. However, there is not enough time dedicated to negotiating with property owners.
3. Counteroffer from property owners
 - A. TxDOT is reluctant to approve counteroffers in which values greatly exceed the approved appraisal amount of just compensation. TxDOT tends to consider the appraisal value the best estimate, regardless of other factors that might have been ignored during the valuation process.
 - B. The 30-day time requirement for counteroffers is not enough for owners to present an acceptable counteroffer in writing, since many have never written a counteroffer before. Though this period is extendable, the extension request requires paper work and approval from the division office.
4. Others
 - A. The Division office requires the review of all administrative settlements over \$50K, even when the counteroffer has only a few percentage units of difference from the initial offer.
 - B. The time, cost, and effort of acquiring a title of an inexpensive property is unnecessarily too great, and not efficient.

The TxDOT agents also made some recommendations during the interviews, and they are summarized below:

1. Encourage negotiators to assist the property owner in writing them counteroffers;
2. Develop a simple document or a guidebook explaining how to write a counteroffer and providing examples; and
3. Allow ROW title waiver for small properties in order to save time/cost.

4.4 Analysis of TxDOT District Right-of-Way Personnel Survey

The survey permitted deeper insight into the problems/issues that are currently experienced by the respondents and shed light on their favorite practices. The practices they recommend are

explained further in detail in the valuation chapter and the negotiation chapter, and Appendix D has the detailed results of the survey.

A total of thirty-five surveys were received from eighteen of the twenty-five District offices (72% reception rate). The eighteen Districts from which surveys were returned are: Abilene, Amarillo, Atlanta, Brownwood, Bryan, Corpus Christi, Dallas, El Paso, Fort Worth, Houston, Lubbock, Lufkin, Odessa, Paris, San Angelo, San Antonio, Wichita Falls, and Yoakum. The participants' identities were kept strictly confidential. The following tables summarize the survey results.

Table 4.14 summarizes the answers to the first question of the valuation section in which participants were asked how often they experienced certain problems during the valuation process. The problem most frequently reported was the property owner's distrust of the agency and/or disagreement with the appraised value (94.1%). Other problems experienced by more than 50% of the respondents were ROW plan changes and revisions affecting the nature and extent of acquisition on many parcels, and delays in the delivery of appraisal reports.

Table 4.14 Summary of Responses to Question 1

1. Please indicate the approximate frequency in which you have experienced the following problems during the valuation process.				
	Often	Sometimes	Rarely	Never
1-i. Property owner distrust of agency and/or disagreement with appraised values	38.2%	55.9%	2.9%	2.9%
1-a. Right-of-way plan changes and revisions affect nature and extent of acquisition on many parcels	32.4%	61.8%	5.9%	0.0%
1-e. Delays in the delivery of appraisal reports	29.4%	55.9%	14.7%	0.0%
1-b. Insufficient right-of-way staff to obtain appropriate appraisals in a timely manner	17.6%	23.5%	44.1%	14.7%
1-c. Lack of qualified fee appraisers	14.7%	29.4%	41.2%	14.7%
1-f. Inconsistencies among appraisal reports (e.g., significantly different values for the same parcel)	8.8%	35.3%	55.9%	0.0%
1-d. Poor quality of appraisals produced by fee appraisers	5.9%	38.2%	55.9%	0.0%
1-g. Appraisers do not have time to meet with property owners personally	2.9%	14.7%	55.9%	26.5%
1-h. Disagreement over prioritization criteria used by outsourced appraisers to select which parcels will be appraised first	2.9%	14.7%	50.0%	32.4%

The second question asked participants to rank the importance of given actions during the valuation process. Table 4.15 summarizes the results for this question. According to the respondents, the most important issue was the way ROW plan changes and revisions affect the nature and extent of the acquisition of parcels (70.6%). The second most important issue was the poor quality of appraisals produced by fee appraisers (67.6%), and the third was delays in the delivery of appraisal reports (52.9%). Although the most frequent problem was not the most important issue to the respondents, the second and third most important issues were found to be among the top three most frequent problems they experienced.

Table 4.15 Summary of Responses to Question 2

2. In your experience, what is the importance of the following actions during the valuation process?				
	Highly Important	Important	Less Important	Not Important
2-a. Right-of-way plan changes and revisions affect nature and extent of acquisition on many parcels	70.6%	23.5%	5.9%	0.0%
2-d. Poor quality of appraisals produced by fee appraisers	67.6%	26.5%	5.9%	0.0%
2-e. Delays in the delivery of appraisal reports	52.9%	41.2%	5.9%	0.0%
2-g. Appraisers do not have time to meet with property owners personally	50.0%	41.2%	8.8%	0.0%
2-c. Lack of qualified fee appraisers	47.1%	50.0%	2.9%	0.0%
2-f. Inconsistencies among appraisal reports (e.g., significantly different values for the same parcel)	44.1%	35.3%	20.6%	0.0%
2-h. Disagreement over prioritization criteria used by outsourced appraisers to select which parcels will be appraised first	32.4%	41.2%	26.5%	0.0%
2-b. Insufficient right-of-way staff to obtain appropriate appraisals in a timely manner	29.4%	50.0%	17.6%	2.9%
2-i. Property owner distrust of agency and/or disagreement with appraised values	23.5%	41.2%	29.4%	5.9%

The third question gave respondents the opportunity to write in any problems or issues not addressed by the questionnaire. Following are some examples of these comments:

- “Shortage of qualified review appraisers;”
- “Property owners who will not cooperate with the appraiser by not providing needed information;” and
- “When new formats for appraising were introduced, there were some problems and resistance from some fee appraisers.”

The fourth question asked respondents to indicate the frequency with which given practices are used during the valuation process. Table 4.16 summarizes the results. The practice most frequently used during valuation is the invitation of the property owner to accompany the appraiser during the appraiser’s inspection of the property (100%). This practice is required by the Uniform Act, and is further discussed in the chapter on valuation (Chapter 7). The second most frequently used practice is to voluntarily and routinely share copies of complete appraisal reports with property owners (94.1%). Encouraging fee appraisers to meet property owners in person is the third most frequent practice (88.2%). To help agencies begin to increase personal contact with property owners, it would be useful to determine a baseline of the current frequency of in-person meetings. For many districts, the ROW district office does not require fee appraisers to meet the property owners; they only encourage and recommend the practice. Twelve of the thirteen practices listed in the survey are used by more than 58.8% of respondents.

Table 4.16 Summary of Responses to Question 4

4. Please indicate how often the following practices are used during the valuation process.				
	Often	Sometimes	Rarely	Never
4-i. Give the property owner an opportunity to accompany the appraiser during the appraiser's inspection of the property	100.0%	0.0%	0.0%	0.0%
4-h. Share copies voluntarily and routinely of complete appraisal reports with property owners	94.1%	0.0%	0.0%	5.9%
4-d. Encourage fee appraisers to meet property owners in person	88.2%	11.8%	0.0%	0.0%
4-j. Assign projects according to appraiser's experience	82.4%	17.6%	0.0%	0.0%
4-c. Encourage ROW staff to meet property owners in person	82.4%	14.7%	2.9%	0.0%
4-e. Provide the outsourced appraisers with pre-appraisal information obtained by district personnel	78.8%	12.1%	3.0%	6.1%
4-b. Evaluate outsourced appraisers annually on their performance	67.7%	12.9%	16.1%	3.2%
4-m. Reduce the time-lapse between appraisal valuation date and the initiation of negotiation	62.5%	31.3%	6.3%	0.0%
4-g Share and discuss the project's preliminary ROW map with all property owners	55.9%	20.6%	17.6%	5.9%
4-k. Prioritize parcels according to complexity/appraisal difficulty and contract appraisals for those that are most complex first	50.0%	35.3%	11.8%	2.9%
4-l. Utilize most appropriate technology (e.g., mobile device, GIS) to expedite appraisal production	31.0%	34.5%	27.6%	6.9%
4-f. Use the same agent (e.g., consultant) for the valuation and negotiation process	12.9%	9.7%	12.9%	64.5%
4-a. Offer training courses for staff, fee appraisers, and appraisal reviewers	8.8%	50.0%	38.2%	2.9%

The fifth question asked participants whether they recommended certain practices. Table 4.17 summarizes the results. The most recommended practice is to encourage fee appraisers to meet property owners in person (94.1%). It is apparent that this practice is believed to be very helpful during the valuation process. The second most recommended practice is to give the property owner an opportunity to accompany the appraiser during the inspection of the property (91.2%). The third most recommended practice is to assign projects according to the appraiser's experience (88.2%). Respondents recommended that complex parcels or parcels with greater difficulty be assigned to appraisers with greater experience to avoid delays resulting from mistakes and confusion. Twelve of the thirteen practices were *recommended* or *highly recommended* by more than 79.5% of the respondents.

Table 4.17 Summary of Responses to Question 5

5. Please indicate if you recommend the following practices based on their effectiveness to improve the valuation process.				
	Highly Recommend	Recommend	Not Recommend	Oppose
5-d. Encourage fee appraisers to meet property owners in person	94.1%	5.9%	0.0%	0.0%
5-i. Give the property owner an opportunity to accompany the appraiser during the appraiser's inspection of the property	91.2%	8.8%	0.0%	0.0%
5-j. Assign projects according to appraiser's experience	88.2%	11.8%	0.0%	0.0%
5-c. Encourage ROW staff to meet property owners in person	76.5%	23.5%	0.0%	0.0%
5-e. Provide the outsourced appraisers with pre-appraisal information obtained by district personnel	75.8%	21.2%	3.0%	0.0%
5-h. Share copies voluntarily and routinely of complete appraisal reports with property owners	73.5%	14.7%	8.8%	2.9%
5-m. Reduce the time-lapse between appraisal valuation date and the initiation of negotiation	70.6%	29.4%	0.0%	0.0%
5-b. Evaluate outsourced appraisers annually on their performance	70.6%	26.5%	0.0%	2.9%
5-k. Prioritize parcels according to complexity/appraisal difficulty and contract appraisals for those that are most complex first	67.6%	29.4%	2.9%	0.0%
5-a. Develop training courses for staff, fee appraisers, and appraisal reviewers	64.7%	35.3%	0.0%	0.0%
5-l. Utilize most appropriate technology (e.g., mobile device, GIS) to expedite appraisal production	51.6%	45.2%	3.2%	0.0%
5-g. Share and discuss the project's preliminary ROW map with all property owners	47.1%	32.4%	20.6%	0.0%
5-f. Use the same agent (e.g., consultant) for the valuation and negotiation process	12.5%	9.4%	25.0%	53.1%

The sixth question gave respondents the opportunity to write in any recommendations not addressed by the questionnaire. Following are some examples of these comments.

- “I have prepared a “Review Checklist” and I fax it to the appraiser for report corrections;”;
- “Appraisers e-mail their report for review before printing, which saves on paper/printing;” and
- “Have the district review appraiser accompany the fee appraiser on initial inspection.”

The negotiation section of the survey begins with the seventh question. Table 4.18 displays the percentages of the agents' responses to each sub-item of the question addressing problems experienced during the negotiation process. The result indicates that the majority (more than 66.7%) of the district office personnel regularly experience the following issues: complaints of low payment (93.9%); distrust from the public (94%); complaints of slow process (66.7%); and complaints of insufficient time for counteroffers (72.7%). On the other hand, some issues are rarely experienced, such as: complaints that brochures are difficult (12.1%); no personal contact with property owners (18.2%); the agency not being courteous (3.0%); and not keeping property

owners informed (12.1%). Clearly some issues are evident not only to property owners but also to TxDOT district office agents. The agents' valuation of property owners' complaints underscore the urgency of their redress.

Table 4.18 Summary of Responses to Question 7

7. Please indicate the approximate frequency in which you have experienced the following problems during the negotiation process.				
	Often	Sometimes	Rarely	Never
7-a. Property owners complaining of low payment	51.5%	42.4%	6.1%	0.0%
7-h. TxDOT time limitation (i.e., 30 days) for property owners being insufficient in order to present a counteroffer	42.4%	30.3%	15.2%	12.1%
7-i. All administrative settlements over \$50K being reviewed by the Division office, even when the counteroffer differs by only a few percentage points	28.1%	34.4%	21.9%	15.6%
7-b. Property owners distrust of agency and/or appraisal methods	27.3%	66.7%	6.1%	0.0%
7-c. Property owners complaining of a slow negotiation process	9.1%	57.6%	30.3%	3.0%
7-d. Property owners complaining of ROW brochures being too technical and hard to understand	3.0%	9.1%	54.5%	33.3%
7-e. Negotiator not contacting the property owners in person	0.0%	18.2%	36.4%	45.5%
7-g. Negotiator not keeping owners updated of the status of the process	0.0%	12.1%	60.6%	27.3%
7-f. Negotiator not being courteous or professional	0.0%	3.0%	57.6%	39.4%

The eighth question asked participants to judge the importance of certain problems or issues that occur during the negotiation process. Table 4.19 shows the percentages of responses to the sub-items on the importance of problems during the negotiation process. The results show that more than two thirds of the ROW agents consider the following issues important: distrust from the public (83.9%); no personal contact with property owners (90.4%); agent not being courteous (100%); and not keeping property owners informed (96.8%). A number of these issues are also identified in the property owners' satisfaction survey.

Table 4.19 Summary of Responses to Question 8

8. In your experience, what is the importance of the following problems during the negotiation process?				
	Highly Important	Important	Less Important	Not Important
8-f. Negotiator not being courteous or professional	83.9%	16.1%	0.0%	0.0%
8-g. Negotiator not keeping owners updated of the status of the process	67.7%	29.0%	3.2%	0.0%
8-e. Negotiator not contacting the property owners in person	58.1%	32.3%	9.7%	0.0%
8-h. TxDOT time limitation (i.e., 30 days) for property owners being insufficient in order to present a counteroffer	45.2%	19.4%	32.3%	3.2%
8-i. All administrative settlements over \$50K being reviewed by the Division office, even when the counteroffer differs by only a few percentage points	35.5%	12.9%	48.4%	3.2%
8-b. Property owners distrust of agency and/or appraisal methods	32.3%	51.6%	16.1%	0.0%
8-a. Property owners complaining of low payment	22.6%	38.7%	38.7%	0.0%
8-c. Property owners complaining of a slow negotiation process	22.6%	35.5%	38.7%	3.2%
8-d. Property owners complaining of ROW brochures being too technical and hard to understand	9.7%	12.9%	58.1%	19.4%

The ninth question gave respondents the opportunity to write in any problems or issues not addressed by the questionnaire. Following are some examples of these comments:

- “Getting title commitments in a timely manner;”
- “Sometimes a negotiator can be too aggressive at the first meeting. Rather, the agent should attempt to uncover the owner's concerns. Then an attempt to ease or solve these concerns may advance the acquisition;” and
- “It is very difficult to explain the need for the property to the owner without a set of construction plans.”

The tenth question asked participants to report the frequency with which given practices are used during the negotiation process. Table 4.20 shows the percentages of responses on how often the agency employs such practices, as shown in the sub-items. In the course of conducting the survey, these practices were selected as candidates for the best practices for successful negotiations. However, only three practices (out of twelve) were used *sometimes* or *often* by a majority of the District offices staff. These practices were: personal contact with property owners (100%); an “open-house” event explaining the project (80.6%); and assistance in writing counteroffers (68.8%).

Table 4.20 Summary of Responses to Question 10

10. Please indicate how often the following practices are used during the negotiation process.				
	Often	Sometimes	Rarely	Never
10-d. Require negotiators to present and discuss the offer in person	87.9%	12.1%	0.0%	0.0%
10-f. Conduct an “open-house” event explaining the right-of-way acquisition process for a specific project to the public	64.5%	16.1%	6.5%	12.9%
10-c. Require negotiators to meet owners prior to the beginning of the negotiation process, in order to discuss the project, the ROW acquisition process, and justification of valuation results	33.3%	18.2%	15.2%	33.3%
10-j. Encourage negotiators to assist property owners on preparing and negotiating a counteroffer	25.0%	43.8%	21.9%	9.4%
10-i. Allow more than 30 days for owners to present a counteroffer	21.2%	42.4%	36.4%	0.0%
10-h. Create a guidebook to assist property owners on writing an appropriate counteroffer	6.1%	12.1%	3.0%	78.8%
10-b. Use incentive programs for early completion of the negotiation process (e.g., incentive payments for early completion and penalty for late completion)	3.1%	0.0%	6.3%	90.6%
10-g. Use a streamlined process to provide immediate payment to property owner for low value property rights	3.0%	9.1%	6.1%	81.8%
10-l. Employ land exchange, which is exchanging previously purchased property outside the acquisition area for the needed parcel	0.0%	18.2%	45.5%	36.4%
10-k. Employ land consolidation (which is when remainder parcels are purchased on either side of a new highway leaving the owner with a consolidated property)	0.0%	6.5%	16.1%	77.4%
10-e. Use a closing manual which lists pertinent contacts, phone numbers, and directions to and inside the courthouse	0.0%	0.0%	22.6%	77.4%
10-a. Allow the same person to perform the valuation and negotiation for any given parcel	0.0%	0.0%	3.0%	97.0%

The eleventh question asked respondents to indicate whether they recommended certain practices. Table 4.21 summarizes the percentages of replies on whether the practice can be recommended for more effective negotiations. Only six practices (out of thirteen) were characterized by more than two thirds of the District office personnel as effective in the improvement of the negotiation process. The following are those six practices: personal contact with property owners (100%); an “open-house” event explaining the project (80.6%); streamlined payment process (75.8%); creating guidebook to help property owners prepare counteroffer (75.8%); higher limit of approval without TxDOT review (90.9%); and encouraging agents to assist property owners preparing counteroffers (69.7%).

Table 4.21 Summary of Responses to Question 11

11. Please indicate if you recommend the following practices based on their effectiveness to improve the negotiation process.				
	Highly Recommend	Recommend	Not Recommend	Oppose
11-d. Require negotiators to present and discuss the offer in person	78.8%	21.2%	0.0%	0.0%
11-f. Conduct an “open-house” event explaining the right-of-way acquisition process for a specific project to the public	41.9%	38.7%	16.1%	3.2%
11-i. Increase the limit on the value of the property that is not subject to review by the Division office	39.4%	51.5%	9.1%	0.0%
11-g. Use a streamlined process to provide immediate payment to property owner for low value property rights	36.4%	39.4%	21.2%	3.0%
11-j. Allow more than 30 days for owners to present a counteroffer	33.3%	27.3%	27.3%	12.1%
11-c. Require negotiators to meet owners prior to the beginning of the negotiation process, in order to discuss the project, the ROW acquisition process, and justification of valuation results	29.0%	32.3%	29.0%	9.7%
11-k. Encourage negotiators to assist property owners on preparing and negotiating a counteroffer	27.3%	42.4%	21.2%	9.1%
11-h. Create a guidebook to assist property owners on writing an appropriate counteroffer	18.2%	57.6%	18.2%	6.1%
11-b. Use incentive programs for early completion of the negotiation process (e.g., incentive payments for early completion and penalty for late completion)	9.4%	46.9%	31.3%	12.5%
11-m. Employ land exchange, which is exchanging previously purchased property outside the acquisition area for the needed parcel	9.1%	36.4%	30.3%	24.2%
11-l. Employ land consolidation (which is when remainder parcels are purchased on either side of a new highway leaving the owner with a consolidated property)	6.5%	25.8%	38.7%	29.0%
11-e. Use a closing manual which lists pertinent contacts, phone numbers, and directions to and inside the courthouse in order to reduce staff time at courthouse	3.3%	50.0%	40.0%	6.7%
11-a. Allow the same person to perform the valuation and negotiation for any given parcel	0.0%	6.1%	36.4%	57.6%

The twelfth and last question of the survey provided the respondents with an area in which to describe any other negotiation practices that they consider helpful and effective. Some examples of these comments are:

- “If possible, use more than one Title Company on a project to expedite title services. On projects located far from the home district office, we had a laptop computer with small printer to instantly prepare conveyance documents for owners' signatures—saved time and travel;”

- “The counteroffer has been very helpful; it provides the owner/TxDOT the ability to settle acquisition and avoid condemnation, reducing the cost of acquisition and cost of the project;” and
- “The administrative settlement process has been helpful. Best to settle dispute over small amount than go to ED.”

5. Synthesis of Best Practices for Right-of-Way Valuations

Valuation is the process that begins in the district office right after the receipt of the official ROW letter of release from the TxDOT ROW division. This chapter will give a brief overview of the valuation process, describing each phase and discussing its purpose. Also included are guidelines and best practices for property valuation.

5.1 Overview and Purpose of ROW Valuations

The valuation process is basically the preparation for an appraisal. An appraisal is a professional opinion—usually written—of the market value of a property such as a home, business, or other asset. The purpose of appraisals, in this context, is to appraise land needed for transportation purposes; these opinions of value establish with reasonable certainty the amount of money the property owner is entitled to receive. Despite the fact that the property owner should receive the amount he or she is entitled to, the state should not pay more than it is obligated to pay under the law. The Texas Constitution permits private property to be acquired for public use, but it requires that any such acquisition entitles the owner to just compensation. Just compensation is defined as the fair market value of the property. This market value typically does not include legal costs or other items such as relocation expenses.

An acquiring agency must make several determinations before ordering an appraisal: the property that is to be appraised; what appraisal techniques and methods are to be used; which legal engineering considerations need to be followed; what construction features are involved; what are the definition and date of value on a property; and what property rights must be respected. Defining these parameters before assigning the appraisal prevents misunderstandings and unacceptable appraisals that address the wrong problems. Another important determination to be made before ordering the appraisal is the number of appraisals that will be done and which formats are going to be used.

There are three different appraisal formats that are suggested for use on federally assisted programs (FHWA, 2005). They are the Value Finding Appraisal Format, the Short Form Appraisal, and the Detailed Appraisal. The use of each depends on the type of property, the type of problems involved, the availability of good market data, and in some cases, the value of the property.

Acquiring agencies must develop and use, as appropriate, at least two appraisal types, detailed and minimum. Agencies are encouraged to develop additional types to meet their needs. Detailed appraisals must be prepared for all acquisitions except those that by virtue of their low value or simplicity do not require in-depth analysis or market comparisons. The State of Texas allows the use of the Value Finding Appraisal Format when, among other requirements, the value of the property does not exceed \$25,000. State law also allows the use of the Memorandum of Value Determination when, among other requirements, the compensation does not exceed \$10,000.

5.2 Valuation Process Description

There are four basic tasks in the appraisal process: make pre-appraisal contact, assign appraisers, establish just compensation, and review appraisal report. These tasks are described in the subsections that follow.

5.2.1 Pre-appraisal Contact

Prior to parcel appraisal there should be a pre-appraisal contact with the property owner. This contact should be in the form of a meeting, in person, with the property owner. In this meeting the owner is given information regarding the overall ROW acquisition process, the general type of facility to be constructed, and the appraisal procedure that will ensue. A commitment must not be made on value nor should any offers be made before approved values are received. During this meeting the property owner should be apprised of the distinction between realty and personalty. Realty is real estate property such as buildings and land. Personalty is any personal property other than real property consisting of things temporary or movable. Any controversies that might arise over this distinction should be resolved in this meeting to avoid future delays or setbacks. Determining whether an item is a fixture is generally the biggest challenge involved in identifying an item as personalty or realty. As stipulated by the State of Texas, the term “fixture” is used to indicate an item of personal property that has become so annexed to land or buildings that it has become a part of the realty.

5.2.2 Assign Appraisers

Once the pre-appraisal contact has been made, an appraiser is assigned the task of determining the market value for each parcel. TxDOT ROW staff and the fee appraisers hired by the Department of Transportation must be state certified or licensed by the Texas Appraiser Licensing and Certification Board. The ROW division must approve all staff and fee appraisers. It is the district’s responsibility to determine that the appraiser assigned to a parcel is qualified to appraise that particular type of property.

5.2.3 Establish Just Compensation

Once the fee appraiser is assigned, the fair market value and just compensation are determined. The fair market value is an appraisal based on an estimate of what a buyer would pay a seller for any piece of property. “Just compensation” is the term used signifying a full and perfect equivalent for the property taken. The amount of just compensation will not be less than the approved appraisal. The approved appraisal takes into account the value of allowable damages and enhancements to any remaining property. This offer of just compensation may have to be updated or a new appraisal may be needed in certain situations: information provided by the property owner may have a bearing on the value; a material change in the property’s condition may also affect the value; and if significant time has passed since the last appraisal the value may need to be determined anew. If indeed the just compensation offer must be changed, the revised written offer must be sent to the property owner and the original offer must be annulled.

5.2.4 Appraisal Report Review

Once the completed appraisal report is received, the district reviews it in preparation for establishing an approved value for the property. A review appraiser will examine the report for completeness, consistency in land values, variances in component values, appraisals of any remainders, compensability, and leased properties. The completeness of the report entails the verification of documentation and the determination of any errors or omissions. The consistency in land values for similar parcels should be maintained to assure fair and equal treatment for all parcel owners. When there has been more than one appraisal prepared for a parcel, the variances in component values are reviewed to identify major differences between appraisals. When the appraisal of a remainder is reviewed, the analysis should cover the appraiser's support for the value of the remainder after the taking. The appraiser reviewer should have knowledge of elements of value that may be non-compensable, both with regard to the part taken and the remainder. Last of all, the proper consideration of a leasehold interest by the appraiser should be carefully checked by the reviewer, because an appraisal of this type will usually involve complicated appraisal techniques.

Upon completion of the review, the review appraiser will recommend that the appraised value be approved. The approved value will be used as the basis for the state's offer to acquire a property.

5.3 Guidelines and Recommended Practices for ROW Valuations

Valuation is the first step in the process of acquiring a particular property. Its success depends on many factors, such as quality of appraisers and review appraisers, property owner involvement, and cost and time efficiency. For a successful valuation process, a number of guidelines and recommended practices are outlined below.

Guideline 1 Regularly train, monitor, and evaluate the expertise of right-of-way staff, fee appraisers, and review appraisers.

- Offer opportunities for right-of-way staff, fee appraisers, and review appraisers to attend training courses to ensure their up-to-date understanding of laws and procedures relating to right-of-way valuations (FHWA, 2002; AASHTO, 2003; NCHRP, 2000).

This practice improves the quality and timeliness of appraisals. Whether using staff or fee appraisers, on-time delivery of a quality appraisal is crucial. The FHWA's National Highway Institute, the International Right-of-Way Association, and professional appraisal organizations sponsor appraisal course presentations and technical assistance workshops that may be attended by ROW fee appraisers and reviewers. According to a report by the National Cooperative Highway Research Program (NCHRP) entitled *Innovative Practices to Reduce Delivery Time for Right of Way in Project Development* (NCHRP, 2000), "Training is ranked as the most effective practice to accelerate ROW delivery."

The results of the TxDOT ROW personnel survey make it clear that training courses for staff, fee appraisers, and appraisal reviewers are considered necessary within TxDOT. The data in its entirety indicated that the ROW staff chose the *recommend* and *strongly recommend* options in relation to this practice. On the other hand, when the percentage of the results on how often this practice is used is observed, it seems this is not practiced as much as it is recommended; 41% of

the results indicate that the respondents chose the *never* or *rarely* options, and 59% chose *sometimes* or *often*.

- Recommend that right-of-way staff, fee appraisers, and review appraisers take refresher courses periodically, or develop an ongoing, in-house employee development program (Adkins and Buffington, 1967).

Because professional development for ROW skills is not usually a part of college curriculums, it is up to agencies, and the industry in general, to provide and encourage such crucial learning (NCHRP, 2000). Frequent seminars within appraisal sections could be of great benefit in increasing interest and improving expertise. For example, seminars may be offered according to the specific needs of a department in order to maintain proficiency levels and to address problem areas. These courses may be outsourced or offered in-house.

- Monitor the time required to deliver appraisal reports.

The timely delivery of appraisals is critical for expediting the ROW acquisition process. Establish monitoring procedures, especially when using fee appraisers and reviewers. Because this practice will establish trends and standards, report delivery projections may be easier to produce. Also, reasonable deadlines and estimated expected timelines for appraisal reports may be determined.

- Assign projects according to the appraiser's experience.

Experienced appraisers are more capable of handling complex cases and "problematic" parcels than novice appraisers. Therefore, projects that are more complex or have greater appraisal difficulty should be assigned to more experienced appraisers. The purpose of this practice is to reduce the error rate of the agency's reports by avoiding mistakes in complicated situations. Requirements regarding the number of complex appraisals completed each year may be used to maintain high expertise levels and professionalism (AASHTO, 2003).

All of the TxDOT ROW staff chose the *recommend* option regarding this practice. When projects are assigned according to each appraiser's level of expertise, many potential delays may be avoided. Upon analysis, the implementation of this practice proved to be proportional to the respondents' strong recommendation of it.

- Periodically evaluate appraisers' performance.

The purpose of this practice is to ensure the quality and the professional development of appraisers. It is up to the district offices to determine how often these evaluations should be performed. The evaluation of appraisers not only tracks their progress but may also serve as an incentive for them to constantly maintain and improve their skills.

In TxDOT, this procedure has been established and implemented thru forms ROW A-19B Guide for Appraiser Assignment, form A-19A Evaluation of Appraiser (per parcel) and form ROW A-19 Annual Review.

In the TxDOT ROW staff survey, this practice only addressed outsourced appraisers. The majority of the respondents (97.1%) *recommended* and *strongly recommended* this practice. The results regarding the frequency of this practice's implementation show a slightly different distribution. As the recommendations suggested, the majority of respondents indicated that this

practice is implemented often. However 15.1% of respondents indicated that this practice is *rarely* observed, while 12.9% indicated that it was *sometimes* practiced, and 3.2% said it *never* was.

- Remember that TxDOT is public service driven rather than profit driven when outsourcing; public satisfaction and good rapport with property owners are of paramount importance to TxDOT.

Outsourced consultants should strive to do quality work and to engender property owner satisfaction, rather than prioritize or approach the parcel valuations and negotiations only with incentives in mind. Good relations with property owners help build confidence in the agency and encourage public support. Property owners should be treated as customers; their satisfaction should be a priority and agents should help them as much as possible throughout the acquisition process.

- Offer opportunities for district office staff members to meet to exchange ideas and share preferred methods for the valuation process.

Meetings among district offices encourage the exchange of ideas and best practices and may serve as workshops. If organized periodically, implementation and outcome reports may be generated over time to determine whether newly adopted practices are improving the acquisition process in a given district office.

Practices to Avoid:

- Routinely using inadequately trained ROW staff on parcel valuations may affect the project in many ways. The valuations they perform may result in costly delays, damage to the agency's reputation, or even legal problems. Because unskilled staff are more likely to produce appraisal reports of lower quality, their work can cause considerable delays in the appraisal review process. Also, property owners are more likely to be dissatisfied with unqualified staff members' estimates of just compensation. One NCHRP study (NCHRP, 2000) reported that having inadequately trained staff is one of the biggest obstacles encountered when reducing the project delivery time.

Guideline 2 Involve and contact the property owner personally early in the acquisition process.

- Encourage right-of-way staff and fee appraisers to meet property owners in person.

Meeting property owners personally increases the likelihood of better valuations and successful negotiations. These personal contacts create opportunities for information exchange and establish good relationships with the property owners. If property owners feel that they can trust the appraiser to be available to help and answer questions, the appraisal process may be completed without delays or with fewer complications than otherwise. The FHWA scanning team encourages states to use a more extensive interview process with property owners to discuss the project's impact and to gain an understanding of how property owners use their property (FHWA, 2002).

The ROW staff survey presented this practice as two separate items. All of the respondents chose either *strongly recommend* or *recommend* as their answer to the item asking whether fee appraisers and ROW staff should be encouraged to meet with the property owners. This strong positive response suggests that this is a practice that should be implemented across the board. Note that the statement says “encourage” and the strong response to it does not necessarily mean that the ROW staff and fee appraisers actually met with the property owners. When analyzed, the data on the frequency of the practice had one surprising result: a small percentage of respondents (2.9%) chose the *rarely* option, signifying that ROW staff is rarely encouraged to meet with property owners according to their experience. The respondents reported that with the fee appraisers this practice is implemented *sometimes* and *often*.

- Invite the property owner (or the owner’s designated representative) to accompany the appraiser during the inspection of the property (AkDOT, 2001; TxDOT, 2006a; TxDOT, 2000; ILDOT, 2004).

The Uniform Act requires that the property owner be given the opportunity to accompany the appraiser during inspection of the property. The purpose of this requirement is to ensure that the owner has the opportunity to inform the appraiser of any features of the property which might affect its valuation. The owner may also be able to point out any elements of the property which might not be apparent to the appraiser.

The results from the ROW personnel survey showed that all of the districts’ respondents agreed that this practice should be implemented. 100% of the respondents chose *recommend* or *strongly recommend* that the property owner be invited to the inspection. When analyzed, the data on the frequency of the practice showed that 100% of the respondents chose *often*.

- Explain the offer to purchase the property to the property owner the offer to purchase the property including the appraisal basis for the offer and the agency’s real property acquisition policies and procedures (TxDOT, 2005).

The better the understanding the property owners have of the reasons behind the offer, the fewer the chances of their not accepting it. Property owners should have all of their questions and concerns addressed and should be informed of the policies and procedures regarding the purchase of their land for public use.

Advise the property owner of the appropriate personnel to contact on specific technical or engineering information (TxDOT, 2000).

- ROW staff and fee appraisers should not attempt to answer any questions outside their area of expertise. This practice prevents misunderstandings and the communication of incorrect information to the property owners, situations that can lead to delays and public disenchantment with the agency.

Practices to Avoid:

- In some cases, appraisers do not have time to meet property owners in person or can meet no more than once because of scheduling conflicts, heavy work loads, and so forth. The analysis of the data from the ROW staff survey showed that only 2.9% of respondents chose the *often* option and 14.7% chose *sometimes* to indicate the frequency of this

problem. The bulk of the respondents chose rarely (55.9%) or never (26.5%). Although this was expressed as a concern in the interviews conducted as part of the research, the survey results do not show a trend that confirms this as a perceived problem. The survey participants were also asked how important they considered this issue to be; 91.2% of them chose the important option and only 8.8% chose the less important option.

- Property owners are sometimes misinformed as a result of different people giving them contradictory information. Such miscommunication may damage the reputation of the agency or the relationship with property owners.

Guideline 3 Streamline the valuation process to maximize production time, cost, and efficiency benefits.

- Prioritize parcels according to complexity/appraisal difficulty, and conduct appraisals for those that are most complex first.

According to one of the interviewees who participated in the research, prioritization was an issue, particularly when outsourced consultants are used. Prioritizing according to complexity prevents the mistake of leaving the potentially most time consuming parcels for last. Dedicating the necessary time and attention to the most complex parcels at the outset first and then later working on the simpler parcels makes delays from unexpected complications less likely.

The majority of the ROW staff survey participants chose the options *recommend* or *strongly recommend* regarding prioritization according to complexity. Only 2.9% of them chose *not recommend*. The data showed that 85% of the respondents reported that this type of prioritization was used *sometimes* or *often*. The remaining respondents viewed its frequency as either *never* happening or *rarely* happening.

- Provide the appraisers with pre-appraisal information.

This practice saves time for the appraisers since it relieves them of the need to search for relevant information already accessible through the district office. A majority of the ROW staff survey respondents (96.9%) chose *recommend* or *strongly recommend* that this practice should be implemented. This enables the appraisers to use the time they would have spent obtaining the documents to instead prepare themselves to meet the property owner. When asked to rate the frequency with which this practice is implemented, the majority of the responses ranged between *sometimes* (12.5%) and *often* (78.1%). Only 3.1% of the respondents reported that this sharing of information is practiced *rarely* and 6.3% said it *never* happened. As in previously mentioned survey questions, had this statement included in-house appraisers or had it only referred to appraisers in general, the responses might have differed. This practice may be implemented with both in-house and outsourced appraisers, and using a specific format may help expedite the process.

- Obtain and store electronic copies of appraisal reports.

Implementing this practice provides records for future reference creating a user-friendly automated database system that makes information easily accessible. The database applications may be shared among offices to track the status and trends of the ROW process.

Utilize most appropriate technology to expedite appraisal production (FHWA, 2002; AASHTO, 2003).

- Using appropriate technology improves the speed and accuracy of data collection. For instance, the use of cell phones and pagers enhances communication between staff in the field and the central office, improving service and availability, and reducing the need for additional field trips. Digital cameras help appraisers who have been refused entrance into a property to obtain pictures from afar, and from different angles. Moreover, downloading photos onto the agency computer makes them available for filing and sharing with other staff members.

The survey asked whether the use of appropriate technology is recommended to expedite appraisal production, and approximately 97% of the respondents chose to *recommend* or *strongly recommend* it. The remaining 3% reported that they do *not recommend* this practice. The respondents were also asked how often this practice is implemented and the answers resulted in a similar distribution among the *rarely*, *sometimes* and *often* responses. Less than 10% indicated that appropriate technology is not used for this purpose. It is not clear from these responses whether technology is not used at all or if it used for other purposes.

Practices to Avoid:

- Outsourced appraisers may sometimes prioritize properties to be acquired according to ease instead of difficulty, especially when the same fee applies to all types of parcels. Properties that are difficult to appraise naturally tend to consume more time than easier ones. If these more complex properties are valued at the end of the time schedule window, the process can consume valuable schedule floats and cause project delays.
- Survey participants were asked how often during the valuation process they experience disagreement over the prioritization criteria used by outsourced appraisers. This does not seem to be an issue that occurs very often. A total of 81% responded that they never or rarely experience this problem. Only 18.2% responded sometimes or often. When asked to rate the importance of this issue in the valuation process, 75.7% indicated that it was important or highly important. A total of 24.2% of the respondents answered less important. This was an unexpected result, which may be due to the statement's reference only to outsourced appraisers. If the statement had included appraisers in general, this percentage would likely be smaller.

Late design and ROW plan changes and revisions affect and slow down the process. Even a small ROW plan change can trigger a significant change to the acquisition of a single property. In such cases, the appraiser might have to perform redundant and time-consuming activities, such as re-doing the valuation, updating information given to property owners, and executing a new appraisal from the beginning.

Guideline 4 Simplify value determinations, reporting protocols, and review procedures.

Streamline appraisal review procedures (FHWA, 2002; AASHTO, 2003).

- A short form review should be developed for low-value and uncomplicated appraisals, and the reviewer should be involved in the project scope meetings and in the pre-acquisition meetings. On commercial properties, the inspections for appraisals and relocation can be combined. These practices expedite the acquisition process.

Encourage the use of the Value Finding Appraisal Format to reduce appraisal time and costs, instead of using a Real Estate Appraisal Report, when appropriate (FHWA, 2005; TxDOT, 2006).

- The FHWA Appraisal Guide encourages agencies to allow the use of the Value Finding Appraisal Format when appropriate. The State of Texas allows the use of this format for inexpensive parcels valued at \$25,000 or less, provided the compensation does not include damages to the remaining property other than for items measurable by cost-to-cure. Cost-to-cure is the cost of solutions that cure any impacts to the property and its improvements that have been incurred by a public project. Should there be any damages that cannot be easily documented as cost-to-cure, a Real Estate Appraisal Report will be necessary.
- Use the Memorandum of Value Determination to expedite the valuation process and minimize the appraisal cost (TxDOT, 2006).

This form has been designed for uncomplicated properties where the ROW acquisition will not result in enhancement or damage to the remainder. When this form is used, compensation should not exceed \$10,000. A district staff reviewer normally completes this form, and a parcel sketch, photograph, and field notes are to be attached to it.

The valuation process for which this form is used is defined as a non-appraisal valuation. This method of valuation is not a formal appraisal and does not produce an appraisal report.

- Emphasize compromising on issues related to just compensation. Such techniques are recognized for effectively resolving acquisitions in a timely and cost effective manner (FHWA, 2002).

This practice is recommended by the International Right of Way and Utilities European Scan Team (FHWA, 2002). Reaching a reasonable compromise with the property owner when there is a good faith dispute over the value of the property acquired or damaged will reduce costly and time-consuming proceedings.

Practices to Avoid:

- Complicated and lengthy valuation procedures can be the reason for inconsistency among appraisal reports. Also, resistance from appraisers and other problems can result when new formats are introduced.

- Property owners sometimes feel that the just compensation value is too low due to the poor quality of the appraisal report, because they know that it is the basis for the estimate on the property.

Guideline 5 Inform property owners of what will take place at each step about the entire acquisition process.

- Furnish the property owner with information on the overall anticipated timing of the acquisition process, the general type of facility to be constructed, and the appraisal procedures that will follow. The more information is provided to the property owners, the fewer the questions and delays that may occur (AASHTO, 2003; TxDOT, 2000).

The survey participants were asked whether they would recommend the voluntary and routine sharing of copies of complete appraisal reports with property owners. Eighty-eight percent of them chose to *recommend* or *strongly recommend* that this practice be implemented during the valuation process. Approximately 12% of the respondents indicated that they *oppose* or do *not recommend* this practice. When asked how often this practice is implemented, 94.1% indicated that this is practiced *often* and 5.9% indicated that it *never* is. Since the percentage of responses that indicated *never* is less than the percentage of respondents who indicated that they *oppose* or do *not recommend* this practice, it may be inferred that some of the participants who oppose or do not recommend this practice have implemented it before and have not had good results.

- Share and discuss the preliminary right-of-way map for the project with all property owners (TxDOT, 2000).

This practice is recommended by the TxDOT manual entitled *ROW Considerations During Project Development and Design* (TxDOT, 2000). Any discrepancies in the map should be noted and any necessary changes made before appraisal assignments are issued. It should be made clear to property owners that these maps are preliminary and that subsequent changes may occur.

The survey included an item regarding this issue that asked participants if they recommended sharing and discussing the project's preliminary ROW map with all property owners. A total of 78.8% answered that they *recommend* or *strongly recommend* this practice, while 21.2% did not. A possible reason for not recommending this practice is the fact that since such maps are preliminary, late changes to the project could mean that time was wasted arranging and meeting with the property owners so early in the process. The participants were also asked how often this practice is implemented; 75.7% indicated that this practice is implemented *sometimes* or *often*, while 24.3% answered *never* or *rarely*.

- Inform the property owners of the method for selecting qualified appraisers and estimating values (TxDOT, 2000).

Ask for information from the owner that will be helpful to the appraiser in estimating the parcel's value. If the property owner knows the process and feels himself or herself to be a part of it, he or she will be more willing to give helpful information to the appraiser. This cooperation will result in better appraisal reports.

- Identify real property and personal property prior to proceeding with the appraisal. Solve any uncertainties over whether an item is personalty or realty before the appraisal report is completed and just compensation is determined.

According to the survey respondents' comments, it is important to advise the property owner of the advantages and disadvantages of declaring items as personalty versus realty. This prevents confusion and/or changes of mind by the property owner, both of which could result in delays.

Practices to Avoid:

Property owners may resent the appraiser and feel disoriented because they do not understand the process. This can be avoided by keeping the property owners informed on the status of the project as it changes.

5.4 Other Guidelines

In the replies to the TxDOT ROW staff survey, many valuable general comments were provided by the ROW acquisition staff from various TxDOT District offices. Some key issues are summarized as follows:

- Review records concerning a parcel before approaching the landowner. These records include tax records, zoning, flood maps, topographic maps, and previous deeds to the property.

By reviewing these documents, the appraiser has a better understanding of the type of parcel he or she will be working with and demonstrates the agency's standard of service to the owner. Also, asking the property owner for a detailed physical and historical description of the property can be very helpful.

- Require appraisers to provide proof that the property owner was afforded the opportunity to accompany him or her on the inspection, and require proof that an inspection was done.

This requirement is usually fulfilled by the appraiser typing in the name of the landowner or representative and certifying, on page one of the appraisal form, to the fact that the offer to accompany was afforded. To avoid controversy, appraisers should have a record of the invitation they offer the property owner or the designated representative to accompany them on inspections. They should also have a record of the owner's response to the invitation. An invitation to accompany the appraiser should be in writing and should allow sufficient time for the owner to arrange to be present or to request an alternate time. If the property owner declines the invitation, that information should be documented in the parcel file. A checklist may be used by the appraiser as proof that an inspection of the property was done.

Several practices were gleaned from the literature review of the manuals and guidebooks of the other state DOTs. While these practices do not fit into the five guidelines, they contribute to an effective valuation process. They are listed below:

- Reduce the time lapse between the appraisal valuation date and the initiation of negotiations (Minnesota DOT, 2003).

According to the Minnesota DOT publication entitled, *Process/peer Review of the Appraisal and Acquisition Practices*, “Offers to property owners should be made within a few days or weeks of valuation rather than months” (FHWA Minnesota DOT, 2003). The authors of this document stress that when too much time has passed between the valuation and the offer, the appraisal may not reflect the current fair market value that must be offered to the owner. Also, in order to provide adequate time for the review appraisers to complete their reviews, appraisers should submit their reports shortly after the valuation date. Making an offer to the property owner in a timely manner enables negotiation to start promptly.

The survey asked whether this practice is both recommended and practiced. 100% of the respondents chose the options to *recommend* and *strongly recommend* the reduction of time between valuation and negotiation. The frequency with which this reduction in time is practiced during the valuation process ranged between *rarely* (6.5%), *sometimes* (32.3%) and *often* (61.3%). The way these time savings were achieved was not specified by the survey prompt or by the respondents. It could have been by delivering the appraisal report shortly after valuation was completed, or by any other technique that expedites the process. Since the untimely delivery of the appraisal report could impede the beginning of negotiations and thus delay the entire project, the survey asked participants to indicate how often they have experienced delays in the delivery of appraisal reports during the valuation process. Results showed that 55.9% responded *sometimes* and 29.4% responded *often*, totaling 85.3%, a significant amount of respondents experiencing this type of delay in their districts. When asked to rank the importance of report delivery delays 94.1% chose the *highly important* option. This strong response may be due to the participants’ awareness that a delay in this part of the acquisition process could mean a delay to the entire project. Only 5.9% of respondents classified these delays as *less important*; these respondents might be people who reported rarely experiencing these types of delays.

- When property values increase or decrease because of proposed public improvement, such changed values must be disregarded when estimating the *before* value but not when estimating the *after* value of the property (FHWA, 2005; ILDOT, 2004).
- No appraiser or review appraiser shall have any interest, direct or indirect, in the real property being appraised for the department that would in any way conflict with the preparation or review of the appraisal (AkDOT, 2001).

If there is any conflict of interest, the appraiser or review appraiser should notify the department so that the appropriate changes can be made. This type of situation could result in bad rapport with the property owners and could generate distrust of the agency.

6. Synthesis of Best Practices for Right-of-Way Negotiations

Based on all information obtained from literature review and data analysis, the research team formulated best practices and guidelines to promote prompt project delivery time, reasonable offers, and positive rapport with the public during negotiations. These guidelines and best practices are presented in this section and are preceded by an overview of the negotiation phase.

6.1 Overview and Purpose of ROW Negotiations

During the ROW negotiation process, agencies make offers to property owners for acquisition of real property and improvements. Agencies also make payments for the properties and notify the owners to vacate.

The *TxDOT Real Estate Acquisition Guide for Local Public Agencies* (TxDOT, 2004) illustrates the basic steps of the negotiating process. After the appraisal and appraisal review are completed, negotiation is initiated via a written offer to the owner. A copy of the appraisal is included in the delivery package, along with an offer to purchase the property for an amount that is not less than the approved appraised value. It is important to keep track of the date of delivery because it establishes eligibility for relocation assistance, which is addressed in the following phase of the negotiation.

If the offer is accepted by the property owner, the payment is arranged and the process proceeds to closing, or to relocation assistance if necessary. Either way, the negotiation process is complete. However, if the final offer is declined after several negotiation attempts and if the administrative settlement process has been denied, the acquisition process moves to the next phase, condemnation proceedings.

In a taking a needed property, there are several legal requirements that must be followed. The Uniform Act states that the agency should attempt to acquire the real property by negotiation rather than through its condemnation authority. Because the negotiation process is a complex matter governed by a number of laws such as the Uniform Act and the *Code of Federal Regulations*, it is worthwhile to further discuss the negotiation steps required by law in more detail.

6.1.1 Initiation of the Process

Once the amount of just compensation has been determined, a prompt written offer of the full just compensation amount to the property owner initiates the negotiation phase. The State mandates that certain information be conveyed along with the written offer; this information includes a statement of the amount offered, a description of the ROW parcel to be acquired, a copy of the appraisal report, and an explanation of the administrative settlement process (TxDOT, 2004).

6.1.2 Negotiation Through Personal Contacts

After the written offer is sent to the property owner, and sometimes even before it is sent, the agency contacts the owner or the owner's designated representative. The purpose of this contact is to explain the negotiation process to the property owner as well as the responsibilities of both the acquiring agency and the property owner (FHWA, 2001). Although the requirement seems quite subjective, the Uniform Act and State law emphasize the importance of contacting the

owner in person as a way of maintaining a high level of public trust in the acquisition process. Additionally, during the numerous negotiation contacts with the property owner, it is critical that the negotiations be conducted without any force or coercion.

6.1.3 Alternative Method to Reach Agreement with the Property Owner

If an initial offer is declined by the property owner, an administrative settlement can be conducted as an alternative to seeking agreement on the amount of just compensation. According to the Uniform Act, this process occurs prior to the agency's invocation of its condemnation authority, and typically the amount is moderately more than the agency's approved offer of just compensation. Furthermore, when federal funds are required for acquisition costs, the agency must provide a written justification providing all available information to support such a settlement, including trial risks.

The TxDOT ROW Manual Vol. 2 (2006) explains that, in order to initiate the process, "a written counteroffer is required and must include a property owner's signed proposal for full settlement setting forth a specific value with information to support the proposal, including a copy of the owner's appraisal report on the property, if applicable. This counteroffer, or written request from the property owner for an extension of time, must be received in the District no later than thirty days from the property owner's receipt of the initial offer letter and any counteroffers/administrative settlement requests or requests for extension of time received after the expiration of thirty days will not be considered. The counteroffer will be reviewed by a District administrative settlement evaluation team that will recommend approval or disapproval. If the counteroffer is in excess of \$50,000 per parcel (total compensation proposed to be paid), the District Right of Way Administrator will forward to the ROW Division, for its approval or disapproval, all District evaluation team recommendations to accept the counteroffer. A final offer letter at the original approved value shall be sent within 5 business days if:

- the 30 days have passed, provided no counteroffer or written request for extension of time has been received within said time;
- the administrative settlement is not approved; or
- the property owner decides to reject an approved administrative settlement.

The property owner will be notified by the District of the agency's decision. If improvements are retained, the retention values will be subtracted from the total settlement amount."

In addition, the TxDOT ROW Manual Vol. 2 (2006) states that "the District administrative settlement team will consider all timely submitted administrative settlements and will 1) approve or disapprove when the proposed amount of total compensation is \$50,000 or less per parcel, or 2) disapprove when the proposed amount is over \$50,000 and is recommended by the District for disapproval. The Director of the ROW Division or his designee will consider all proposed administrative settlements above \$50,000 per parcel which the District recommends for approval".. If the administrative settlement counteroffer is rejected, then the process shifts to condemnation proceedings.

6.1.4 Other Issues

In cases in which partial property acquisitions leave the owner with an "uneconomic remnant," the agency must make an offer to acquire the remainder along with the portion of the property needed for the project. Also, for TxDOT to acquire the uneconomic remainder, the state law requires the property owner to consent to the acquisition (TxDOT, 2005).

6.2 Guidelines and Recommended Practices for ROW Negotiations

The negotiation process is a critical aspect of ROW acquisition, since successful negotiations can benefit TxDOT by reflecting fair market prices, building good rapport with landowners, and reducing project duration and cost. Because of its importance guidelines and recommended practices for the process are necessary.

Guideline 1 Frequently and regularly contact property owners in person to promote confidence in the agency and to reduce delays and negotiation costs.

- Encourage agency to perform in-depth interviews with property owners, discussing issues, such as the influence of the project, property usage of the owner, etc.

According to the European ROW and Utilities Best Practices (FHWA, 2006) manual and the AASHTO (2003) report, interviews with property owners may support expert analysis of potential damages on the property. Information from the appraisal report, the interview, and the assessment of experts help establish a comprehensive estimate of just compensation. Also, presenting this estimate to property owners will further the negotiation processes.

- Conduct an open-house event at public meetings and hearings.

The potential sellers may have a better understanding of the project by attending an agency-sponsored event explaining to the public the project's ROW acquisition process. At this event, agency personnel should make clear which properties the agency would like to acquire, and the potential impact of the project after the acquisition takes place. Also, a ROW agent should be present at the event to answer questions. This type of good communication with property owners is known to be effective in cultivating public trust.

According to the survey of the ROW staff of the TxDOT district offices, it is evident that most of the district offices of TxDOT are already conducting "open-house" events explaining the ROW acquisition process to the public. The respondents indicated that 64.5% of the time, the district office is using this practice often, and 16.1% use it sometimes. The percentage of never or rarely using this practice is very low (19.4%).

Also, a significant number of the respondents said that they would recommend the practice. Nearly 80% recommended or strongly recommended the practice, and only 19.3% did not recommend or oppose it. Also recommended in the NCHRP's Innovative Practices to Reduce Delivery Time for Right of Way Project Development: A Synthesis of Highway Practice (NCHRP, 2000), this best practice must be considered as a critical guideline for successful negotiations.

Practices to Avoid

Although the TxDOT ROW staff survey shows that 81.9% of respondents have *rarely or never* experienced property owners complaining about negotiators not contacting the owners in person, the property owner satisfaction survey shows that in many cases property owners were unsatisfied with the amount of contact they had. Nearly 10% of all negative comments from property owners (7 out of 71 complaints) were related to contact issues. Also, some responses referred directly to preference for personal contact. The fact that 90.8% of TxDOT ROW staff

responses suggest that contacting property owners in person is important reflects that it may be critical to emphasize regularly meetings with owners.

While communication difficulties with owners are likely to damage the reputation of the district office and State agency, the delays that they cause can further erode public satisfaction and trust in the agency.

Guideline 2 Conduct simplified and efficient negotiation processes, including the title acquisition process, in order to minimize schedule delays of the negotiation process.

- Require negotiators to meet owners prior to the initiation of the negotiation process.

It is desirable to require negotiators to meet property owners prior to the beginning of the negotiation process in order to discuss the project, the ROW acquisition process, and to justify the valuation results. These early meetings reduce the questions, calls, and visits later in the process (AASHTO, 2003). They can also eliminate confusion and promote trust, and as a result, expedite the negotiation process and build good rapport with the property owners. Given the fact that two of the top four complaints from property owners about the ROW acquisition process are related to the slow pace of the process (18.7%) and to contact issues (9.3%), it is particularly important to carry out this best practice.

The results from the TxDOT ROW staff survey illustrates that this best practice is already conducted in many district offices and the practice should be recommended for effective negotiations. Two-thirds (66.7%) of the district offices already employed this practice, and 50% of them report using it *often*. Also, significantly more than half (61.3%) of the respondents replied they would *recommend* or *highly recommend* the practice and 38.7% *opposed* or did *not recommend* this practice as an effective way to improve the negotiating process.

Use a streamlined process to provide immediate payment to property owners for low-valued property rights.

Property owners often complain about the slow payment for their properties as well as the slow pace of the process. Using a simplified process to make payments on low-valued properties will significantly reduce the time of the negotiation process without degrading its quality.

Surprisingly, only 12.1% of the respondents of the TxDOT ROW staff survey indicated that they use this practice, and more than 80% have never used it. However, a majority of the respondents indicated that they think the practice would be effective and should be recommended. Even though the percentage of use was low, 75.8% of the respondents *recommended* this practice and 46.4% *strongly recommended*.

- Use sketch maps, if a final map is pending, to accompany the offer on administrative settlements of just compensation.
- In a complicated ROW acquisition project, many plan changes occur. These possibly trivial changes are known to have caused delays in a number of cases. Rather than waiting for the final map to be completed and authorized, sending a sketch map along with the offer will minimize project delays.
- Manage the right-of-way negotiation process by keeping track of its key milestones.

Many significant milestones exist throughout the negotiation process. If the negotiation proceeds without completing any one of those activities, it is likely to be delayed. Using a checklist or any

other means of managing the negotiation process will help agents execute negotiations without neglecting key activities.

- Coordinate plans and schedules with title companies to reduce time spent waiting for title acquisition.

In many cases, title companies are overwhelmed by heavy workloads and unable to transfer titles in a timely way, such delays of title acquisition can become so significant that they can often affect the next phase of the ROW acquisition. This problem can be minimized by working on ROW acquisition plans and schedules together with the title companies early on in the negotiation process.

- Explore the use of incentive programs for early completion of the negotiation process (e.g. incentive payments for early completion and penalties for late completion).

This recommendation may provide consultants with more motivation to acquire the property. By reducing the time for acquisition, management overhead costs can be reduced and the overall project schedule can be met. However, it is important to emphasize that getting the landowner to the point of signing a deed or not is only one step toward filing the deed at the courthouse-which is the end result we are looking toward. Other major issues that are involved that the DOT does not have total control over are: the excessive amount of curative work that is often required to get a clear title, the payment process, and the title companies that are not in DOT's schedule.

- Establish the negotiating party (or agent) prior to the completion of the appraisal process (i.e., during project development, or during the appraisal preparation).

Appointing a negotiating party early on in the project is important because the agent may be able to develop a better understanding of the owner and of the minor issues that could possibly cause a major dispute over the property value.

Practices to Avoid

Requiring unnecessary steps for acquiring low-valued parcels will lengthen the time for negotiation and may also irritate property owners. As stated above, it can cause property owners to complain about negotiation delay and the slowness of the process.

Guideline 3 Encourage negotiators to execute negotiations in a manner that builds good rapport with property owners and that increases owners' confidence in the agency.

- Require negotiators to present and discuss the offer in person.

Meeting face-to-face with property owners can contribute to successful negotiations in a number of ways: more information can be obtained from the owner about the property; explaining the payment to the property owner during negotiation is easier in person; and a good relationship with the owners is more easily established in person. These personal factors will have a positive impact on the negotiation process.

The results from the TxDOT ROW staff survey make it obvious that all TxDOT district offices encourage the agencies to meet the property owner in person. It is also clear that ROW staff members believe that the practice improves negotiations with owners and should be recommended. Though the practice might be employed in all agencies, the property owner satisfaction survey shows that some owners are still unsatisfied with the availability of the agent (10% of the 71 complaints were related to contact issues). Despite the responses from the ROW staff, therefore, it is still important to emphasize that negotiators need to meet the owners in person.

- Emphasize the importance of getting to know the property owner at the beginning of the negotiation process. Encourage agents to have an introductory conversation before starting negotiations.

People tend to have less difficulty discussing matters when both parties share the same interests, hobbies, or belong to the same social organization, etc. Therefore, it is important to obtain background information on the property owner before making the first contact. It is also wise to have an informal opening conversation with owners to put the owner at ease and to cultivate his/her trust in the agent.

- Furnish each property owner with a “folder” that includes comprehensive information on the project.

The folder may consist of the written offer of just compensation, a copy of the final appraisal report, plans/maps of the area to be acquired, legal descriptions, and other pertinent information.

Practices to Avoid

In a number of cases, as stated above, property owners felt that negotiators were too difficult to contact, or they reported that the agents did not contact them in person and that they had to contact the agency themselves. These actions may create costly public distrust, and may impede not only the negotiation process, but the entire acquisition process. Likewise, damage to the process is known to have been incurred by negotiators not having kept property owners updated on the status of the process, or by having been too aggressive at the first meeting. Instead, negotiators should attempt to ease the owner's concerns in order to advance the acquisition.

Furthermore, when negotiators neglect to contact property owners, they tend to cause them to feel the negotiators are not being courteous or professional. According to the owner satisfaction survey results, 11 out of 71 (15.5%) negative comments were related to the agent's unprofessional manner (6 not courteous, 5 unprofessional). Given that 100% of the TxDOT ROW staff survey respondents agreed that being courteous while executing negotiation is significant, the agency must stress that negotiators should behave in a professional manner. This result is all the more striking since only 3% of the ROW staff respondents reported having owners complaining about bad manners.

Property owners may distrust the agency, believing that negotiators are not making a sufficient effort to determine a reasonable amount of just compensation, or that they are hiding something from landowners when encouraging the negotiation process. Also, property owners may lose their trust when they are forced to deal with too many different representatives of the agency. Keeping the number of negotiating agents to a minimum and also minimizing the number of people contacting the property owner is desirable for maintaining good rapport with the public.

Guideline 4 To the greatest extent possible, minimize the possibility of proceeding to condemnation.

- Give the property owner's file to a condemnation specialist or a legal expert before entering the condemnation proceedings in order to assess risks and to determine whether to enter into litigation.

If agreements are not reached by the final offer from the agency, generally the acquisition process must enter condemnation proceedings. However, a number of litigation cases can be avoided after the condemnation experts carefully review all the documents. Although a settlement might not yet have been reached, it is important to ensure that all possibilities are carefully considered by allowing a condemnation specialist or a legal expert to review all the property owner's files before finally entering into condemnation proceedings.

- Encourage negotiators to assist property owners in preparing and negotiating a counteroffer, with no assistance in reaching a specific amount.

When property owners feel that the amount of just compensation is insufficient, they are often willing to present a counteroffer. However, in numerous cases, the owners have difficulty preparing a proper counteroffer because it involves gathering all relevant information and presenting it professionally. Some owners complain that the thirty-day period allowed to them to present a counteroffer is too short. In many cases, these owners feel so frustrated that they opt instead to bring the case to litigation. If the negotiator can assist the property owners in preparing a suitable counteroffer, the acquisition may not lead to time-consuming condemnation proceedings.

The results from the TxDOT ROW staff survey show that the majority of the respondents report that they already help owners prepare counteroffers (68.8%), and that they consider this practice beneficial to the process and recommend it (69.7%).

Moreover, creating a guidebook or an example counteroffer to help owners prepare counteroffers could be even more valuable. Even though a few district offices have composed such guidebooks, 75.8% of the answers indicated that at least creating an example document that could help property owners write a proper counteroffer is advisable.

Practices to Avoid

Information from interviews with TxDOT ROW acquisition personnel indicated that some property owners consider the TxDOT time limitation for counteroffers as insufficient. Also, the TxDOT ROW staff survey results point out that 72.7% of respondents are aware of this issue. The results also show that TxDOT ROW staff knows that some property owners are unaware of their ability to make written requests for an extension on the limit. Ensuring that the property owners understand that the time limitation is extendable is also desirable. In short, to the greatest extent possible, avoiding costly and unpredictable schedule delays caused by litigation should be avoided.

Guideline 5 Emphasize the significance of providing property owners not only with legally required information but also with any pertinent information that may enhance public trust.

- Ensure that all information required by law is provided to the property owner when delivering the written offer to initiate the negotiation process.

According to the TxDOT ROW acquisition manual (TxDOT, 2005), Texas law requires as a minimum the inclusion of the following items with the written offer: (1) statement of the established amount believed to be just compensation, including damages; (2) description of the ROW parcel to be acquired; (3) copy of the appraisal report as a basis for justification of the amount offered, and (4) description of the administrative settlement process. These guidelines are statutory and must be followed.

- Provide notice to property owners of the agency's intention of acquiring the property in discussion, the function of the acquisition, the need for the property to be acquired, the possible impact of the improvement on the property, the capability of the agency to accomplish the project, the right to donate the property to the agency, and the owner's legal protections.

The information provided to property owners can make the negotiation process smoother and save time by giving the owner a full understanding of the project and by inspiring his or her confidence in the agency.

Practices to Avoid

Materials provided to property owners can be too technical and difficult to understand; property owners can thus be confused about the project, the design, the impact of the property after acquisition, and any damages that might be incurred. The property owner survey results indicate that 12.7% of the complaints were related to materials provided to the owners. In any documents explaining the project, the words must be concise and easy to understand for property owners. Take into account that the objective is to give property owners a better understanding of the project and the intentions of the agency.

If the status of the process changes after the first notice has been given to property owners, the negotiator must keep the owner updated with any new information. When property owners feel they have not been updated and have been left out of the negotiation process, they tend to lose trust and obstruct the process. Moreover, if a change indicates a need to update the appraisal, the appraisal must be updated or newly obtained. Correspondingly, if the updated appraisal report or newly established appraisal indicates a need to change the just compensation purchase offer, the law requires the acquisition agency to submit a revised written offer to the property owner. Although only 12.1% of the agents experienced property owners complaining about negotiators not keeping owners updated, nearly all of the TxDOT ROW staff respondents (96.8%) indicated the significance of the practice. Therefore, agencies should pay additional attention to keeping owners updated on the status of the process.

6.3 Other Guidelines

In the replies from the TxDOT ROW staff survey, many valuable general comments were provided by the ROW acquisition staff from various TxDOT District offices. Some key issues are summarized as follows:

- Make every effort to obtain all final plans for the project. It is difficult to explain the need for the property to the owner without a set of construction plans. Also, negotiators must be aware of any plan changes after the negotiation begins.
- Ensure that the appraisal report is correct and reflects a reasonable estimate for the property. While minor differences of opinion can be settled administratively, faulty appraisals make such settlements difficult because they create public mistrust.
- Emphasize the importance of gaining the trust of the public. If property owners experience negative situations, they develop negative attitudes towards negotiators before negotiations have even begun. These reservations tend to impede the entire acquisition process.
- Provide property owners with a condensed version of the final appraisal report. Many owners have never seen a lengthy appraisal report, and feel confused by them. The appraiser should prepare a two- or three-page supplement report that outlines the most important information. This report should include the value of the whole and part of the parcel to be acquired, an explanation of damages, and reference pages where this information can be found in the appraisal report. This would be helpful to most property owners.
- Treat the negotiation process as a problem-solving process. This can often allay or reduce the property owner's concerns over an acquisition.
- Use more than one title company on a project to expedite title services.
- On projects located far from the home district office, provide a laptop computer with a small printer so that agents can instantly produce conveyance documents for owners' signatures.

A number of practices were carefully selected once the analysis of the TxDOT staff survey and the review of the literature, documents, and published papers, was complete. Although only six were supported by more than two thirds of the staff, several other recommendations deserve further discussion. The practices that were *recommended* or *strongly recommended* by between two thirds and one half of the TxDOT ROW staff survey respondents are listed as follows:

- Use a closing manual which lists pertinent contacts, phone numbers, and directions to and inside the courthouse in order to reduce staff time at the courthouse (53.5%).
- Allow more than thirty (30) days for owners to present their counteroffers (60.6%).

Guidelines and practices are recommended in other state DOTs' ROW acquisition manuals or in published documents, and academic papers. Those suggested practices are as follows:

- Require negotiators to maintain a checklist in order to record all information pertinent to the parcel, including ownership, addresses, encumbrances, dates and signed records of each individual visit (Arkansas DOT, 2001).
- Only use negotiators that have at least two years appropriate negotiation experience in real property acquisitions (NYS DOT, 2003).

- Encourage agents to make every effort to obtain donations on permanent and/or temporary easement parcels with a minimum of payment to the property owner, such as the cost for replacing fencing (CalTrans, 2001; AASHTO 2003).
- Adopt training programs in project management, consultant contract administration, and information technology, in addition to the traditional training of core skills, e.g., appraisal, relocation, negotiation, and property management (NCHRP, 2000).
- Consolidate remainder parcels that are purchased on either side of a new highway in order to leave the owner with an unfragmented tract of land (Hakimi and Kockelman, 2005).
- Exchange previously purchased property outside the acquisition area for the needed parcel (Hakimi and Kockelman, 2005).
- Use alternative dispute resolution techniques in order to settle acquisition disputes in the beginning of preliminary eminent domain processes. Proceeding to litigation may drastically and unpredictably increase cost and schedule delays, and may harm the agency's relationship with the public. Instead, using alternative dispute resolution techniques, such as mediation and administrative settlement, can reduce the cost and time spent on normal litigation (NCHRP, 2000; AASHTO 2003; FHWA, 2002; FHWA, 2006).

7. Conclusions and Recommendations

Considerably increasing needs for upgraded and new infrastructure projects have caused need for rapid acquisition of necessary ROW, while simultaneously maintaining good relations with property owners. Valuation and negotiation play critical roles in the ROW acquisition process. While there have been previous studies on best practices for ROW acquisition at the federal level, the research has not thoroughly considered the unique legal, environmental, and social characteristics of individual states, including Texas. This report identifies these features and synthesizes in guideline form the best practices for successful valuations and negotiations in Texas.

To this end, the research team conducted a review of pertinent literature and laws, analyzed relevant databases, analyzed property owner satisfaction survey results, and interviewed and surveyed TxDOT ROW personnel. These methods allowed one to articulate the realities and problems experienced by owners and agents in different TxDOT district offices and in other states. The best practices and guidelines presented in this report were drawn from the results of these research methods.

7.1 Conclusions

The best practices presented here are offered to help ROW agents reduce the time and cost of the ROW acquisition process, and to promote public satisfaction with TxDOT's valuation and negotiation processes. The resulting recommendations are as follows:

- Regularly train, monitor, and evaluate the expertise of right-of-way staff, fee appraisers, and review appraisers;
- Involve and contact the property owner personally early in the acquisition process;
- Streamline the valuation process to maximize production time, cost, and efficiency benefits;
- Simplify value determinations, reporting protocols, and review procedures;
- Inform property owners of what will take place at each step about the entire acquisition process;
- Promote frequent communications with property owners for better coordination and to minimize time;
- Use simplified and efficient negotiation processes in order to reduce time/cost and enhance quality of negotiation process;
- Encourage agent to perform negotiations in a manner that inspires owner confidence;
- Minimize the possibility of proceeding to condemnation; and
- Emphasize the significance of providing property owners with all the information required by law.

7.2 Recommendations

Recommendations for further research are as follows:

- 1) Extend the scope of best practices to processes preceding and following valuation and negotiation, such as project planning, appraisal review, and relocation.
- 2) Update the ROWIS database to ensure that no data are missing for completed parcels.
- 3) Emphasize the significance of inputting newly obtained ROW acquisition data into ROWIS.
- 4) Update the property owner satisfaction survey questionnaire to document changes in owner complaints, compliments, and other inputs.
- 5) Conduct a performance evaluation for outsourced ROW acquisition agents.

ROW acquisition is an integral component of the overall planning and implementation of highway and transportation projects. This process has become more complex, expensive, time consuming and socially sensitive over the last few decades. The valuation of the parcels and the negotiations with the property owners are extremely important aspects of this process and their success brings many benefits to the agency; such as reflecting fair market prices, maintaining good relations between TxDOT and property owners, and increasing trust in transportation planning. In view of the fact that the ROW acquisition process immediately precedes the construction and utilization of the transportation infrastructure, it causes increased pressure for the ROW division to acquire land and deliver projects as soon as possible for construction to start. While TxDOT has been doing an admirable job with the acquisition process, there are several areas in which it could enhance its practices, and therefore the research team encourages the implementation of the practices recommended in this report.

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Appendix A

Summary of Property Owner Survey Results for TxDOT 0-5379

Prepared by D. Medina and E. Chung
Date: 8-Feb-2006
Description: The comments of the property owner survey results, both positive and negative, have been summarized for fiscal year 2003 to 2006. Several tables are presented below showing the mean scores of the answers for the questions presented at the end of the survey, the number of positive and negative comments by year, a histogram of positive and negative comment types, and the number of comments by district.

Table 1. Mean scores of the answers for questions in the survey by year for positive, negative and no comments

Number	2003	2004	2005	2006	Question
Q1	4.58	4.53	4.32	4.61	How well did we answer your questions about the proposed transportation project?
Q2	4.62	4.51	4.35	4.59	How well did we explain the need for your property and the process used to purchase your property?
Q3	4.69	4.60	4.44	4.60	Was the Right of Way Agent informed and responsive to your questions?
Q4	4.75	4.77	4.63	4.80	Was the Right of Way Agent courteous and professional?
Q5	4.29	4.38	4.21	4.47	How would you rate the usefulness of the printed material provided by the Department?

*The questions' answers are scaled from 1 to 5

Table 2. Number of positive comments by year and by land type

	2003	2004	2005	2006	Total	Note*
Number of total surveys	181	390	381	111	1063	
Number of positive comments	26	86	60	16	188	
Percentage of positive comments	14.36%	22.05%	15.75%	14.41%	17.69%	
Number of total survey from rural area	59	133	127	18	337	(Includes agriculture, rural residential, vacant)
Number of positive comments from rural area	8	18	18	2	46	
Percentage of positive comments from rural area	13.56%	13.53%	14.17%	11.11%	13.65%	
Number of total survey from urban area	78	167	212	68	525	(Includes commercial, multi-use, residential)
Number of positive comments from urban area	7	24	26	12	69	
Percentage of positive comments from urban area	8.97%	14.37%	12.26%	17.65%	13.14%	

*Land use information was obtained from ROWIS.

†There are comments that belong to parcels that do not have land use information, this is the reason for discrepancy in totals.

Table 3. Mean scores of the answers for questions in the survey by year for positive comments

Questions	2003	2004	2005	2006	Question
Q1	4.70	4.84	4.78	4.94	How well did we answer your questions about the proposed transportation project?
Q2	4.70	4.82	4.84	4.94	How well did we explain the need for your property and the process used to purchase your property?
Q3	4.80	4.87	4.86	5.00	Was the Right of Way Agent informed and responsive to your questions?
Q4	4.85	4.91	4.90	5.00	Was the Right of Way Agent courteous and professional?
Q5	4.30	4.77	4.53	4.82	How would you rate the usefulness of the printed material provided by the Department?

*The questions' answers are scaled from 1 to 5

Table 4. Number of negative comments by year and by land type

	2003	2004	2005	2006	Total	Note*
Number of total surveys	181	390	381	111	1063	
Number of negative comments	9	26	26	10	71	
Percentage of negative comments	4.97%	6.67%	6.82%	9.01%	6.68%	
Number of total survey from rural area	59	133	127	18	337	(Includes agriculture, rural residential, vacant)
Number of negative comments from rural area	7	10	14	2	33	
Percentage of negative comments from rural area	11.86%	7.52%	11.02%	11.11%	9.79%	
Number of total survey from urban area	78	167	212	68	525	(Includes commercial, multi-use, residential)
Number of negative comments from urban area	2	10	12	3	27	
Percentage of negative comments from urban area	2.56%	5.99%	5.66%	4.41%	5.14%	

*Land use information was obtained from ROWIS.

†There are comments that belong to parcels that do not have land use information, this is the reason for discrepancy in totals.

Table 5. Mean scores of the answers for questions in the survey by year for negative comments

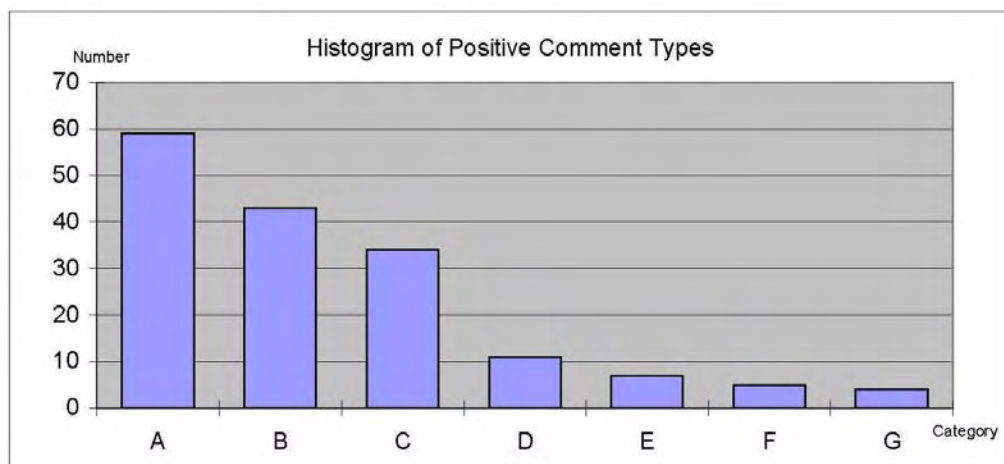
Questions	2003	2004	2005	2006	Question
Q1	2.33	4.00	3.54	3.67	How well did we answer your questions about the proposed transportation project?
Q2	2.56	3.85	3.28	3.33	How well did we explain the need for your property and the process used to purchase your property?
Q3	2.25	3.96	3.50	2.83	Was the Right of Way Agent informed and responsive to your questions?
Q4	2.63	4.44	3.92	4.17	Was the Right of Way Agent courteous and professional?
Q5	2.78	3.59	3.24	3.00	How would you rate the usefulness of the printed material provided by the Department?

*The questions' answers are scaled from 1 to 5

Table 6. Categorization of property owner survey results for positive comments

	Category	Number	Example
A	General Compliment	59	Very good; Thanks; All people were pleasure to work with.
B	Polite & Courteous	43	Ms Houdeman has been very courteous and professional.
C	Good Response & Informative	34	She was able to answer all my questions in a knowledgeable and friendly manner. Cobb & Fendley were very good about any questions that we had.
D	Fast & Nice Transaction	11	I have been very pleased with the way I was treated in the whole process; Very efficient operations; We were pleased with the process and promptness with all concerned.
E	Cooperative	7	Everyone was very cooperative. We complement them.
F	Helpful Info, Mat.	5	The material was great, but your people were fantastic at answering any question.
G	Other	4	Nelda did a wonderful job. She explained in English and Spanish everything we needed to know.

*A single parcel may be categorized in two or more types

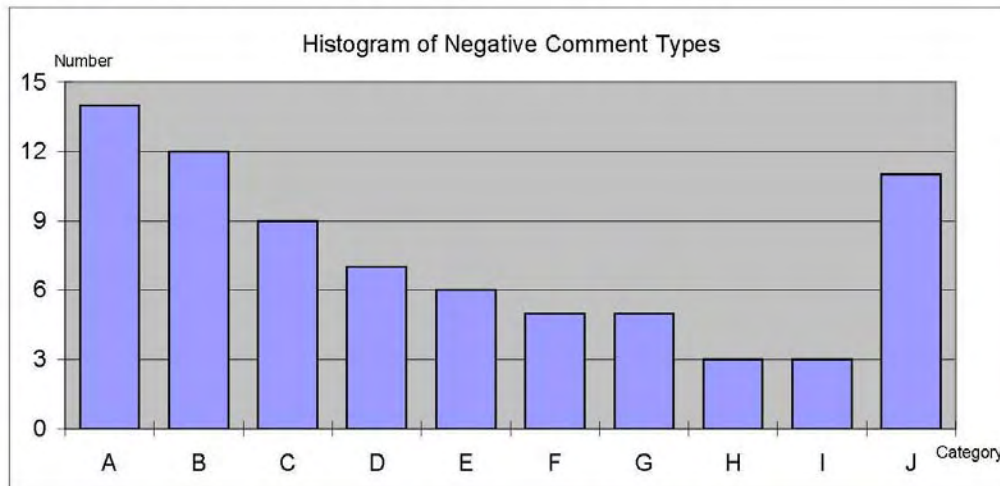


Legend	Category
A	General Compliment
B	Polite & Courteous
C	Good Response
D	Fast Transaction
E	Cooperative
F	Helpful Info, Mat.
G	Other

Table 7. Categorization of property owner survey results for negative comments

	Category	Number	Example
A	Slow Process	14	It took 7 months before we got the money for the property we sold you.
B	Low Payment	12	Not satisfied with money proposed for demolition.
C	Information Materials	9	Too much duplicated materials / Needs to be explained in simpler terms.
D	Contact issues	7	Would be better to talk in person / I had to call TxDOT, lawyers, etc myself.
E	Not Courteous	6	I'd like to know where the State of Texas found the rude appraisers.
F	Feeling of "Loss"	5	This is our home not just a tract of land the State can add to what it owns.
G	Unprofessional Rep	5	Lied about the amount of the HOA & issued me an incorrect check amount. When I objected she said Wilcrest Walk Association told her too.
H	Keep informed	3	Would like to be up dated often on progress of FM 8 project.
I	Job site issue	3	Did not ask about taking my fence down and they didn't put it back. Parked truck's trailer all on my corner lot and tracked it all up. Cut down a pecan tree on my land. You need to come to talk to me about what you will be tearing up while you work on the road.
J	Other	11	

*A single parcel may be categorized in two or more types



Legend	Category
A	Slow Process
B	Low Payment
C	Information Materials
D	Contact issues
E	Not Courteous
F	Feeling of "Loss"
G	Unprofessional Rep
H	Keep informed
I	Job site issue
J	Other

Table 8-1. Number of positive and negative comments by district (FY 2003)

District	Number of surveys	Number of positive comments	Number of negative comments	Percentage of positive comments	Percentage of negative comments	Q1	Q2	Q3	Q4	Q5
ABL	44	0	0	0.0%	0.0%	4.76	4.73	4.84	4.87	4.05
AMA	3	1	0	33.3%	0.0%	5.00	5.00	5.00	5.00	4.67
ATL	1	1	0	100.0%	0.0%	4.00	4.00	4.00	4.00	4.00
BRY	10	0	0	0.0%	0.0%	4.64	4.64	4.64	4.91	4.64
BWD	6	4	0	66.7%	0.0%	5.00	5.00	5.00	5.00	4.33
CHS	23	3	0	13.0%	0.0%	4.87	4.87	4.87	4.87	4.65
CRP	4	3	0	75.0%	0.0%	4.75	4.75	5.00	5.00	4.25
ELP	3	1	0	33.3%	0.0%	5.00	5.00	5.00	5.00	5.00
FTW	8	1	0	12.5%	0.0%	4.75	4.63	4.75	4.88	4.25
LFK	9	1	0	11.1%	0.0%	4.78	4.67	4.89	4.89	4.44
PAR	8	4	0	50.0%	0.0%	4.13	4.13	4.63	4.63	3.63
PHR	12	1	0	8.3%	0.0%	5.00	5.00	4.92	5.00	4.67
SAT	1	0	0	0.0%	0.0%	4.00	5.00	5.00	5.00	4.00
TYL	19	3	0	15.8%	0.0%	4.47	4.44	4.59	4.71	4.41
WAC	16	2	1	12.5%	6.3%	4.69	4.63	4.69	5.00	4.81
WFS	13	0	8	0.0%	61.5%	3.00	3.15	2.85	3.00	3.15
YKM	1	1	0	100.0%	0.0%	5.00	5.00	5.00	5.00	4.00
Total	181	26	9	-	-	-	-	-	-	-
Average	10.6	1.5	0.5	14.4%	5.0%	4.58	4.62	4.69	4.75	4.29

Table 8-2. Number of positive and negative comments by district (FY 2004)

District	Number of surveys	Number of positive comments	Number of negative comments	Percentage of positive comments	Percentage of negative comments	Q1	Q2	Q3	Q4	Q5
ABL	10	4	0	40.0%	0.0%	4.38	4.38	4.63	4.63	4.50
ATL	44	14	5	31.8%	11.4%	4.54	4.59	4.65	4.76	4.37
AUS	1	0	0	0.0%	0.0%	5.00	5.00	5.00	5.00	4.00
BMT	1	0	0	0.0%	0.0%	5.00	5.00	5.00	5.00	4.00
BRY	28	8	0	28.6%	0.0%	4.59	4.52	4.48	4.81	4.30
BWD	5	2	0	40.0%	0.0%	4.80	4.40	4.80	4.80	4.00
CHS	9	4	1	44.4%	11.1%	4.89	5.00	4.89	5.00	4.67
CRP	20	2	1	10.0%	5.0%	4.15	4.20	4.40	4.55	3.90
ELP	1	1	0	100.0%	0.0%	5.00	3.00	5.00	5.00	5.00
FTW	61	6	4	9.8%	6.6%	4.47	4.56	4.58	4.71	4.34
HOU	22	7	2	31.8%	9.1%	4.18	4.27	4.50	4.55	4.05
LFK	10	4	1	40.0%	10.0%	3.40	3.40	3.40	3.50	3.00
PHR	68	10	2	14.7%	2.9%	4.57	4.50	4.56	4.62	4.37
SAT	9	0	1	0.0%	11.1%	4.78	4.78	4.89	4.89	4.56
TYL	18	4	2	22.2%	11.1%	4.60	4.56	4.56	4.56	4.63
WAC	26	4	4	15.4%	15.4%	4.70	4.60	4.71	4.79	4.40
WFS	16	5	2	31.3%	12.5%	3.94	3.81	3.44	4.50	3.75
YKM	2	1	0	50.0%	0.0%	5.00	5.00	5.00	5.00	4.50
Unknown	39	10	1	25.6%	2.6%	3.08	2.95	3.08	3.26	2.85
Total	390	86	26	-	-	-	-	-	-	-
Average	20.5	4.5	1.4	22.1%	6.7%	4.53	4.51	4.60	4.77	4.38

Table 8-3. Number of positive and negative comments by district (FY 2005)

District	Number of surveys	Number of positive comments	Number of negative comments	Percentage of positive comments	Percentage of negative comments	Q1	Q2	Q3	Q4	Q5
ABL	3	0	0	0.0%	0.0%	3.25	3.25	3.50	3.50	3.25
ATL	30	2	6	6.7%	20.0%	4.00	4.07	4.21	4.39	3.96
AUS	4	3	0	75.0%	0.0%	5.00	5.00	5.00	5.00	4.75
BRY	18	4	1	22.2%	5.6%	4.67	4.50	4.56	4.89	4.39
BWD	5	2	0	40.0%	0.0%	4.40	4.00	4.40	4.40	4.00
CRP	4	2	0	50.0%	0.0%	4.75	4.75	4.75	5.00	4.50
DAL	7	0	0	0.0%	0.0%	4.86	4.57	4.86	4.86	4.17
ELP	1	1	0	100.0%	0.0%	5.00	5.00	5.00	5.00	5.00
FTW	92	21	8	22.8%	8.7%	4.22	4.40	4.57	4.71	4.08
HOU	14	3	1	21.4%	7.1%	4.00	4.20	4.00	4.70	4.50
LFK	5	2	0	40.0%	0.0%	4.60	4.60	4.60	4.60	4.40
PHR	123	6	4	4.9%	3.3%	4.52	4.52	4.59	4.72	4.59
SAT	6	3	0	50.0%	0.0%	4.67	4.67	5.00	5.00	4.33
SJT	3	3	0	100.0%	0.0%	5.00	5.00	5.00	5.00	3.00
TYL	17	6	0	35.3%	0.0%	4.71	4.53	4.71	4.82	4.59
WAC	16	1	3	6.3%	18.8%	3.60	3.73	3.87	4.36	3.93
WFS	26	1	2	3.8%	7.7%	4.65	4.62	4.35	4.92	4.00
YKM	7	0	1	0.0%	14.3%	4.29	4.14	4.43	4.43	3.57
Total	381	60	26	-	-	-	-	-	-	-
Average	21.2	3.3	1.5	15.7%	6.8%	4.45	4.42	4.52	4.68	4.17

Table 8-4. Number of positive and negative comments by district (FY 2006)

District	Number of surveys	Number of positive comments	Number of negative comments	Percentage of positive comments	Percentage of negative comments	Q1	Q2	Q3	Q4	Q5
CHS	1	0	0	0.0%	0.0%	5.00	5.00	5.00	5.00	5.00
CRP	1	0	0	0.0%	0.0%	5.00	5.00	5.00	5.00	4.00
DAL	5	1	0	20.0%	0.0%	4.60	4.20	4.60	4.80	4.20
ELP	1	1	0	100.0%	0.0%	5.00	5.00	5.00	5.00	5.00
FTW	26	2	4	7.7%	15.4%	4.68	4.74	4.79	4.89	4.53
LFK	2	0	1	0.0%	50.0%	4.50	4.50	3.50	4.50	3.50
PHR	32	3	1	9.4%	3.1%	4.57	4.58	4.52	4.77	4.63
SJT	2	1	1	50.0%	50.0%	5.00	5.00	5.00	5.00	4.00
TYL	8	1	1	12.5%	12.5%	4.75	4.50	4.75	5.00	4.50
WAC	23	4	1	17.4%	4.3%	4.59	4.65	4.71	4.76	4.47
WFS	4	0	1	0.0%	25.0%	4.75	4.50	4.25	5.00	4.75
YKM	2	1	0	50.0%	0.0%	5.00	5.00	5.00	5.00	5.00
Unknown	4	2	0	50.0%	0.0%	4.50	4.75	4.75	4.75	4.25
Total	111	16	10	-	-	-	-	-	-	-
Average	8.5	1.2	0.8	14.4%	9.0%	4.76	4.72	4.68	4.88	4.45

Appendix B

Frequencies

Statistics

POSSESSION TYPE

N	Valid	9686
	Missing	0

POSSESSION TYPE

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Negotiation	8741	90.2	90.2	90.2
	Condemnation	945	9.8	9.8	100.0
	Total	9686	100.0	100.0	

POSSESSION TYPE

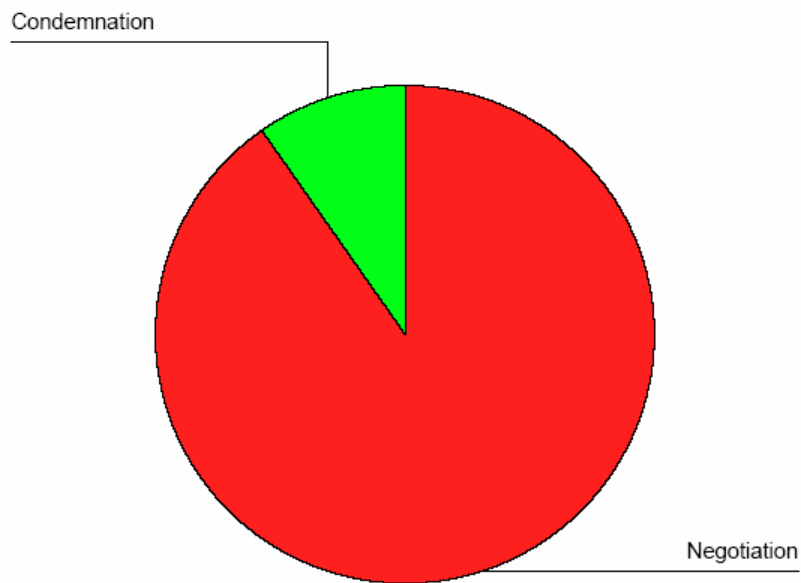


Figure B.1 Frequency of Possession Type

Table B.1 Possession Type according to Property Use
Crosstabs

Case Processing Summary

	Cases					
	Valid		Missing		Total	
	N	Percent	N	Percent	N	Percent
PROPERTY USE * POSSESSION TYPE	9347	96.5%	339	3.5%	9686	100.0%

PROPERTY USE * POSSESSION TYPE Crosstabulation

			POSSESSION TYPE		Total
			Negotiation	Condemnation	
PROPERTY USE	Agriculture	Count % within PROPERTY USE	676 91.4%	64 8.6%	740 100.0%
	Ranch	Count % within PROPERTY USE	190 93.6%	13 6.4%	203 100.0%
	Undetermined	Count % within PROPERTY USE	793 90.9%	79 9.1%	872 100.0%
	Rural Residential	Count % within PROPERTY USE	889 93.6%	61 6.4%	950 100.0%
	Residential	Count % within PROPERTY USE	1639 93.9%	106 6.1%	1745 100.0%
	Residential Lot	Count % within PROPERTY USE	310 94.2%	19 5.8%	329 100.0%
	Retail Store	Count % within PROPERTY USE	50 80.6%	12 19.4%	62 100.0%
	Vacant Acreage	Count % within PROPERTY USE	1031 90.4%	110 9.6%	1141 100.0%
	Vacant Lot	Count % within PROPERTY USE	449 91.3%	43 8.7%	492 100.0%
	Commercial	Count % within PROPERTY USE	1806 85.1%	316 14.9%	2122 100.0%
	School	Count % within PROPERTY USE	33 100.0%		33 100.0%
	Special Use	Count % within PROPERTY USE	139 90.8%	14 9.2%	153 100.0%
	Rural Land	Count % within PROPERTY USE	368 91.5%	34 8.5%	402 100.0%
	Industrial	Count % within PROPERTY USE	84 81.6%	19 18.4%	103 100.0%
	Total	Count % within PROPERTY USE	8457 90.5%	890 9.5%	9347 100.0%

Table B.2 Possession Type according to Improvements

Crosstabs

Case Processing Summary

	Cases					
	Valid		Missing		Total	
	N	Percent	N	Percent	N	Percent
IMPROVEMENTS? * POSSESSION TYPE	9686	100.0%	0	.0%	9686	100.0%

IMPROVEMENTS? * POSSESSION TYPE Crosstabulation

			POSSESSION TYPE		Total
			Negotiation	Condemnation	
IMPROVEMENTS?	YES	Count	4883	465	5348
		% within IMPROVEMENTS?	91.3%	8.7%	100.0%
	NO	Count	3858	480	4338
		% within IMPROVEMENTS?	88.9%	11.1%	100.0%
Total		Count	8741	945	9686
		% within IMPROVEMENTS?	90.2%	9.8%	100.0%

Table B.3 Possession Type according to Project Type

Crosstabs

Case Processing Summary

	Cases					
	Valid		Missing		Total	
	N	Percent	N	Percent	N	Percent
PROJECT TYPE * POSSESSION TYPE	9686	100.0%	0	.0%	9686	100.0%

PROJECT TYPE * POSSESSION TYPE Crosstabulation

			POSSESSION TYPE		Total
			Negotiation	Condemnation	
PROJECT TYPE	Unknown	Count % within PROJECT TYPE	81 91.0%	8 9.0%	89 100.0%
	Enhancements	Count % within PROJECT TYPE	39 97.5%	1 2.5%	40 100.0%
	Alternate Procedure	Count % within PROJECT TYPE	4371 91.7%	397 8.3%	4768 100.0%
	100% State	Count % within PROJECT TYPE	755 93.2%	55 6.8%	810 100.0%
	Unknown	Count % within PROJECT TYPE	2669 91.1%	262 8.9%	2931 100.0%
	Farm-to-Market	Count % within PROJECT TYPE	159 96.4%	6 3.6%	165 100.0%
	County/City (State Highways)	Count % within PROJECT TYPE	34 97.1%	1 2.9%	35 100.0%
	Interstate	Count % within PROJECT TYPE	369 66.2%	188 33.8%	557 100.0%
	90% Reimbursement	Count % within PROJECT TYPE	169 92.9%	13 7.1%	182 100.0%
	CMAQ (Congestion Mitigation & Air Quality Imprv)	Count % within PROJECT TYPE	79 91.9%	7 8.1%	86 100.0%
	PASS (Principal Arterial Street System)	Count % within PROJECT TYPE	16 69.6%	7 30.4%	23 100.0%
	Total	Count % within PROJECT TYPE	8741 90.2%	945 9.8%	9686 100.0%

Table B.4 Possession Type according to Taking Type

Crosstabs

Case Processing Summary

	Cases					
	Valid		Missing		Total	
	N	Percent	N	Percent	N	Percent
TAKING TYPE * POSSESSION TYPE	9686	100.0%	0	.0%	9686	100.0%

TAKING TYPE * POSSESSION TYPE Crosstabulation

			POSSESSION TYPE		Total
			Negotiation	Condemnation	
TAKING TYPE	Partial	Count	7093	768	7861
		% within TAKING TYPE	90.2%	9.8%	100.0%
	Undetermined	Count	481	59	540
		% within TAKING TYPE	89.1%	10.9%	100.0%
Whole		Count	1053	116	1169
		% within TAKING TYPE	90.1%	9.9%	100.0%
Access Rights Only		Count	114	2	116
		% within TAKING TYPE	98.3%	1.7%	100.0%
Total		Count	8741	945	9686
		% within TAKING TYPE	90.2%	9.8%	100.0%

Table B.5 Possession Type according to District

Crosstabs

Case Processing Summary

	Cases					
	Valid		Missing		Total	
	N	Percent	N	Percent	N	Percent
DISTRICT * POSSESSION TYPE	9686	100.0%	0	.0%	9686	100.0%

			POSSESSION TYPE		Total
			Negotiation	Condemnation	
DISTRICT	ABL	Count	319	19	338
		% within DISTRICT	94.4%	5.6%	100.0%
	AMA	Count	51	0	51
		% within DISTRICT	100.0%	.0%	100.0%
	ATL	Count	499	38	537
		% within DISTRICT	92.9%	7.1%	100.0%
	AUS	Count	295	47	342
		% within DISTRICT	86.3%	13.7%	100.0%
	BMT	Count	321	55	376
		% within DISTRICT	85.4%	14.6%	100.0%
	BRY	Count	460	79	539
		% within DISTRICT	85.3%	14.7%	100.0%
	BWD	Count	132	16	148
		% within DISTRICT	89.2%	10.8%	100.0%
	CHS	Count	316	10	326
		% within DISTRICT	96.9%	3.1%	100.0%
	CRP	Count	223	9	232
		% within DISTRICT	96.1%	3.9%	100.0%
	DAL	Count	779	124	903
		% within DISTRICT	86.3%	13.7%	100.0%
	ELP	Count	130	4	134
		% within DISTRICT	97.0%	3.0%	100.0%
	FTW	Count	705	65	770
		% within DISTRICT	91.6%	8.4%	100.0%
	HOU	Count	623	200	823
		% within DISTRICT	75.7%	24.3%	100.0%
	LBB	Count	164	37	201
		% within DISTRICT	81.6%	18.4%	100.0%
	LFK	Count	247	17	264
		% within DISTRICT	93.6%	6.4%	100.0%
	LRD	Count	52	3	55
		% within DISTRICT	94.5%	5.5%	100.0%
	ODA	Count	36	0	36
		% within DISTRICT	100.0%	.0%	100.0%
	PAR	Count	188	34	222
		% within DISTRICT	84.7%	15.3%	100.0%
	PHR	Count	817	42	859
		% within DISTRICT	95.1%	4.9%	100.0%
	SAT	Count	184	68	252
		% within DISTRICT	73.0%	27.0%	100.0%
	SJT	Count	49	0	49
		% within DISTRICT	100.0%	.0%	100.0%
	TYL	Count	862	29	891
		% within DISTRICT	96.7%	3.3%	100.0%
	WAC	Count	647	28	675
		% within DISTRICT	95.9%	4.1%	100.0%
	WFS	Count	264	15	279
		% within DISTRICT	94.6%	5.4%	100.0%
	YKM	Count	378	6	384
		% within DISTRICT	98.4%	1.6%	100.0%
Total		Count	8741	945	9686
		% within DISTRICT	90.2%	9.8%	100.0%

Table B.6 Possession Type According to Year
Crosstabs

Case Processing Summary

	Cases					
	Valid		Missing		Total	
	N	Percent	N	Percent	N	Percent
Status Date * POSSESSION TYPE	18457	86.6%	2853	13.4%	21310	100.0%

Status Date * POSSESSION TYPE Crosstabulation

			POSSESSION TYPE			Total
			Undetermined	Negotiation	Condemnation	
Status Date	1986	Count	2			2
		% within Status Date	100.0%			100.0%
	1989	Count	9			9
		% within Status Date	100.0%			100.0%
	1996	Count	29			29
		% within Status Date	100.0%			100.0%
	1997	Count	199			199
		% within Status Date	100.0%			100.0%
	1998	Count	406			406
		% within Status Date	100.0%			100.0%
	1999	Count	584			584
		% within Status Date	100.0%			100.0%
	2000	Count	734	819	30	1583
		% within Status Date	46.4%	51.7%	1.9%	100.0%
	2001	Count	724	1046	50	1820
		% within Status Date	39.8%	57.5%	2.7%	100.0%
	2002	Count	576	1177	70	1823
		% within Status Date	31.6%	64.6%	3.8%	100.0%
	2003	Count	1092	1498	131	2721
		% within Status Date	40.1%	55.1%	4.8%	100.0%
	2004	Count	1734	2181	340	4255
		% within Status Date	40.8%	51.3%	8.0%	100.0%
	2005	Count	2682	2020	324	5026
		% within Status Date	53.4%	40.2%	6.4%	100.0%
Total		Count	8771	8741	945	18457
		% within Status Date	47.5%	47.4%	5.1%	100.0%

Table B.7 Possession Type According to Year

Crosstabs

Case Processing Summary

	Cases					
	Valid		Missing		Total	
	N	Percent	N	Percent	N	Percent
Status Date * POSSESSION TYPE	9686	100.0%	0	.0%	9686	100.0%

Status Date * POSSESSION TYPE Crosstabulation

			POSSESSION TYPE		Total
			Negotiation	Condemnation	
Status Date	2000	Count	819	30	849
		% within Status Date	96.5%	3.5%	100.0%
	2001	Count	1046	50	1096
		% within Status Date	95.4%	4.6%	100.0%
	2002	Count	1177	70	1247
		% within Status Date	94.4%	5.6%	100.0%
	2003	Count	1498	131	1629
		% within Status Date	92.0%	8.0%	100.0%
	2004	Count	2181	340	2521
		% within Status Date	86.5%	13.5%	100.0%
	2005	Count	2020	324	2344
		% within Status Date	86.2%	13.8%	100.0%
Total	Count	8741	945	9686	
	% within Status Date	90.2%	9.8%	100.0%	

Appendix C

BEST PRACTICES IN ROW VALUATIONS AND NEGOTIATIONS SURVEY

Project: TxDOT 0-5379 Best Practices in Right-of-Way Valuations and Negotiations

Description: This questionnaire examines issues and opportunities in the valuations and negotiations required for ROW acquisitions. It will be distributed to ROW staff in all TxDOT district offices.

Please answer all questions to the best of your ability. If it is necessary to ask others within your District office or refer to past records, please do so in order to ensure accuracy of the information collected in this survey. If appropriate, submit multiple surveys from different personnel within your District office. We will maintain strict confidentiality of your answers and not share your information with anyone outside of the CTR researchers involved in this project.

District Office: _____

Name: _____ Title: _____

Phone: _____ Email: _____ Date: _____

Years of experience in right-of way acquisition: _____

Approximate number of Parcel Acquisitions you have worked on: _____

1. Please indicate the approximate frequency in which you have experienced the following problems during the **valuation** process. Please check the appropriate box.

	Never	Rarely	Sometimes	Often
a. Right-of-way plan changes and revisions affect nature and extent of acquisition on many parcels	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Insufficient right-of-way staff to obtain appropriate appraisals in a timely manner	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Lack of qualified fee appraisers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Poor quality of appraisals produced by fee appraisers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Delays in the delivery of appraisal reports	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. Inconsistencies among appraisal reports (e.g. significantly different values for the same parcel)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g. Appraisers do not have time to meet with property owners personally	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
h. Disagreement over prioritization criteria used by outsourced appraisers to select which parcels will be appraised first	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
i. Property owner distrust of agency and/or disagreement with appraised values	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

2. In your experience, what is the importance of the following actions during the **valuation** process? Please check the appropriate box.

	Not important	Less important	Important	Highly important
a. Right-of-way plan changes and revisions affecting nature and extent of acquisition on many parcels	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Sufficient right-of-way staff to obtain appropriate appraisals in a timely manner	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Qualifications of fee appraisers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Quality of appraisals produced by fee appraisers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. On-time delivery of appraisal reports	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. Consistency among appraisal reports (e.g. similar values for the same parcel)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g. Appraisers meet with property owners in person	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
h. Agreement over prioritization criteria used by outsourced appraisers to select which parcels will be appraised first.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
i. Property owner distrust of agency and/or disagreement with appraised values	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

3. Are there any other problems that you have experienced during the **valuation** process? Please describe these here:

4. Please indicate how often the following practices are used during the **valuation** process. Please check the appropriate box.

	Never	Rarely	Sometimes	Often
a. Offer training courses for staff, fee appraisers, and appraisal reviewers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Evaluate outsourced appraisers annually on their performance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Encourage ROW staff to meet property owners in person	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Encourage fee appraisers to meet property owners in person	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Provide the outsourced appraisers with pre-appraisal information obtained by district personnel	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. Use the same agent (e.g. consultant) for the valuation and negotiation process	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g. Share and discuss the project's preliminary ROW map with all property owners	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
h. Share copies voluntarily and routinely of complete appraisal reports with property owners	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
i. Give the property owner (or the owner's designated representative) an opportunity to accompany the appraiser during the appraiser's inspection of the property	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
j. Assign projects according to appraiser's experience	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
k. Prioritize parcels according to complexity/appraisal difficulty and contract appraisals for those that are most complex first	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
l. Utilize most appropriate technology (e.g. mobile device, GIS) to expedite appraisal production	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
m. Reduce the time-lapse between appraisal valuation date and the initiation of negotiation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

5. Please indicate if you recommend the following practices based on their effectiveness to improve the **valuation** process. Please check the appropriate box.

	Oppose	Do not recommend	Recommend	Strongly recommend
a. Develop training courses for staff, fee appraisers, and appraisal reviewers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Evaluate outsourced appraisers annually on their performance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Encourage ROW staff to meet property owners in person	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Encourage fee appraisers to meet property owners in person	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Provide the outsourced appraisers with pre-appraisal information obtained by district personnel	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. Use the same agent (e.g. consultant) for the valuation and negotiation process	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g. Share and discuss the project's preliminary ROW map with all property owners	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
h. Share copies voluntarily and routinely of complete appraisal reports with property owners	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
i. Give the property owner (or the owner's designated representative) an opportunity to accompany the appraiser during the appraiser's inspection of the property	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
j. Assign projects according to appraiser's experience	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
k. Prioritize parcels according to complexity/appraisal difficulty and contract appraisals for those that are most complex first	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
l. Utilize most appropriate technology (e.g. mobile device, GIS) to expedite appraisal production	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
m. Reduce the time lapse between appraisal valuation date and the initiation of negotiation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

6. Please describe any other **valuation** practices that you consider helpful and effective:

7. Please indicate the approximate frequency in which you have experienced the following problems during the **negotiation** process. Please check the appropriate box.

	Never	Rarely	Sometimes	Often
a. Property owners complaining of low payment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Property owners distrust of agency and/or appraisal methods	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Property owners complaining of a slow negotiation process	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Property owners complaining of ROW brochures being too technical and hard to understand	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Negotiator not contacting the property owners in person	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. Negotiator not being courteous or professional	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g. Negotiator not keeping owners updated of the status of the process	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
h. TxDOT time limitation (i.e. 30 days) for property owners being insufficient in order to present a counteroffer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
i. All administrative settlements over \$50K being reviewed by the Division office, even when the counteroffer differs by only a few percentage points	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

8. In your experience, what is the importance of the following problems during the **negotiation** process? Please check the appropriate box.

	Not important	Less important	Important	Highly important
a. Property owners complain of low payment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Property owners distrust agency and/or appraisal methods	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Property owners complain of a slow negotiation process	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Property owners complain that ROW brochures are too technical and hard to understand	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Negotiator does not contact the property owners in person	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. Negotiator is not courteous or professional	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g. Negotiator does not keep owners updated of the status of the process	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
h. TxDOT time limitation (i.e. 30 days) for property owners being insufficient in order to present a counteroffer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
i. All administrative settlements over \$50K being reviewed by the Division office, even when the counteroffer differs by only a few percentage points	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

9. Are there any other problems that you have experienced during the **negotiation** process? Please describe these here:

10. Please indicate how often the following practices are used during the **negotiation** process. Please check the appropriate box.

	Never	Rarely	Sometimes	Often
a. Allow the same person to perform the valuation and negotiation for any given parcel	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Use incentive programs for early completion of the negotiation process (e.g., incentive payments for early completion and penalty for late completion)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Require negotiators to meet owners prior to the beginning of the negotiation process, in order to discuss the project, the right-of-way acquisition process, and justification of valuation results (thereby reducing the later number of questions, calls, and visits)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Require negotiators to present and discuss the offer in person	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Use a closing manual which lists pertinent contacts, phone numbers, and directions to and inside the courthouse in order to reduce staff time at courthouse	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. Conduct an <i>open-house</i> event explaining the right-of-way acquisition process for a specific project to the public	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g. Use a streamlined process to provide immediate payment to property owner for low value property rights	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
h. Create a guidebook to assist property owners on writing an appropriate counteroffer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
i. Allow more than 30 days for owners to present a counteroffer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
j. Encourage negotiators to assist property owners on preparing and negotiating a counteroffer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
k. Employ land consolidation (which is when remainder parcels are purchased on either side of a new highway leaving the owner with a consolidated property)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
l. Employ land exchange, which is exchanging previously purchased property outside the acquisition area for the needed parcel	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

11. Please indicate if you recommend the following practices based on their effectiveness to improve the **negotiation** process. Please check the appropriate box.

	Oppose	Do not recommend	Recommend	Strongly recommend
a. Allow the same person to perform the valuation and negotiation for any given parcel	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Use incentive programs for early completion of the negotiation process (e.g. incentive payments for early completion and penalty for late completion)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Require negotiators to meet owners prior to the beginning the negotiation process, in order to discuss the project, the right-of-way acquisition process, and justification of valuation results (thereby reducing the later number of questions, calls, and visits)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Require negotiators to present and discuss the offer in person	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Use a closing manual which lists pertinent contacts, phone numbers, and directions to and inside the courthouse in order to reduce staff time at courthouse	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. Conduct an 'open-house' event explaining the right-of-way acquisition process for a specific project to the public	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g. Use a streamlined process to provide immediate payment to property owner for low value property rights	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
h. Create a guidebook to assist property owners on writing an appropriate counteroffer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
i. Increase the limit on the value of the property that is not subject to review by the Division office	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>• If you recommend or strongly recommend this practice, to what amount should the limit be increased?</p> <p><input type="checkbox"/> \$75 K <input type="checkbox"/> \$100 K <input type="checkbox"/> \$150 K <input type="checkbox"/> \$200 K <input type="checkbox"/> Other: _____</p>				
j. Allow more than 30 days for owners to present a counteroffer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
k. Encourage negotiators to assist property owners on preparing and negotiating a counteroffer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
l. Employ land consolidation (which is when remainder parcels are purchased on either side of a new highway leaving the owner with a consolidated property)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

m. Employ land exchange, which is exchanging previously purchased property outside the acquisition area for the needed parcel	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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12. Please describe any other **negotiation** practices that you consider helpful and effective:

Thank you for your participation!

Please send by fax to the attention of Dr. Carlos Caldas at 512-471-3191.

You may also mail it to him at:

Professor Carlos H. Caldas

The University of Texas at Austin

Department of Civil, Architectural and Environmental Engineering

1 University Station C1752 - ECJ 5.302

Austin, Texas 78712-0273

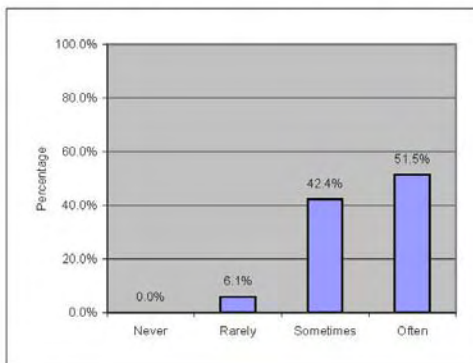
Appendix D

Summary of Survey Results (6) - Charts

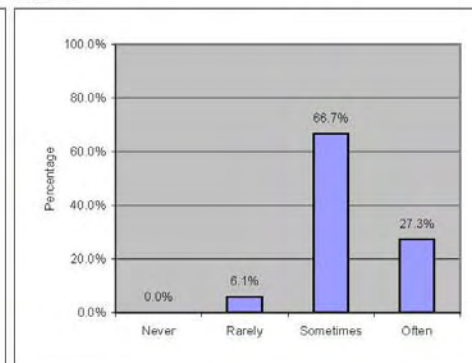
Prepared by Eugene Chung
Date 7/14/2006
Description The charts summarize the survey results of the negotiation part from each respondent.

7. Please indicate the approximate frequency in which you have experienced the following problems during the negotiation process. Please check the appropriate box.

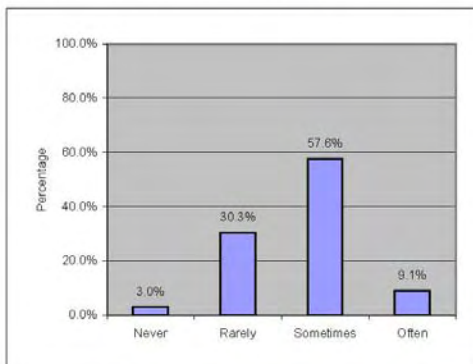
7-a. Property owners complaining of low payment



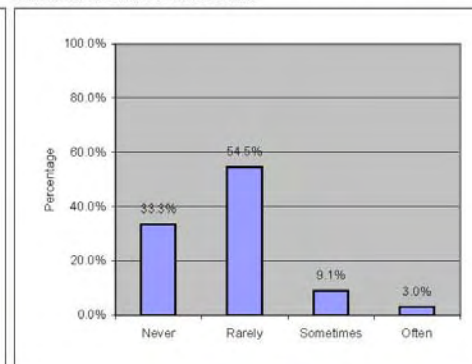
7-b. Property owners distrust of agency and/or appraisal methods



7-c. Property owners complaining of a slow negotiation process



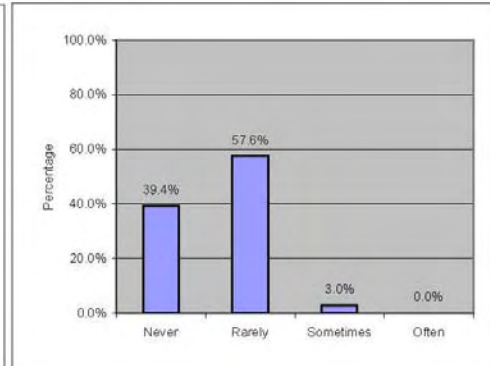
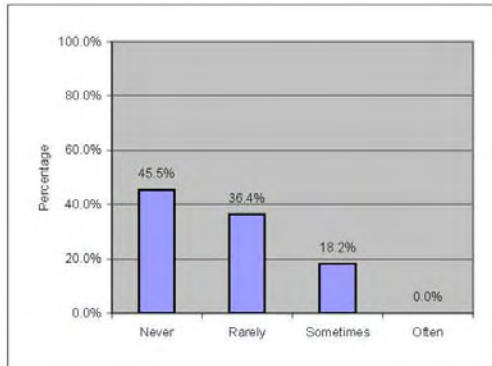
7-d. Property owners complaining of ROW brochures being too technical and hard to understand



7. Please indicate the approximate frequency in which you have experienced the following problems during the negotiation process. Please check the appropriate box.

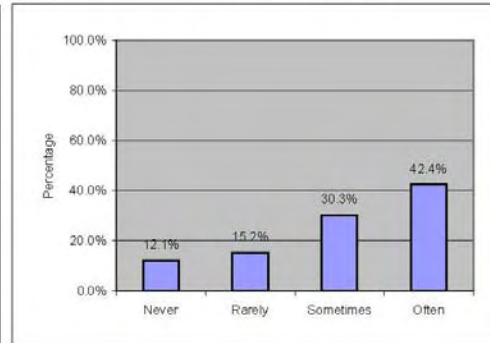
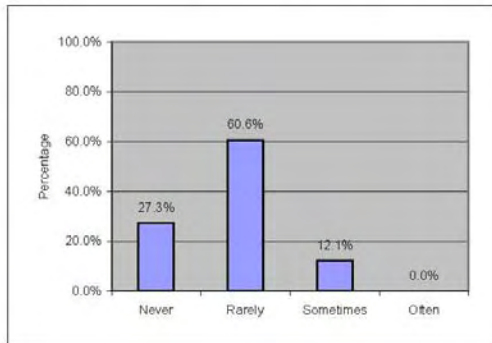
7-e. Negotiator not contacting the property owners in person

7-f. Negotiator not being courteous or professional

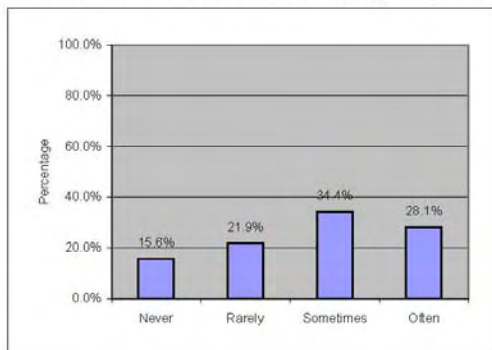


7-g. Negotiator not keeping owners updated of the status of the process

7-h. TxDOT time limitation (i.e. 30 days) for property owners being insufficient in order to present a counteroffer

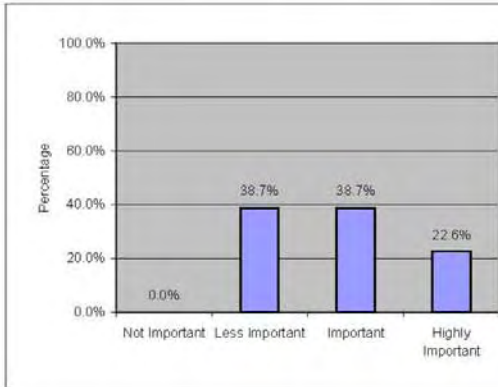


7-i. All administrative settlements over \$50K being reviewed by the Division office, even when the counteroffer differs by only a few percentage points

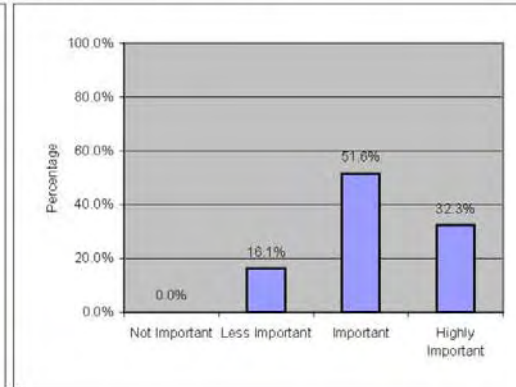


8. In your experience, what is the importance of the following problems during the negotiation process? Please check the appropriate box.

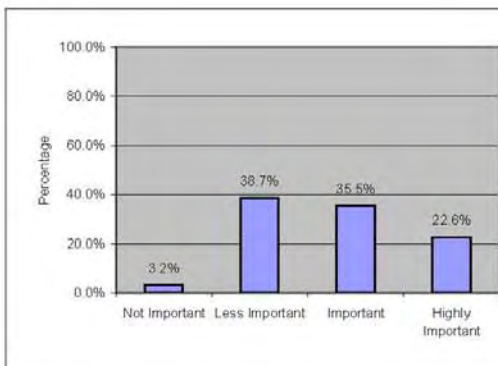
8-a. Property owners complaining of low payment



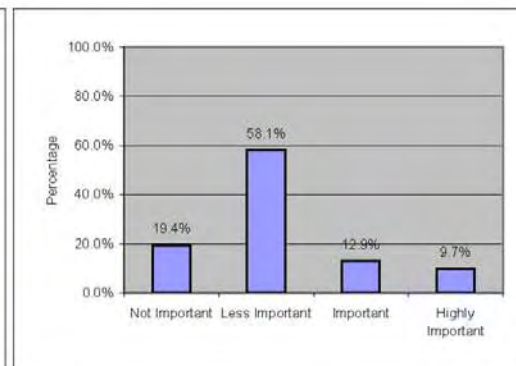
8-b. Property owners distrust of agency and/or appraisal methods



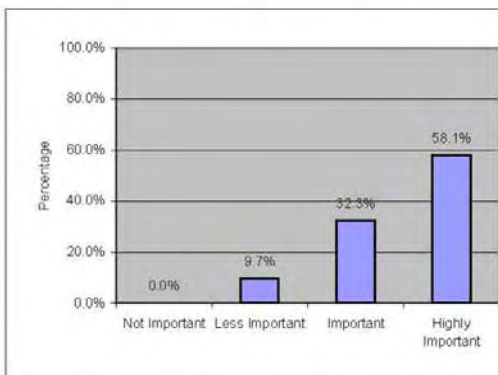
8-c. Property owners complaining of a slow negotiation process



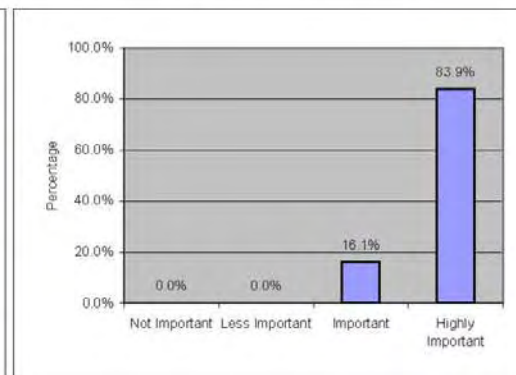
8-d. Property owners complaining of ROW brochures being too technical and hard to understand



8-e. Negotiator not contacting the property owners in person

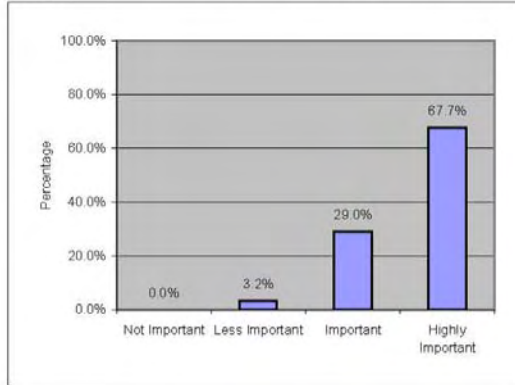


8-f. Negotiator not being courteous or professional

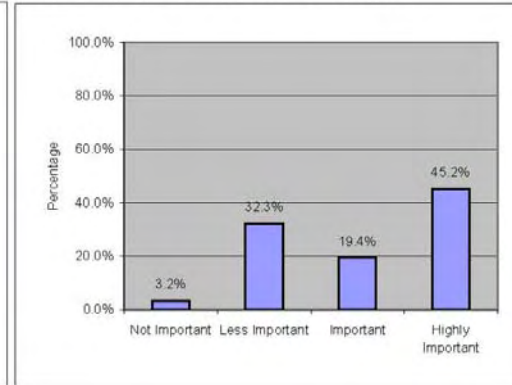


8. In your experience, what is the importance of the following problems during the negotiation process? Please check the appropriate box.

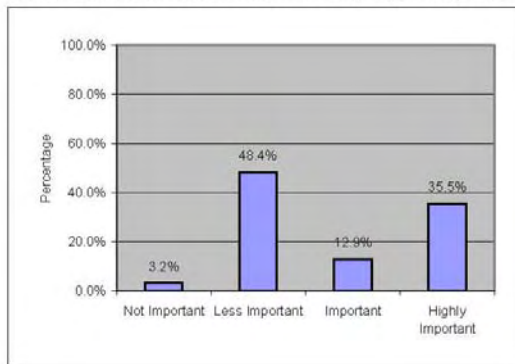
8-g. Negotiator not keeping owners updated of the status of the process



8-h. TxDOT time limitation (i.e. 30 days) for property owners being insufficient in order to present a counteroffer



8-i. All administrative settlements over \$50K being reviewed by the Division office, even when the counteroffer differs by only a few percentage points

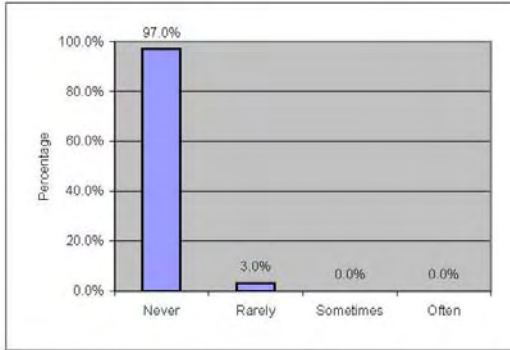


9. Are there any other problems that you have experienced during the negotiation process? Please describe these here:

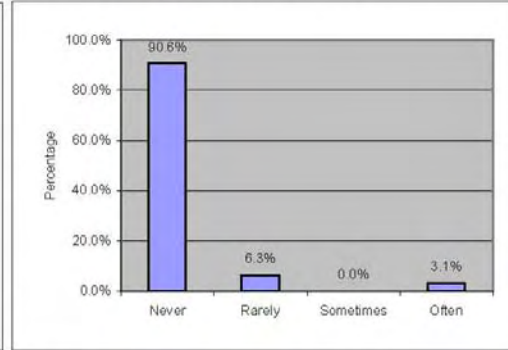
Offer letter should include a statement that "a request for an extension of time must be received in writing within 30 days" of the offer. Some owner don't know they can request an extension of time to prepare a counteroffer.
The problems that would take a lot of time was title curative problems and curing these problems
Getting title commitments in a timely manner
Most owners in out district complain about slow payment
It is very difficult to explain the need for the property to the owner without a set of construction plans
Some attorneys prohibit appraisers from inspecting properties. I think this is to receive a low value that increases (sometimes drastically) later and also increases the attorneys' fee since their % is based on the difference between initial offer and final award, settlement or jury verdict. These land owners follow their attorneys instructions to the "fee" but don't realize they are hurting themselves in the process. Some attorneys also attempt to get relocation assistance included in condemnation awards to get their % of fee increased. This is a difficult issue to resolve after the fact.
Sometimes a negotiator can be too aggressive at the first meeting. Rather, the agent should attempt to uncover the owner's concerns. Then an attempt to ease or solve these concerns may advance the acquisition.
When property owners complain of low payment due to a valid inadequacy in the appraisal, it becomes very important. Differences of opinion can be settled administratively (counter offer), however, when a faulty appraisal is discovered during the negotiations, it not only creates a mistrust in the property owners, but the negotiation process must be stopped until a new appraisal is obtained. Often this results in months of delay.
Gaining trust - if they experience negative situations they develop negative attitudes towards negotiators before we have even begin the process
Plans change after starting the negotiation process
Sometimes you deal with owners who have never seen an appraisal report, providing them a copy of a 100 page report confuses them more. Recommended that a two-three page supplement report be given to them, prepared be the appraiser, outlining the most important information such as the value of the whole and part to be acquired, and explanation of damages, and reference the pages where this information could be found in the appraisal report. This similar to what most appraisers give out in ED hearings so the Commissioners have something to review. This could be helpful to most property owners.
Many land owners feel that the time period of when they first hear about the project until the offer is made is excessively long. They are usually right - it can be several years.

10. Please indicate how often the following practices are used during the negotiation process. Please check the appropriate box.

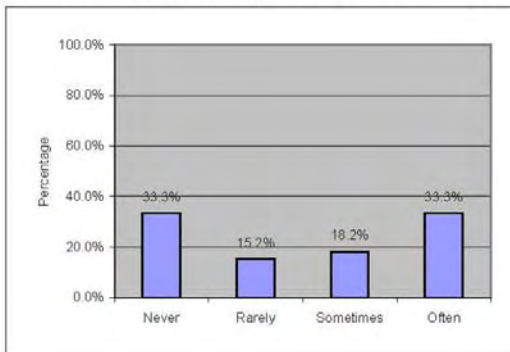
10-a. Allow the same person to perform the valuation and negotiation for any given parcel



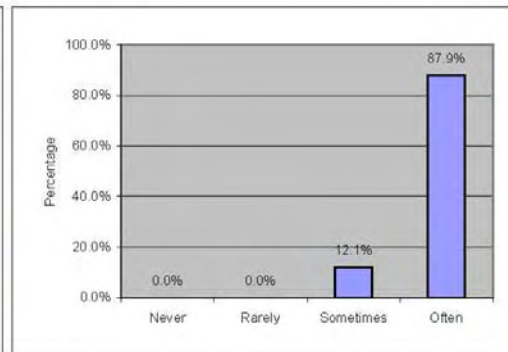
10-b. Use incentive programs for early completion of the negotiation process (e.g. incentive payments for early completion and penalty for late completion)



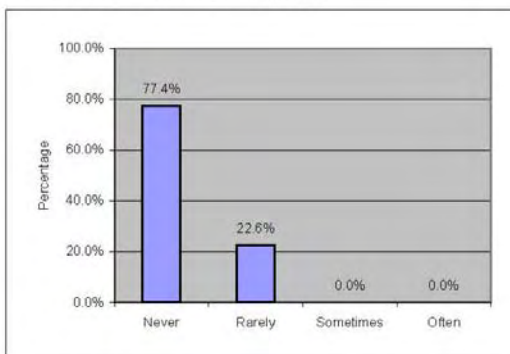
10-c. Require negotiators to meet owners prior to the beginning of the negotiation process, in order to discuss the project, the ROW acquisition process, and justification of valuation results



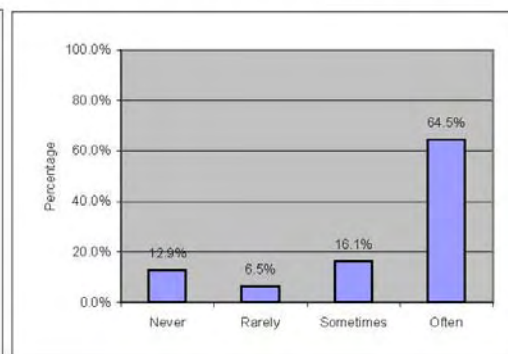
10-d. Require negotiators to present and discuss the offer in person



10-e. Use a closing manual which lists pertinent contacts, phone numbers, and directions to and inside the courthouse in order to reduce staff time at courthouse

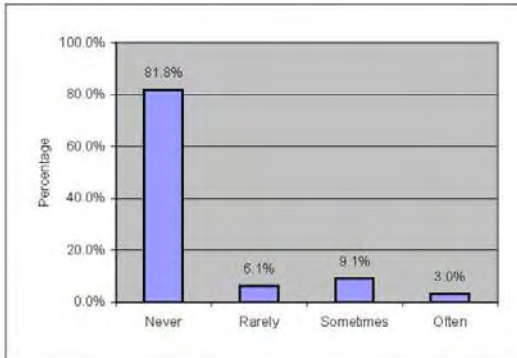


10-f. Conduct an 'open-house' event explaining the right-of-way acquisition process for a specific project to the public

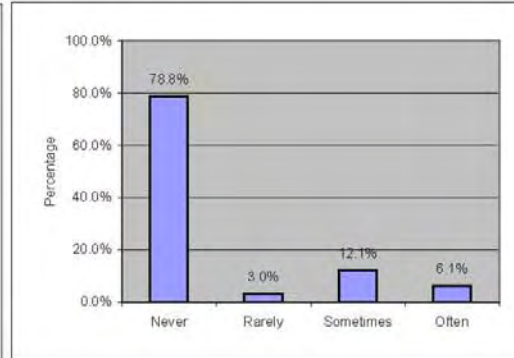


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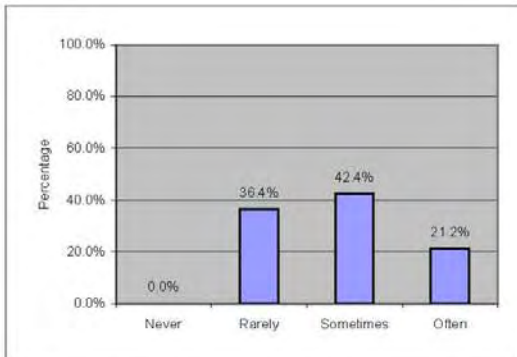
10-g. Use a streamlined process to provide immediate payment to property owner for low value property rights



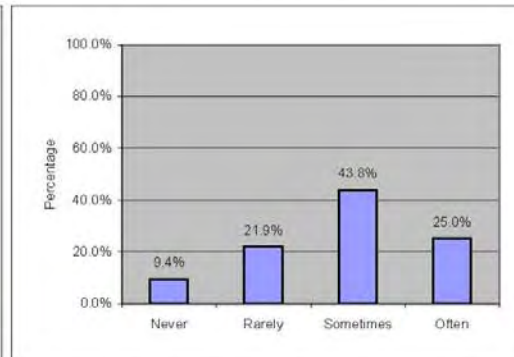
10-h. Create a guidebook to assist property owners on writing an appropriate counteroffer



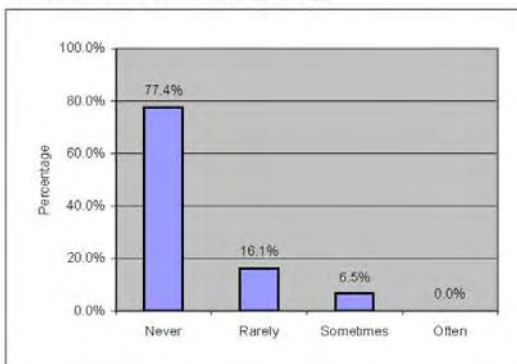
10-i. Allow more than 30 days for owners to present a counteroffer



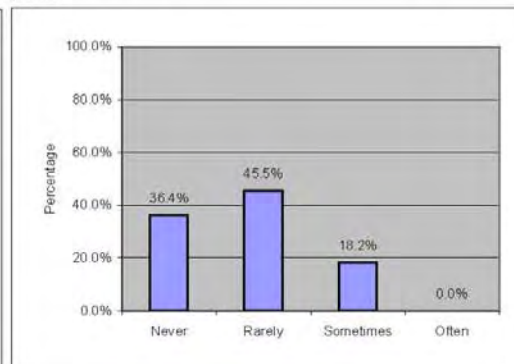
10-j. Encourage negotiators to assist property owners on preparing and negotiating a counteroffer



10-k. Employ land consolidation (which is when remainder parcels are purchased on either side of a new highway leaving the owner with a consolidated property)

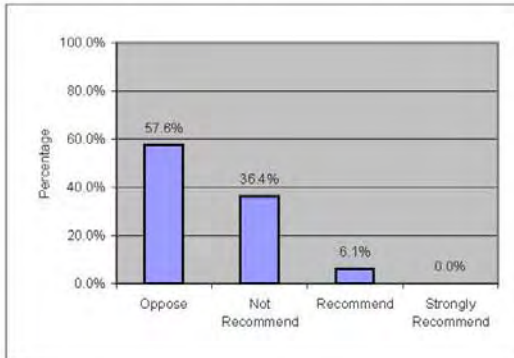


10-l. Employ land exchange, which is exchanging previously purchased property outside the acquisition area for the needed parcel

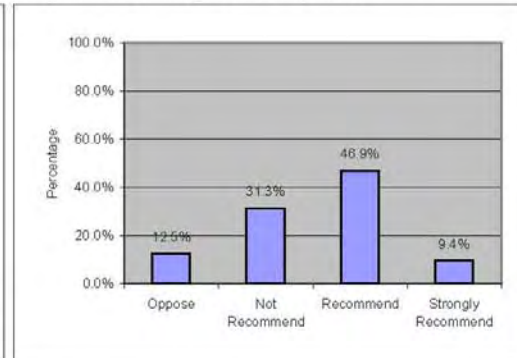


11. Please indicate if you recommend the following practices based on their effectiveness to improve the negotiation process. Please check the appropriate box.

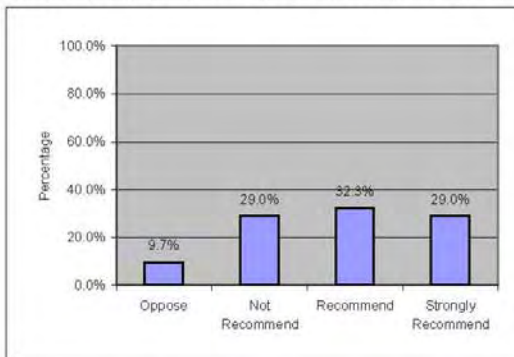
11-a. Allow the same person to perform the valuation and negotiation for any given parcel



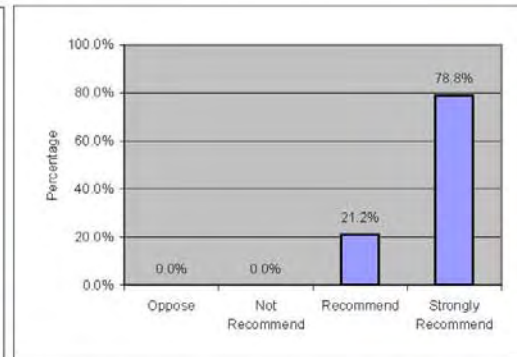
11-b. Use incentive programs for early completion of the negotiation process (e.g. incentive payments for early completion and penalty for late completion)



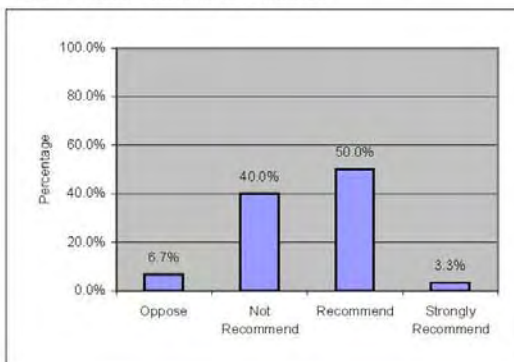
11-c. Require negotiators to meet owners prior to the beginning of the negotiation process, in order to discuss the project, the ROW acquisition process, and justification of valuation results



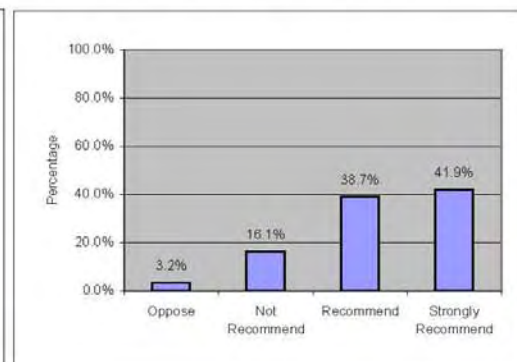
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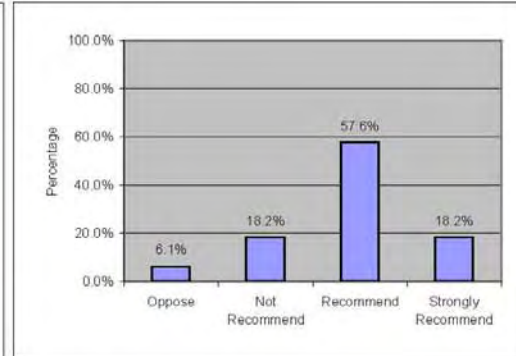
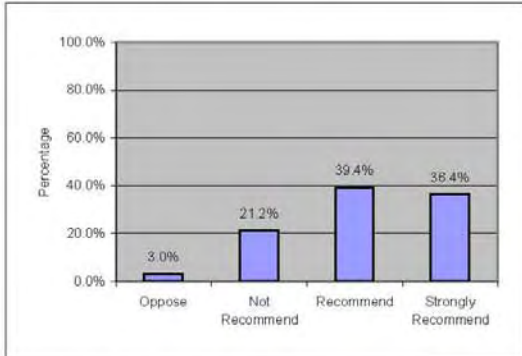
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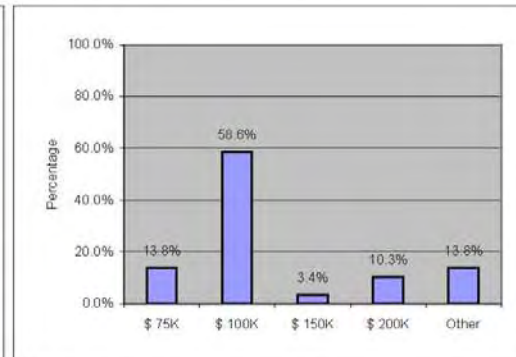
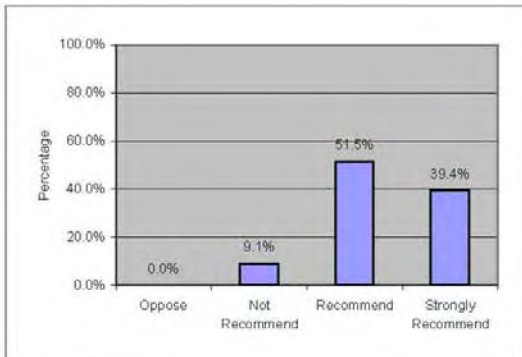
11-g. Use a streamlined process to provide immediate payment to property owner for low value property rights

11-h. Create a guidebook to assist property owners on writing an appropriate counteroffer



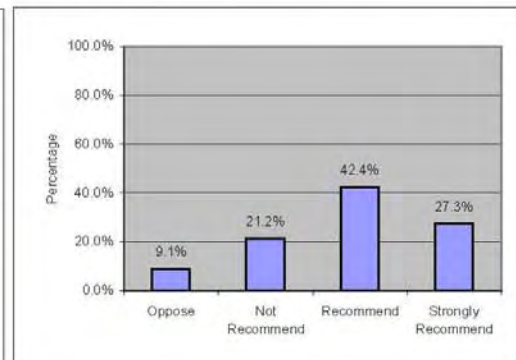
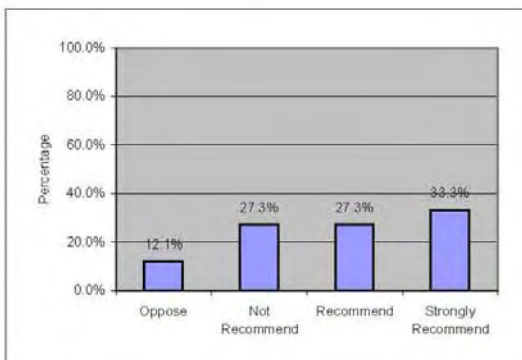
11-i. Increase the limit on the value of the property that is not subject to review by the Division office

11-i.' If you recommend or strongly recommend this practice, to what amount should the limit be increased?



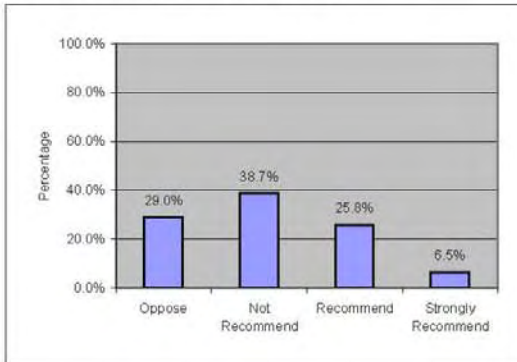
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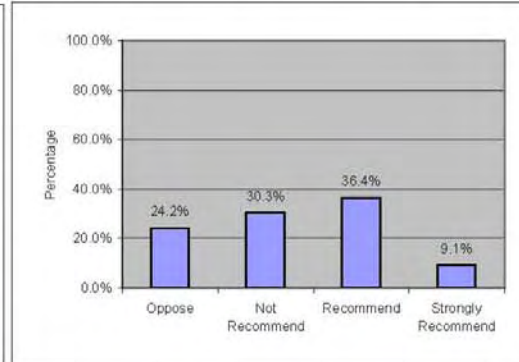


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11-l. Employ land consolidation (which is when remainder parcels are purchased on either side of a new highway leaving the owner with a consolidated property)



11-m. Employ land exchange, which is exchanging previously purchased property outside the acquisition area for the needed parcel



12. Please describe any other negotiation practices that you consider helpful and effective:

If possible, use more than one title company on a project to expedite title services. On projects located far from home district office, we had a laptop computer with small printer to instantly prepare conveyance documents for owners' signature - saved time and travel.

Having ROW agents at public meetings in the planning stages of a project to answer questions

Allow districts to approve hardship and protective buy requests since we are closer to the problem and have more of an understanding of the specific situation. I hate it when a sick elderly couple wants me to buy their home and relocate them before one dies, and I cannot get the division to approve this as a hardship.

Treating the negotiation process as a problem solving process can be effective. This can often solve or reduce the property owner's objections to an acquisition.

Finished set of plans

The counter offer has been very helpful, it provides the owner/TxDOT the ability to settle acquisition and avoid condemnation, reducing the cost of acquisition and cost of the project.

The administrative settlement process has been helpful. Best to settle dispute over small amount than go to ED.

