U.S. Department of Transportation
Federal Highway Administration

Priority, Market-Ready Technologies and Innovations

Dispute Resolution Guidance for Environmental Streamlining

Problem: Disputes that arise during the transportation development process can cause delays

As a transportation project moves through the project development and environmental review phases, conflicts may arise among the various Federal and State agencies involved in the process. The time and resources required to resolve these conflicts can add significant costs to the project and prevent it from being completed in a timely manner.

Why do disputes occur?
Disputes may arise over competing interests, such as conservation versus development; different needs, such as mobility and air quality; and the range of influences under which the project is carried out, such as political, statutory, and philosophical. Competing priorities of resource impacts, mitigation, and desired outcomes come into play.

What types of disputes occur?
Information disputes that can cause delays commonly involve disagreements on lack of data, data interpretation, underlying planning assumptions, and agency jurisdiction. Disputes also can be related to insufficient agency resources, an agency's failure to fulfill a commitment, conflicts over various agencies' missions and mandates, and interpretation of terms used in the planning and review process.

Putting It in Perspective

The Federal Highway Administration's (FHWA) National Dispute Resolution System includes:

- Dispute resolution guidance, *Collaborative Problem Solving: Better and Streamlined Outcomes for All.*
- U.S. Department of Transportation (USDOT) National Procedures for Elevating Highway and Transit Environmental Disputes (USDOT Order 5611.1A).
- Roster of qualified neutrals experienced in the transportation development process.
- Facilitated interagency discussion workshops to improve transportation project development and environmental review through collaborative problem solving.

Solution: Dispute resolution guidance offers framework for managing conflict

FHWA worked with the U.S. Institute for Environmental Conflict Resolution, Federal transportation and resource agencies, and State departments of transportation to develop a guidance document, *Collaborative Problem Solving: Better and Streamlined Outcomes for All.*

What is the guidance designed to do?
This guidance is designed to assist agencies as they plan transportation projects. It presents strategies for managing conflict and identifying issues that may arise during project development and environmental process reviews under the National Environmental Policy Act (NEPA) and related laws.

The guidance, one element of FHWA's national dispute resolution system, is not an absolute prescription, but a source of problem-solving options. It can help agencies implement a coordinated environmental review process that streamlines unnecessary delays for highway and transit project consultation.

What strategies does the guidance cover?
The document outlines strategies for environmental streamlining and dispute resolution and recommends several guiding principles:

- Engage all relevant agency representatives early, actively, and continually in collaborative problem solving during transportation planning and project review processes.
- Improve negotiation and problem-solving skills of agency staff through training and coaching.
- Attempt to resolve disagreements at the earliest stage possible and at the lowest appropriate organizational level.
- Seek resolution first by focusing on how to meet agency interests and needs in the context of existing laws and regulations.
- Take advantage of experienced facilitators and mediators to assist agencies in designing conflict management processes and resolving challenging disputes.
- Make effective use of high-level authorities as appropriate for negotiating impasses or resolving high-level issues.
- Educate each other regarding each agency's legal authorities, and structure collaborative processes to respect those authorities.

Successful Applications: States use environmental guidance to streamline processes

Florida has adopted a strategy for incorporating environmental factors into its long-range planning process, the Efficient Transportation Decision Making (ETDM) Process. The ETDM process will link land use, transportation, and environmental resource planning through early and continuous agency, general public, and Native American involvement in planning, project development, and environmental decisions. The process will take advantage of the Florida geographic data library (containing more than 400 data fields), and will include exchange of plans, programs, data, and information, including electronic comments. ETDM will replace sequential agency actions with concurrent agency actions and public involvement.

Oregon is defining a level of environmental review during planning that allows regulatory and resource agencies to provide input at various key points in the NEPA process. This is known as CETAS, or the Collaborative Environmental and Transportation Agreement for Streamlining.

Indiana developed streamlined environmental procedures to bring the NEPA process into early transportation planning and decisionmaking. The procedures include initiating major planning corridor studies as Environmental Assessments (EAs), thus engaging resource agencies in the developing purpose and need, and in screening preliminary alternatives. If the project involves significant impacts, a Notice of Intent is issued to develop an Environmental Impact Statement (EIS). EIS project development then begins where EA project development ended, ensuring a seamless decisionmaking process. This streamlined process will eliminate duplication of effort between planning and NEPA studies, resulting in more efficient decisions.

Benefits

- Prevents unnecessary delays in developing transportation projects.
- Encourages collaborative decisionmaking and coordination among agencies.
- Resolves disputes early in the process.
- Builds trust and respect among agencies.

Additional Resources

Collaborative Problem Solving: Better and Streamlined Outcomes for All is available at **http://environment.fhwa.dot.gov/strmlng/adrguide/index.htm**.

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