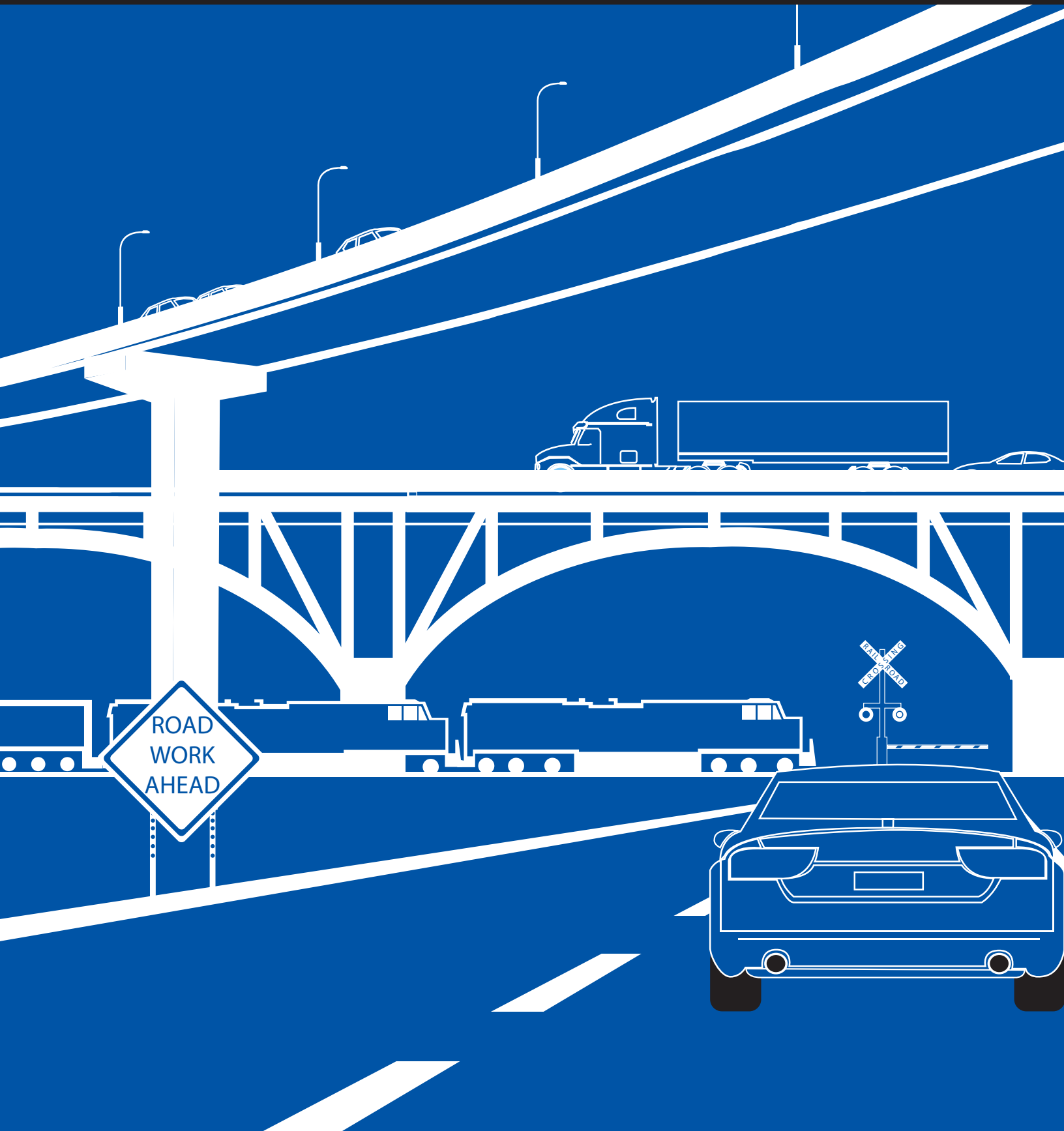




Kentucky Transportation Cabinet Right of Way Process Review (Phase I)

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Kentucky Transportation Center
College of Engineering, University of Kentucky, Lexington, Kentucky

in cooperation with
Kentucky Transportation Cabinet
Commonwealth of Kentucky

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Research Report
KTC-20-26/KHIT120-1F

Kentucky Transportation Cabinet Right of Way Process Review (Phase I)

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August 2020

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Executive Summary

The Kentucky Transportation Cabinet (KYTC) is responsible for planning, developing, constructing, and maintaining a prodigious inventory of roadway and bridge assets throughout the state. Project development is a complex process involving the coordination of numerous divisions and preconstruction disciplines across the Cabinet. On many projects, right-of-way (ROW) acquisition presents many challenges. Frequently, the ROW process is found on the critical path, meaning that it effectively governs a project's overall duration. In some cases — especially on more complex projects — acquiring the ROW may take several years. Recognizing the need to shorten the duration and improve the efficiency of the ROW process, Cabinet leadership commissioned researchers at the Kentucky Transportation Center (KTC) to organize and facilitate the activities of a ROW Process Review Team. All members of the team were selected by KYTC leadership, and it consisted entirely of current and retired Cabinet personnel. Cabinet leadership envisioned a two-phase project. During Phase I (the subject of this report) the ROW Process Review Team mapped out the current ROW process and generated process improvement ideas. Phase II, if authorized, will focus on the implementation of selected process improvements.

Over the course of five months, the ROW Process Review team held 20 full-day meetings. Researchers from KTC were on hand at all meetings and responsible for the following: scheduling and putting together work sessions, assisting with meeting facilitation, documenting ideas, preparing charts and graphics, and developing this report, which compiles and synthesizes key findings and recommendations. All of the content and recommendations found in this report originated with the ROW Process Review Team. The Center's researchers provided technical assistance when requested (e.g., reviewing other state policies, assisting team members with clarifying ideas). All of this report's content has been vetted and approved by the ROW Process Review Team.

This report begins with a discussion of the methodological approach used for this project. At the project's outset, ROW Process Review Team members documented KYTC's current ROW process by estimating activity durations and preparing timelines for a concept project. Team members focused on the most critical, or limiting, activities, finding that tasks associated with Appraisals, Acquisitions, and Relocations have the longest durations. Seventeen Gantt charts mapping the ROW process were prepared; each chart delineates major tasks and their constitutive steps (Appendix C). Team members subsequently turned their attention to identifying measures that could shorten the process's overall duration. Invited speakers from the Federal Highway Administration and Indiana Department of Transportation shared their experiences, thoughts on best practices, and strategies that had been used effectively at other state transportation agencies to expedite and streamline ROW acquisition. Using its review of the Cabinet's current ROW process and information on other state policies and practices as a springboard, team members embarked on a series of intensive brainstorming sessions, eventually generating over 100 prospective ideas to bolster the efficiency of the ROW process. Concurrently, the research team administered surveys to and conducted interviews with consultants and KYTC district-level attorneys to solicit their ideas on amending the ROW process.

Through group discussions, ROW Process Review Team members winnowed the initial group of ideas it generated, as well as those received from consultants and district-level attorneys, to a list of 59. Team members prepared detailed summaries for each of these ideas using process improvement forms. The forms contain the following information: idea title, ROW categories impacted by implementation, type of change, a description of the idea, benefits and drawbacks of implementation, and key takeaway messages. Process improvement ideas were slotted into three groups (with ideas sometimes cutting across multiple categories:

- 1) Best Practice — A practice that should be regularly implemented on the majority of projects.
- 2) Process Change and Improvement — An idea whose implementation will require Cabinet leadership to change current practices or policies. A change in law may be required for some ideas.

- Tool in the Toolbox — Strategies that may not be used on every project, but which project-specific contingencies may dictate the use of in order to expedite the ROW process.

All process improvement forms developed by the ROW Process Review Team can be found on pp. 21–82. Additionally, a summary table (see pp. 16–20) presents a high-level overview of the process improvement ideas. For each idea, this table contains details on the ROW categories affected as well as potential time savings, implementation costs, and level of effort required for implementation. The report also includes full results of the district-level attorney and consultants surveys; a comparison of ideas prepared by the ROW Process Review Team with those submitted by attorneys and consultants; training opportunities for consultants and KYTC staff; and a brief review of human resources issues confronting the Cabinet which significantly impact the execution and duration of ROW acquisition.

The project culminated with the ROW Process Review Team presenting what it collectively deemed the top tier process improvement ideas to Cabinet leadership. The presentations occurred during a full-day event, during which KYTC’s leadership and team members held in-depth conversations about the merits and disadvantages of various ideas. Once the leadership team has reviewed this report and conducts internal deliberations, a decision on whether to move forward with Phase II and implementation will be made.

1. Introduction

1.1 Background

The Kentucky Transportation Cabinet's (KYTC) mission is to provide a safe, efficient, environmentally sound and fiscally responsible transportation system that delivers economic opportunity and enhances the quality of life in Kentucky. To fulfill this mission, the agency executes numerous projects each year. Whether new construction or improvements to existing infrastructure, projects are complex undertakings that require the cooperation of various KYTC divisions, as well as consultants and contractors, to ensure prompt completion. One aspect of project development that is particularly time-consuming is acquisition of the right of way (ROW) along a project corridor. The Division of Right of Way and Utilities is tasked with acquiring the ROW for all transportation projects. For many projects, the ROW process is located on the critical path, or the sequence of activities that represents the longest path through a project. As such, the critical path dictates the shortest possible duration for a project.

Moving through the ROW process quickly is challenging because of the complexities that arise during acquisition efforts. As the Cabinet moves toward a balanced highway plan that prioritizes projects based on available funding through the Strategic Highway Investment Formula for Tomorrow (SHIFT) program, project managers will need deliver projects in an efficient manner. This will demand expediting the ROW process. Adding to these challenges, over the past 10 years, the Cabinet has suffered the loss of staff who are the most knowledgeable about the ROW process. With more retirements and the continued thinning employee ranks anticipated in the future, Cabinet leadership decided it was critical to document the ROW process, catalogue the knowledge of ROW experts, and identify process improvements which have the potential to accelerate project delivery schedules. Leadership envisioned breaking the effort into two phases. Cabinet leadership asked researchers at the Kentucky Transportation Center (KTC) to coordinate and oversee a ROW Process Review. A ROW Process Review Team composed of current and retired KYTC staff with expertise in subjects related to ROW was formed to document the ROW process and devise ideas to improve current practice. The Center's researchers provided technical support, including assistance with process review, professional judgement, facilitation expertise, attorney access, documenting and reporting, and administrative task management.

1.2 Composition of ROW Process Review Team

The ROW Process Review Team included members from a rich array of disciplinary backgrounds. This approach was intentional, as Cabinet leadership deemed it imperative to receive staff input from across the disciplinary spectrum. Team members had specialized knowledge in many areas, including acquisition, condemnation, title abstractions, property management, legal services, appraisals, relocation, construction, and traffic maintenance. More specifically, represented on the team were the following KYTC positions: Right of Way Specialist, Right of Way Agent, Right of Way Supervisor, Right of Way Consultant, Right of Way Assistant Director, Preconstruction Project Manager, Branch Manager of Project Development, and Condemnation Attorney.

Below is a list the ROW Process Review Team members and their professional titles.

Brad Bottoms – Chair D4 TEBM	Paul Looney Deputy Secretary	Roger Crew CO Regional Review Appraiser
Michael Beaven CO Acquisition Specialist	Marshall Carrier Preconstruction Project Manager	Orie Dobson D11 ROW Agent
Shannon Dearing D9 ROW Supervisor	Kelly Divine ROW Assistant Director	Tim Layson CO Location Engineer
Charles Hale D8 ROW Supervisor	Nikki Jones D3 ROW Agent	Ron Terry CO Regional Review Appraiser
Keith McDonald ROW Consultant	Tony Moore CO Relocation Specialist	Chris Van Dyke KTC Researcher
Pam Clay-Young Condemnation Attorney	Jeff Jasper – Vice Chair KTC Researcher	Candice Wallace KTC Researcher
Robin Baskette KTC Researcher	Bryan Gibson KTC Researcher	Doug Kreis KTC Associate Director

1.3 Phase I Objectives

As a Federal rule state, Kentucky is bound to follow the Uniform Act. The Uniform Act has two main purposes: (1) to provide uniform and equitable treatment of people displaced from their homes, businesses, or farms by Federal and federally assisted programs, and (2) establish uniform and equitable land acquisition policies for Federal and federally assisted programs. Agencies must to follow the Uniform Act when any phase of a project receives federal funding, and real property is acquired, and/or property owners or tenants are displaced by land acquisition, demolition, or property redevelopment.

During Phase I, the ROW Process Review Team documented the current ROW process and generated ideas to realize greater efficiencies. All recommendations for improving the process needed to comply with the Uniform Act. Team members were asked to identify areas for improvement and told that recommended changes could affect the Cabinet’s internal policies and practices as well as state law. The ROW Process Review Team developed new ideas by looking at KYTC’s current ROW processes and procedures, studying other state practices, and leveraging their professional judgement and experience. After developing a ROW process improvement idea, team members determined its feasibility and potential impact. During the final stages of Phase I, the ROW Process Review Team documented and prioritized ROW process improvement ideas. To supplement the ideas worked out by the ROW Process Review Team, KTC researchers surveyed consultants and attorneys to understand their perspective on the ROW process and areas in which it could be improved.

1.4 Report Structure

The remainder of this report is structured as follows. Chapter 2 sketches out the methodological approach used by the ROW Process Review Team to document KYTC’s current ROW process and create and document process improvement ideas. Chapter 3 briefly discusses the other state practices team members looked at as well as pertinent federal regulations and appraisal best practices. Chapter 4 presents results,

including documentation of KYTC’s ROW process, an exhaustive catalogue of process improvement ideas authored by the ROW Process Review Team, recommended trainings for Cabinet staff and consultants, and ideas submitted by consultants and attorneys surveyed by KTC researchers. ROW Process Review Team members prepared process improvement forms for ideas showing the greatest promise. Chapter 4 includes forms for ideas submitted by the ROW Process Review Team, consultants, and district-level attorneys. Each process review form describes the idea; lists benefits, drawbacks, and the estimated time savings of implementation; and offers a takeaway message readers should bear in mind when deliberating on whether adoption is warranted. This chapter also contains several charts that summarize the broader implications of process improvement ideas, such as ROW categories that would be impacted by adoption as well as the potential time savings of implementation, estimated costs, and the level of effort required to put an idea into practice. A chart that delineates areas of overlap or consensus among the ROW Process Review Team, consultants, and district-level attorneys is provided as well. Chapter 5 describes the one-day conference at which the ROW Process Review Team presented its top-tier process improvement ideas to leadership from KYTC. A prioritization matrix summarizes ideas based on their anticipated impacts in terms of time savings and the costs and level of effort required for implementation. The matrix gives KYTC leadership a neatly organized graphic from which they can quickly determine ideas expected to generate the highest return on investment.

In putting together this report, KTC researchers sought to keep the narrative concise so that it highlights the ROW Process Review Team’s most critical findings. ROW Process Review Team members are entirely responsible for its substantive content and recommendations. While researchers assembled and developed the narrative and provided technical assistance when called upon, in putting together the report it worked entirely from materials generated and approved by team members. Their principal task was to organize and synthesize the findings of the ROW Process Review Team — not introduce original editorial content.

2. Methodological Approach

The ROW Process Review Team met on an approximately biweekly basis over a five-month period. Team members participated in a variety of activities, including facilitated work sessions and retreats, heard guest speakers from the Federal Highway Administration (FHWA) and Indiana Department of Transportation (INDOT), and took part in brainstorming sessions. Initially, meetings focused on analyzing KYTC's current ROW process to identify steps that could be improved or expedited. After each meeting, team members submitted process improvement ideas. Subsequent sections provide additional details on the workflow during the five months the team met.

2.1 Documenting KYTC's Current ROW Process

Because ROW acquisition controls the timeline of many projects, the ROW Process Review Team began by documenting the Cabinet's current ROW process. To accomplish this, the team established a ROW timeline for a concept project with the following characteristics:

- Normal 2-mile, Grade & Drain
- Existing 2-lane, Safety & Capacity
- Rural: 1.5-mile, Urban: 0.5-mile
- Parcels: Rural: 30, Urban: 20
- Minor Acquisition Reviews (MARs) 20; Appraisals: 30
- Miscellaneous: 10; Signs: 3; Railroad: 1 Parcel
- Residential Relocations — Rural: 2, Urban: 3
- Commercial: 5 Parcels (2 Out of State, 1 Relocation)
- Condemnations: 10

Information provided by the ROW Process Review Team was used to prepare Gantt charts that captured the amount of time required to complete each process step — from ROW Funding Request through ROW Certification. The ROW process was broken into 17 charts, each of which delineates major tasks and their constitutive (and more detailed) steps. Many ROW activities must be undertaken early in the project development process; furthermore, many activities unfold concurrently. Accordingly, the ROW Process Review Team made a point of underscoring the most critical and/or limiting activities. For example, Appraisals, Acquisitions, and Relocations were identified as having the longest durations, making them limiting steps in the ROW process. Improvements in these areas could potentially lessen the duration of the ROW process, accelerating delivery of the project as a whole. Section 4.1 and Appendix C provide results from this exercise.

2.2 Documenting Process Improvement Ideas

As the ROW Process Review Team mapped KYTC's current ROW process, ideas for improving the agency's approach to ROW emerged. Details about these ideas were recorded. Likewise, to stimulate discussion and brainstorming, KTC invited several guest speakers to talk with team members. Marshall Wainwright from the FHWA presented training materials on the Uniform Act as well as best practices adopted by ROW professionals in other states. Scott Adams, former Director of the Real Estate Division at INDOT, reviewed changes implemented by INDOT to expedite the ROW process and increase the rate of project success (i.e., on-time delivery). Following these presentations, the ROW Process Team was divided into small groups and listed 10 new ROW process improvement ideas that emerged from seeing the perspectives of other transportation agencies. More details on other state practices are provided in Chapter 3.

All ideas produced by the team throughout the project were documented, categorized by ROW process step, and distributed to the team for review. Process improvement ideas were assigned to one or more of the following categories, each of which corresponds to a major step in the ROW process:

- Acquisitions,
- Appraisals,
- Condemnation,
- Property Management,
- Relocation,
- Title Abstracts,
- Authorizations,
- Personnel (HR), and
- Technology.

During later meetings, the ROW Process Review Team held in-depth conversations about each idea. Following these discussions, team members developed process improvement forms for ideas deemed most critical. Each form presents an overview of the idea, lists the pros and cons associated with its implementation, documents estimated time savings that could be realized through implementation, and distills all of this information into a key takeaway message. Team members were attentive to whether a process improvement would be impacted by current law or require a change to current law when authoring descriptions. After finalizing the process improvement forms, individual team members completed a survey in which they selected what they regarded as the 10 best ideas to come out of the review. Section 4.1 contains charts which summarize the areas impacted by each process improvement idea as well as estimated time savings and implementation effort. It includes all process improvement forms as well, whose content was edited by KTC researchers to enhance their clarity and readability.

ROW process improvement ideas were also gathered from sources beyond the team. KTC researchers held a short session at KYTC's annual Right of Way Conference where they asked the Cabinet's ROW professionals to list methods of improving the ROW process. Project Development Branch Managers were also polled for their ideas on process improvements and asked to identify critical path items. Researchers from KTC also surveyed ROW consultants, asking them to comment on the most time-consuming aspects of the ROW process and strategies for improving the overall process. Section 4.5 looks at ideas submitted by consultants. Similarly, KYTC district-level attorneys and Central Office attorneys were asked to describe the most time-consuming elements of the ROW process and provide recommendations for improvement. Section 4.6 details the attorney responses and recommendations.

During a potential Phase II of this project, Cabinet leadership will examine proposed process improvements and determine strategies for their implementation. ROW Process Review Team members may be asked to assist with the implementation of process improvements selected for adoption by KYTC leadership.

3. Right of Way Best Practices in Other States

3.1 Indiana DOT Review of Right of Way Process

In 2010, the Indiana Department of Transportation (INDOT) undertook a comprehensive review of its ROW process. The review was motivated by the need to raise the profile and performance expectations of the Real Estate Division, improve teamwork, and clarify the division's identity and purpose. Scott Adams, former Director of the Real Estate Division, spearheaded this initiative, which kicked off with teambuilding activities and receiving the input of division staff. Through strategic planning exercises, cross-disciplinary groups evaluated the division's strengths and weaknesses, identified opportunities for change, and established its mission and goals. These exercises resulted in a new mission statement for the Real Estate Division — to provide timely, professional real estate services to support project delivery. The main goals established by division staff were improving customer service, strengthening communications and interactions with project management, and bolstering accountability. INDOT also established a career progression system for the Real Estate Division, which remains in effect today. This system incentivizes more efficient performance. The agency also centralized ROW and developed a prequalification process for ROW consultants, which sought to foster better communication and engagement and hold consultants accountable for scope, schedule, and budget. Other initiatives and improvements adopted to compress the Right of Way process include:

- Excess land disposition
- Technology to upgrade the Land Records System
- Auto-payment procedures
- Exercise of eminent domain authority
- Employing right-of-entry grants on all available parcels
- Use of administrative settlements where appropriate
- Utilizing appraisal waiver valuations for parcels valued less than \$10,000
- Weekly parcel status reports
- A combined ROW team

After implementing this series of changes, the average time to completion for the ROW process dropped from 307 days to 275 days — if condemnation was necessary, the average was 450 days. These numbers encompass all project types, including those on which a variety of small and large parcels had to be secured. The percentage of parcels completed and delivered on time, annually, rose from 51% to 85%, an improvement which garnered recognition from the International Right of Way Association and FHWA. The changes instituted at INDOT also nurtured a more positive working environment, improved the work culture among ROW professionals, increased staff motivation, and built stronger relationships between the Real Estate Division and consultants and project management.

3.2 Early Acquisition of Parcels and Protective Buying and Hardship Acquisitions

During his presentation on the Uniform Act, Marshall Wainwright (National Environmental Policy Act and Realty/ROW Technical Service Team Leader at the FHWA Resource Center) discussed Early Acquisition and Advance Acquisition Alternatives. Pursuant to 23 CFR 710.501 (Early Acquisition), a state agency can initiate the acquisition of real property interests for a proposed transportation project once it has the legal authority to do so. Under 23 CFR 710.501, agencies have the option to undertake Early Acquisition Projects before completing the environmental review process. A state agency (1) can fund Early Acquisition Project costs entirely with state funds with no Title 23 participation; (2) use state funds at the outset and then later seek Title 23 credit when an acquired property is incorporated into a transportation project that is eligible for Federal surface transportation program funds; or (3) use the normal Federal-aid project agreement and reimbursement process to fund an Early Acquisition Project in accordance with 23 CFR 710.501(e). 23 CFR 710.503 (Protective Buying and Hardship Acquisition) specifies that a grantee can ask the FHWA for

reimbursement for the advance acquisition of a specific parcel or limited number of parcels, prior to the final environmental approval of a transportation project, to prevent imminent development and increased costs at the preferred location (protective buying) or to ameliorate a hardship incurred by property owners at the preferred location (hardship acquisition) as long as the grantee complies with conditions set out in 23 CFR 710.503 (a)(1-4). Utah and Nevada have adopted the practice of acquiring ROW before the completion of NEPA. However, this practice should be undertaken with caution so that Federal funding for a project is not jeopardized. Table 1 lists Early Acquisition and Advance Acquisition Alternatives and Requirements authorized under 23 CFR 710.501 and 23 CFR 710.503, respectively.

Table 1 Summary of Early Acquisition and Advance Acquisition Alternatives and Requirements

Early Acquisition (EA) Alternatives & Requirements (23 CFR 710.501)							Revision date: 02/12/2018
Acquiring ROW Alternatives	Require NEPA Decision	Allow 4F Properties	Start Acquisition	Request Reimbursement/Credits	Comply w/ Federal Law*	Subject to Condemnation	Requirements
1) State-funded Early Acquisition without Federal Credit or Reimbursement 23 CFR 710.501(b) 23 USC 108(c)(1)	NO	No, if the State wishes to maintain Federal eligibility for future Federal assistance on any part of the transportation project.	When legally permissible by State Law.	N/A	Yes, if the transportation project maintains Federal eligibility.	YES, if State law allows	A State may carry out early acquisition entirely at its expense. However, a State may maintain eligibility for future Federal assistance on a transportation project. To maintain eligibility, early acquisition must comply with the following requirements of 23 CFR 710.501(c)(1)-(5): <ul style="list-style-type: none"> • Property lawfully obtained by the State agency; • Not 4F property; • Acquisitions and relocations comply with the Uniform Act; • State agency complies with Title VI of the Civil Rights Act; • FHWA concurs with the State that the Early Acquisition did not influence the NEPA decision for the proposed transportation project including: <ul style="list-style-type: none"> ○ The need to construct, ○ The consideration of alternatives, or ○ The selection of design or location.
2) State-funded Early Acquisition Eligible for Future Credit 23 CFR 710.501(c)	NO	NO	When legally permissible by State law.	Request credit for the portion of the property after incorporated in the Federal-aid transportation project	YES	YES, if State law allows	<ul style="list-style-type: none"> • Property lawfully obtained by the State agency; • Not 4F property; • Acquisitions and relocations comply with the Uniform Act; • State agency complies with Title VI of the Civil Rights Act; • FHWA concurs with the State that the Early Acquisition did not influence the NEPA decision for the proposed transportation project including: <ul style="list-style-type: none"> ○ The need to construct, ○ The consideration of alternatives, or ○ The selection of design or location; • Property is incorporated in the transportation project to which the credit will be applied; and • The amount of the credit may be current fair market value or historic acquisition cost to acquire; however, this credit must be applied consistently within the transportation project subject to the requirements at 23 U.S.C. 323(b).
3) State-funded Early Acquisition Eligible for Future Reimbursement 23 CFR 710.501(d) 23 USC 108(c)	NO	NO	When legally permissible by State law.	After NEPA is completed and real property interests are incorporated in a Title 23 project and all applicable requirements are met.	YES	YES, if State law allows	<ul style="list-style-type: none"> • Property lawfully obtained by the State agency; • Not 4F property; • Acquisitions and relocations comply with the Uniform Act; • State agency complies with Title VI of the Civil Rights Act; • FHWA concurs with the State that the Early Acquisition did not influence NEPA for the proposed transportation project including: <ul style="list-style-type: none"> ○ The need to construct, ○ The consideration of alternatives, ○ The selection of design or location; • State has a mandatory, comprehensive, and coordinated land use, environmental, and transportation planning process under State law, and the Governor has determined in advance that the acquisition is consistent with the State plans and is consistent with the State transportation planning process under 23 U.S.C. 135; • The State selects the alternative for which the real property interest is acquired pursuant to NEPA; • Prior to approval for Federal participation, NEPA, section 4(f), and all other environmental review/approval requirements are complete (see

							https://www.fhwa.dot.gov/environment/env_sum.cfm and provisions in 771.119(g) and 771.125(a)(1) on reasonable assurances of compliance). <ul style="list-style-type: none"> Reimbursement of acquisition costs is based on the usual costs to acquire—23 CFR 710.203(b)(1).
4) Federally Funded Early Acquisition (Stand-alone Project) 23 CFR 710.501(e) 23 USC 108(d)	YES, NEPA decision required for the early acquisition, stand-alone project only (separate from NEPA for the transportation project). (Usually a CE)	NO	After NEPA is complete for the Early Acquisition Project	This is a reimbursable, stand-alone, Federal-aid Project based on FHWA authorization to proceed with the early acquisition	YES	NO	<ul style="list-style-type: none"> State certifies and FHWA concurs that the following requirements have been met: <ul style="list-style-type: none"> State has authority to acquire under State law; Is for a Title 23 eligible transportation project and does not involve 4F properties; Will not cause significant adverse environmental impacts because of the EA project or from cumulative effects of multiple EA projects carried out in connection with the transportation project; Will not limit the choice of reasonable alternatives for the transportation project or otherwise influence the decision of FHWA on any approval required of the transportation project; Will not prevent FHWA from making an impartial decision as to whether to accept an alternative that is being considered in the environmental review process for a proposed transportation project; Is consistent with the State transportation planning process under 23 U.S.C. 135; Complies with other applicable Federal laws (including regulations); Will be acquired through negotiation, without the threat or use of condemnation; Will not reduce or eliminate relocation benefits under the Uniform Act and Title VI of the Civil Rights Act; The Early Acquisition project is in the applicable Transportation Improvement Program(s); and NEPA for the Early Acquisition project is complete (including compliance with 23 CFR 710.501(e)(4)), and approved by FHWA. Real property interests acquired cannot be developed in anticipation of the transportation project until a NEPA decision for that transportation project has been completed. No development activity related to demolition, site preparation, or construction that is not necessary to protect health or safety may be undertaken, and any such work requires prior FHWA approval under 23 CFR 710.501(f). If reimbursement is made and the real property interests are not incorporated in a transportation project within 20 years, pursuant to 23 U.S.C.108(d)(7) FHWA must offset the amount against Federal-aid funds apportioned to the State. Eligibility for Relocation Assistance—a person is considered displaced when required to move from the real property as a direct result of a binding written agreement for the purchase of the real property interest. Except as provided in 23 CFR 710.501(h), options to purchase and similar agreements do not create an immediate commitment and do not create relocation eligibility. <p>Note: The "Option" to purchase the property at a later date allows the property to remain occupied limiting the risk of blight in the neighborhood due to vacant buildings.</p>
Advance Acquisition (AA) Alternatives & Requirements (23 CFR 710.503)							Revision date: 02/12/2018
Acquiring ROW Alternatives	Require NEPA Decision	Allow 4F Properties	Start Acquisition	Request Reimbursement/Credits	Comply w/ Federal Law*	Subject to Condemnation	Requirements
1) Protective Buying	**Yes, typically a CE.	Yes, if 4F determination and, if applicable,	Usually during the NEPA process.	After property is incorporated in the Federal-aid	YES	YES, if State law allows	<ul style="list-style-type: none"> Development of the property is imminent and would limit future transportation choices. Acquisition shall not influence the environmental review of the transportation project, including decisions on need to construct the transportation project or selection of an alternative.

23 CFR 710.503	See 23 CFR 771.117(d)(12)	procedures of the Advisory Council on Historic Preservation, are completed for the parcel. 710.503(a)(3)-(4)		transportation project.			
2) Hardship Acquisition 23 CFR 710.503	**Yes typically a CE. See 23 CFR 771.117(d)(12)	Yes, if 4F determination and, if applicable, procedures of the Advisory Council on Historic Preservation, are completed for the parcel. 710.503(a)(3)-(4)	Usually during the NEPA process.	After property is incorporated in the Federal-aid project.	YES	YES, if State law allows. See comment →	<ul style="list-style-type: none"> A request for hardship acquisition based on a property owner's written submission that shows (1) remaining in the property poses an undue hardship compared to other property owners because of health, safety, or financial reasons, and (2) the owner has been unable to sell the property at fair market value because of the impending transportation project, within a time period that is typical for properties not impacted by the impending transportation project. Acquisition must not influence the environmental review of the transportation project, including decisions on need to construct the transportation project or selection of an alternative. <p>Note: While the agency may condemn if a settlement cannot be reached on a hardship acquisition, great care should be taken to ensure that the decision is warranted both for the property owner and the agency.</p>

* Relevant Federal Law includes the Uniform Act, Title VI Civil Rights Act, and Federal Regulations (primarily, 23 CFR Part 710).

**Note: Protective Buying and Hardship Acquisitions usually occur during the transportation project's NEPA phase. However, prior to approving an AA, NEPA and section 4(f) clearance is necessary for the AA parcels. This requires the AA parcels to be carved out from the overall transportation project to do NEPA and 4(f) review on those parcels. The NEPA class of action is typically a CE. The AA reviews and decisions are for advanced acquisition, and the AA parcels still will be included in the NEPA and section 4(f) evaluations for the transportation project.

3.3 Appraisal Best Practices

Appraisals performed as part of ROW acquisitions must conform with regulations described in 49 CFR Part 24. The FHWA has funded a national research study to examine best practices for MARs and appraisals and determine whether they comply with the Uniform Standards of Professional Appraisal Practice (USPAP). The National Appraisal Board and Appraisal Institute will participate in the study. A pressing challenge throughout the country is the shortage of appraisers. This shortage makes it challenging to receive quality work from appraisers managing heavy workloads. Several state agencies have introduced training and mentoring programs for their appraisers. The Ohio DOT requires putting mentoring or training hours into appraisers' contracts before appraisal certification. Before hiring an appraiser, the Georgia DOT mandates that they have at least a residential certification. Common best practices used in other states include letting property owners accompany the appraiser, giving a copy of the appraisal to the property owner, and consenting to the purchase of uneconomic remnants for legal settlement.

4. Right of Way Process Improvement Ideas

4.1 KYTC ROW Process Review Team Ideas

Process improvement ideas generated by the ROW Process Review Team were sorted into nine ROW categories:

- Acquisitions,
- Appraisals,
- Condemnation,
- Property Management,
- Relocation,
- Title Abstracts,
- Authorizations,
- Personnel (HR), and
- Technology.

A ROW Process Improvement Table (Table 4) summarizes the key features of each process improvement idea. It only contains ideas for which the ROW Process Review Team generated a process improvement form. The table is broken into three groups of columns. The first group of columns denote which idea type category an idea falls into: *Best Practice*, *Process Change and Improvement*, and *Tool in the Toolbox* (abbreviated as *Tools* in Table 4). Ideas often fall into more than one idea type category. Table 2 provides definitions for each of these categories.

Table 2 Summary of Idea Types Used by ROW Process Review Team

Idea Type	Description
Best Practice	<ul style="list-style-type: none"> • A practice that should be regularly implemented on the majority of projects.
Process Change and Improvement	<ul style="list-style-type: none"> • An idea whose implementation will require Cabinet leadership to change current practices or policies. A change in law may be required for some ideas.
Tool in the Toolbox	<ul style="list-style-type: none"> • Strategies that may not be used on every project, but which project-specific contingencies may dictate the use of in order to expedite the ROW process.

The next batch of columns focus on *Potential Time Savings*, *Implementation Costs*, and *Implementation Effort*. These give a rough sense of the level of effort required to put an idea into practice and the potential return on investment (in the form of time savings). Impacts are defined as being *Low*, *Medium*, or *High* in each area. How these terms are defined varies by category (Table 3). The final group of columns specify which Right of Way categories will be impacted by the adoption of an idea. The table identifies the areas likely to experience primary impacts as well as those apt to see secondary impacts.

Table 3 Definition of Ratings for Implementation Effort

Area	Definition of Ratings
Time Savings	<ul style="list-style-type: none"> • Low: < 5 days • Medium: 5–15 days • High: > 15 days
Implementation Level of Effort*	<ul style="list-style-type: none"> • Low: < 9 months

	<ul style="list-style-type: none"> • Medium: 9–18 months • High: > 18 months
Implementation Costs*	<ul style="list-style-type: none"> • Low: \$50,000 • Medium: \$50,000–\$200,000 • High: \$200,000

*An important point for readers to keep in mind is that classifications were developed based purely on what is required to undertake the planning and development work required achieve implementation. It does not account for any operating costs (i.e., recurring expenses) potentially needed to sustain work beyond initial implementation efforts.

Each idea was assigned to one of three categories based on its estimated impact (time savings) and level of effort needed for implementation (Cabinet resources, financial costs). The first category, *Quick Wins*, contains ideas with low resource requirements but that will translate into significant time savings. These ideas can be adopted quickly and without significant expense. Next, *Sustained Initiatives* encompasses ideas whose resource costs are high, but the potential impacts of which are high as well. Ideas within this category are either costly or will require a long period of planning and development in the run up to implementation. *Accelerated Reforms*, the third category, has ideas that are not resource intensive to implement, however, they also will not generate massive returns on investment. Nonetheless they will help reduce the duration of the ROW process.

Table 4 Right of Way Process Improvement Table

<p>Right Of Way Process Improvement Best Practices Table</p> <p>Kentucky Transportation Center researchers prepared a Right of Way Process Improvement Table, which summarizes the key features of each process improvement idea for which there is a detailed write-up in the final report. The table is split into three groups of columns. The first group of columns (shaded blue) assigns each idea to one of three idea type categories – Best Practice, Process Change and Improvement, and Tool in the Toolbox. Many ideas fall into more than one category. The next batch of columns (shaded green) focus on Potential Time Savings, Implementation Costs, and Implementation Effort. These give readers a rough sense of the level of effort required to put an idea into practice and the potential return on investment. The final group of columns (shaded red) specify which Right of Way categories will be impacted by an idea's adoption. This portion of the table identifies primary and secondary impacts.</p> <p>Each idea was assigned to one of three categories based on its estimated impact (time savings) and level of effort needed for implementation (Cabinet resources, financial costs). An important note for readers to bear in mind is that classifications were developed based purely on what is required to undertake the planning and development work required achieve implementation. It does not account for any operating costs (i.e., recurring expenses) potentially needed to sustain implementation efforts. The first category, Quick Wins, contains ideas with low resource requirements but that will translate into significant time savings. These ideas can be adopted quickly and without significant expense. Next, Sustained Initiatives encompasses ideas whose resource costs are high, but the potential impacts of which are high as well. Ideas within this category are either costly or will require a long period of planning and development in the run up to implementation. Accelerated Reforms, the third category, has ideas that are not resource-intensive to implement, however, they also will not generate massive returns on investment. Nonetheless they will help reduce the duration of the ROW process.</p>									
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Right Of Way Process Improvement Table: BEST PRACTICES		Process Change & Improvement Best Practice	Tool in the Toolbox	Potential Time Savings	Implementation Cost	Implementation Effort	Acquisitions	Appraisals	Authorizations	Condemnation	Personnel (HR)	Property Management	Relocation	Technology	Title Abstracts
Improvement Type	Right-Of-Way Category														
• Selected Type	√ Primary Impact														
	• Secondary Impacts														
Improvement: Time Savings, Cost, & Implementation Effort Ratings															
L Low	H Medium	H High													
QUICK WINS															
	Hold Property Owner Information Meetings	• •	M/H	L	L	√ • • •	• • •	• • •	• • •	• • •	• • •	• • •	• • •	• • •	• • •
	Enforce the 45-Day Sign-or-Sue Policy	• •	H	L	L	√ • • •	• • •	• • •	• • •	• • •	• • •	• • •	• • •	• • •	• • •
	Early ROW Staff Participation in Design	• •	H	L	L	• √ • •	• • •	• • •	• • •	• • •	• • •	• • •	• • •	• • •	• • •
	Delegate Approval Authority to Review Appraiser	• •	H	L	L	• √ • •	• • •	• • •	• • •	• • •	• • •	• • •	• • •	• • •	• • •
	Investigate Informal Service of Process	• •	M/H	L	L	• • •	• • •	• • •	√ • •	• • •	• • •	• • •	• • •	• • •	• • •
	Use Design Funds for Titles, Appraisal, Relocation Research	• •	H	L	L	• • •	• • •	• • •	• • •	√ • •	• • •	• • •	• • •	• • •	√ • •
	Establish Recommended Time Frames for ROW Tasks	• •	H	L	L	• • •	• • •	√ • •	• • •	• • •	• • •	• • •	• • •	• • •	• • •
	Cross-Train Agents in Basic ROW Functions	• •	H	L	M	• • •	• • •	• • •	• • •	• • •	√ • •	• • •	• • •	• • •	• • •
	Authorize District Offices to Pay Small Filing/Recording Fees	• •	H	L	M	• • •	√ • •	• • •	• • •	• • •	• • •	• • •	• • •	• • •	• • •
	Develop Employee Performance Measures	• •	H	L	M	• • •	• • •	• • •	• • •	• • •	• • •	√ • •	• • •	• • •	• • •
	Strengthen Communication Among ROW Stakeholders	• •	H	L	M	• • •	• • •	• • •	• • •	• • •	• • •	• • •	√ • •	• • •	• • •
	Provide Online Access to Property & Owner Information	• •	H	M	L	• • •	• • •	• • •	• • •	• • •	• • •	• • •	• • •	√ • •	• • •
SUSTAINED INITIATIVES															
	Expedite Funding Authorization	• •	H	M	H	• • •	• • •	• • •	√ • •	• • •	• • •	• • •	• • •	• • •	• • •
	Centralize ROW	• •	H	H	M	• • •	• • •	• • •	• • •	• • •	√ • •	• • •	• • •	• • •	• • •
	Develop ROW Training Portfolio for Agents	• •	H	M	M	• • •	• • •	• • •	• • •	• • •	• • •	√ • •	• • •	• • •	• • •
	Establish Appraiser Apprentice Program	• •	H	M	H	• • •	• • •	• • •	• • •	√ • •	• • •	• • •	• • •	• • •	• • •
	Adopt Federal Government Pay Scale	• •	H	H	H	• • •	• • •	• • •	• • •	• • •	• • •	√ • •	• • •	• • •	• • •
	Close Out Older Condemnation Cases	• •	L	M	H	• • •	• • •	• • •	• • •	• • •	• • •	• • •	√ • •	• • •	• • •

Right Of Way Process Improvement Table: BEST PRACTICES				Process Change & Improvement Best Practice	Tool in the Toolbox	Potential Time Savings	Implementation Cost	Implementation Effort	Acquisitions	Appraisals	Authorizations	Condemnation	Personnel (HR)	Property Management	Relocation	Technology	Title Abstracts
Improvement Type	Right-Of-Way Category																
• Selected Type	√	Primary Impact															
	•	Secondary Impacts															
Improvement: Time Savings, Cost, & Implementation Effort Ratings																	
L	Low	H	Medium	H	High												
ACCELERATED REFORMS																	
	Improve Communication of ROW Clearance Dates	•	•	M	L	L	√										
	Improve Guidelines to Select MAR or Appraisal	•	•	M	L	L	•	√									
	Allow ROW or Consultants to Directly Hire Contract Attorneys	•	•	M	L	L	•	•									√
	Develop OLS Time Frame on Review of Title & Deed Work	•	•	M	L	L	•	•									√
	Monitor Appraiser Performance	•	•	M	L	L		√									
	Eliminate Division of Purchases from Demolition Contracts	•	•	M	L	L							√				
	Evaluate Allowing Move Bids Over \$10,000	•	•	M	L	L								√			
	Incentivize Training for Staff	•	•	M	M	M	•	•	•	•	•	•	√	•	•	•	•
	Offer Trainings for District & Contract Attorneys	•	•	M	M	M	•	•	•	√	•	•	•	•	•	•	•
	Evaluate District ROW Practices	•	•	M	M	M	•	•	•	•	•	•	√	•	•	•	•
	Create Individual Training Accounts	•	•	M	M	M	•	•	•	•	•	•	•	√	•	•	•
	Mandatory ROW Workshops for Senior Leadership	•	•	L	L	L	•	•	•	•	•	•	•	•	•	•	•
	Provide a List of Qualified Relocation Agents	•		L	L	L								√			
	Establish Minimum Acquisition Offer	•		L	L	L	•	√									
	Require Design Displays or KMZ	•	•	L/M	L	L	•	•		•				•			√
	Implement a Lump Sum Payment for Last Resort Tenants	•	•	L	L	L											√
	Pay for Move Estimates	•		L	L	L											√


Right Of Way Process Improvement Table: TOOLS		Process Change & Improvement Best Practice	Tool in the Toolbox	Potential Time Savings	Implementation Cost	Implementation Effort	Acquisitions	Appraisals	Authorizations	Condemnation	Personnel (HR)	Property Management	Relocation	Technology	Title Abstracts
Improvement Type	Right-Of-Way Category														
• Selected Type	√ Primary Impact														
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Improvement: Time Savings, Cost, & Implementation Effort Ratings															
L Low	H Medium	H High													
QUICK WINS															
Develop Procedures for Group Signing Sessions		•	H	L	L	√									
Master Agreements for Appraiser Contracts		•	H	L	L	√									
Reinstate Right of Entry Agreements and Encourage Agreed IOJs		•	H	L	L	•		√							
Reduce Title Requirements for Temporary Easements		•	H	L	L				•						√
Include Staff Training in Consultant Contract		•	H	L	L	•	•			√		•			•
Implement FAST Act Early Acquisition		•	H	L	M	•	•	√							
Share District Staff to Deliver ROW Program		•	H	L	M	√	•					•			
Offer Bonuses to Vacate/Move		•	H	M	L								√		
Enhance In-Field Technologies		•	M/H	M	L	•	•		•				√		
SUSTAINED INITIATIVES															
ROW Internship Program		•	H	H	L	•	•			√				•	
Reduce the Use of Temporary Easements		•	H	M	M	√			•						•
Research Use of Quick Take Authority		•	H	H	H				√						
Incentivize Staff		•	H	M	M	•	•	•	•	√		•			•

Right Of Way Process Improvement Table: TOOLS					Process Change & Improvement Best Practice	Tool in the Toolbox	Potential Time Savings	Implementation Cost	Implementation Effort	Acquisitions	Appraisals	Condemnation Authorizations	Personnel (HR)	Property Management	Relocation	Technology	Title Abstracts
Improvement Type		Right-Of-Way Category															
• Selected Type	✓	Primary Impact															
	•	Secondary Impacts															
Improvement: Time Savings, Cost, & Implementation Effort Ratings																	
L	Low	H	Medium	H	High												
ACCELERATED REFORMS																	
Explore the Use of Purchase Options					•	•	M	L	M	✓							
Transfer Comp Book Among Projects					•	•	L	L	M	✓					•		
Establish Director of Condemnation within OLS					•	•	M	H	L			↘					
Limit Scope of Cases Handled by District Attorneys					•	•	L	H	L			↘					
Incentivize Adoption of Web-Based Applications					•	•	M	H	H	•	•	•	•	•	↘	•	•
Stabilize/Improve Internet Access					•	•	M/L	M	M	•	•	•	•	•	↘	•	•
Provide Educational Information to Circuit Clerks					•	•	M	L	L			↘					
Increase ROW Supervisor Settlement Authority					•	•	L	L	L	✓					•	•	•
Mediation Prior to Condemnation					•	•	L	L	L	✓				↘	•	•	•
Investigate Segmentation of Comp Book					•	•	L	L	L			↘					
Share Sales Book Datum					•	•	L	L	L			↘					

4.1.1 Process Improvement Forms

This section contains all process improvement forms prepared by the ROW Process Review Team as well as several ideas submitted by consultants and KYTC district-level attorneys vetted by team members. Team members brainstormed pros and cons, as well as key takeaway messages, for ideas submitted by attorneys and consultants. Process improvement forms for consultant ideas have light blue shading around the border; those which originated with attorneys have black borders. Each form includes the idea title, primary and secondary ROW categories that would be affected by implementation (categories experiencing secondary impacts are listed in parentheses following the category that will be primarily affected), a description of the idea, pros and cons of implementation, estimated time savings, estimated cost and implementation effort, and a key takeaway message. Forms are presented in the order of their listing in Table 4. Subsections are organized by idea type (i.e., Best Practice, Tool in the Toolbox) and estimated impact and effort needed for implementation (Quick Wins, Sustained Initiatives, Accelerated Reforms). Sections 4.5 and 4.6 provide additional details on ideas submitted by consultants and district-level attorneys.

4.1.1.1 Best Practices — Quick Wins

 Right-Of-Way Process Improvement	
Title	ROW Category
Hold Property Owner Information Meetings	Acquisition (Appraisals, Authorizations, Condemnation, Relocation, Property Management, Title Abstractions)
Type: Check Appropriate Box <input checked="" type="checkbox"/> Best Practice <input checked="" type="checkbox"/> Process Change & Improvement <input type="checkbox"/> Tool in the Toolbox	
Description (2-3 Sentences Maximum)	
<p>A property owner information meeting would be held on medium and large projects after the design section holds a public meeting. All property owners affected by a project would be invited to the meeting, where staff from the following areas would be available to answer specific questions regarding the acquisition impacting their property: Right of Way, Design, and Utilities.</p>	
Pros	Cons
<ul style="list-style-type: none"> - Items not on the plans could be identified by the property owner so there are no surprise items and plan changes can be made ahead of time. - Provides an informal meeting for property owners to meet staff and have an early opportunity to interact with negotiators, relocation agents, and appraisers. - Allows staff to obtain personal information from property owner so they are easier to contact when it is necessary to do so. - Can identify priority parcels including those KYTC is not aware of allowing the priority list to be adjusted. - Allows a time to verify ownership. - Provides an opportunity to identify potentially challenging property owners. 	<p>Cost: Low</p> <p>Implementation Effort: Low</p>
Potential Time Savings: Medium-High	
Key Takeaway	
<p>Property owner information meetings could save significant time and surprise items could be addressed ahead of time. Property owners will have the opportunity to consider the impact of an acquisition on their property rather than learning about it at the initial offer to purchase meeting, which may save time during negotiations.</p>	
Author(s)	
ROW Process Review Team	



Right-Of-Way Process Improvement

Title

Enforce the 45-Day Sign-or-Sue Policy

ROW Category

Acquisition, (Condemnation)

Type: Check Appropriate Box

Best Practice

Process Change & Improvement

Tool in the Toolbox

Description (2-3 Sentences Maximum)

The current ROW Manual states that "the negotiator shall make every reasonable effort to help the owner make a decision within 45 days." For some parcels with special circumstances, this effort can extend but is not intended to exceed 60 days. Current policy should be enforced. ROW staff require training on this philosophy.

Pros

- Expedites the acquisition process.
- Maintains overall project schedule.
- Establishes expectations with the owner and future parcel owners across the state.
- In most cases, allows the owner to make an informed decision.
- With proper oversight and implementation, can greatly expedite ROW clearance for a project.

Potential Time Savings: High

Cost: Low

Implementation Effort: Low

Cons

- Creates the perception of added pressure or coercion.
- Could result in additional condemnations, increasing the workload for district attorneys.
- Could result in right-to-take challenges, which could significantly delay a project.
- May not be applicable to all parcels on a project.
- Accurate plan availability and timely modifications to plans during negotiation becomes more critical.

Key Takeaway

Enforcing this policy can significantly reduce the time needed to clear ROW on most projects. Although this method could be viewed as coercive in some cases, the approach should allow for adherence to good faith efforts — offer was made on just compensation and verbally in writing. While this policy could apply to most parcels, in some special cases district offices could grant an extended negotiation time line to close out the parcel and avoid condemnation.

Author(s)

ROW Process Review Team, Attorney Surey



Right-Of-Way Process Improvement

Title Early ROW Staff Participation in Design
ROW Category Appraisals (All except HR, Technology, Condemnation)

Type: Check Appropriate Box Best Practice Process Change & Improvement Tool in the Toolbox

Description (2-3 Sentences Maximum)

Involve ROW staff as early as the planning stages (scoping) so they can inform Design staff about factors that will significantly affect ROW schedule and costs (e.g., expensive relocations, family clusters, USTs, septic lines, graveyards, uneconomic remnants, landlocked property, environmental justice issues).

Pros

- Avoids many ROW pitfalls that add significant expense and lengthen schedules.

Potential time savings: High

Cost: Low

Implementation Effort: Low

Cons

- None

Key Takeaway

Involving ROW staff as early as possible in the project development process is a common sense solution that will improve project development. All available resources can be marshaled to augment staff knowledge. Along with saving time and money, project quality and execution will be improved.

Author(s)

ROW Process Improvement Team



Right-Of-Way Process Improvement

Title

Delegate Approval Authority to Review Appraiser

ROW Category

Appraisals

Type: Check Appropriate Box Best Practice Process Change & Improvement Tool in the Toolbox

Description (2-3 Sentences Maximum)

For lower value appraisals, delegate final approval to the Review Appraiser. This will eliminate the second approval by the Appraisal Branch Manager. Allow the KYTC Regional Review Appraiser to determine just compensation which may differ from FMV.

Pros

- Quickens the approval process.
- Allows negotiations to begin earlier.
- KYTC Regional Reviewer is more familiar with overall project than the Appraisal Branch Manager.
- Reduces Appraisal Branch Manager's workload, freeing up time so focus can be placed on higher value appraisals.

Potential Time Savings: High

Cost: Low

Implementation Effort: Low

Cons

- KYTC Regional Reviewer has greater responsibility for final just compensation.
- Eliminating the second approval reduces quality control on lower value appraisals.

Key Takeaway

Faster approval will result in initiating negotiations earlier, thus expediting overall project delivery by removing extra steps in the ROW process. Appraisals in excess of \$100,000 (or upon request by the regional reviewer) will still be sent to the Central Office Appraisal Branch Manager for final approval.

Author(s)

ROW Process Review Team



Right-Of-Way Process Improvement

Attorney Version

Title	ROW Category
Experiment with Informal Service of Process	Condemnation

Type: Check Appropriate Box Best Practice Process Change & Improvement Tool in the Toolbox

Description (2-3 Sentences Maximum)

Service of the Summons can be painfully long. This is what one attorney suggested: Send the Summons and Petition to the Defendants in regular mail. While this is not good service, often after receiving it in the mail, the owner gets an attorney and enters an appearance thus submitting to the jurisdiction of the court. If the party calls, they are told they have not actually been served, but a discussion ensues on how to get them served properly and timely.

Pros

- It is definitely worth a try since it can takes weeks of waiting for the warning order attorney to file a report off the table.

Cons

Potential time savings: Medium to High

Cost: Low

Implementation Effort: Low

Key Takeaway

Service of process can take from 2 weeks up to 80 calendar days. Sending a copy of the Petition and Summons via regular mail is worth a try.

Author(s)

The Attorney Survey, The ROW Process Review Team



Right-Of-Way Process Improvement

Title

Use Design Funds for Titles, Appraisal, Relocation Research

ROW Category

Title Abstracts (Appraisals, Relocation)

Type: Check Appropriate Box Best Practice Process Change & Improvement Tool in the Toolbox

Description (2-3 Sentences Maximum)

Begin using authorized Design Funds for title work, comp book compilation, appraisals, relocation research, MAR worksheets, and the initial contact with a parcel owner.

Pros

- Can begin collecting data for the ROW process earlier.
- Can help identify early ROW obstacles (e.g., title issues, change of ownership since plan development, added parcels, off-conveyances, and problematic mortgage companies).
- Can identify priority parcels easier.
- Appraisal process can commence with everything prior to making offer
- Allows relocation agent to make initial contact with owner and gather information for worksheet earlier.
- Good potential return on time and financial investment for project

Potential Time Savings: High
Cost: Low
Implementation Effort: Low

Cons

- There is a risk of outdated appraisals and other gathered data if ROW is not authorized soon thereafter.
- If outside resources are used on the project, could lead to contract modifications to keep same consultant on-board.
- Plan changes will nullify early ROW work.
- Official Order normally not given until later in the project time line. This will require a process change for project setup in RWUMS.

Key Takeaway

This is a best practice which will benefit most projects. It allows for the early start of ROW data collection, which is critical, and can greatly reduce delays in overall acquisition and clearance. This may foster better in-house ROW work, rather than necessitating outsourcing to a consultant due to contractual obligations and potential modifications.

Author(s)

ROW Process Review Team



Right-Of-Way Process Improvement

Consultant Version

Title	ROW Category
Establish Recommended Time Frames for ROW tasks	Authorizations, (All Categories)

Type: Check Appropriate Box Best Practice Process Change & Improvement Tool in the Toolbox

Description (2-3 Sentences Maximum)

Consultants recommend establishing time frames for completing ROW work, similar to what is done in the Division of Highway Design.

Pros

- Greater accountability for completing tasks
- Critical path steps can be managed earlier

Cons

Potential Time Savings: High

Cost: Low

Implementation Effort: Low

Key Takeaway

Establishing time frames for completing ROW work aids in timely project delivery.

Author(s)

Consultant Survey, The ROW Process Review Team



Right-Of-Way Process Improvement

Title

Cross-Train Agents in Basic ROW Functions

ROW Category

Personnel-HR (Acquisition, Appraisal, Relocation)

Type: Check Appropriate Box Best Practice Process Change & Improvement Tool in the Toolbox

Description (2-3 Sentences Maximum)

Provide cross-training on basic ROW functions to district personnel. This will help staff become more knowledgeable about multiple areas of the ROW process.

Pros

- Staff gain more detailed knowledge of the entire ROW process.
 - Reduces dependence on the consultant industry, thereby lowering costs.
 - Increasing staff proficiency in all aspects of delivery will reduce delivery time.
 - Staff better understand the anticipated completion times of different steps in the ROW process, which translates to better knowledge of the overall project schedule.
 - Fosters dialogue and constructive feedback among district ROW personnel on specific projects.
 - Builds stronger teams as staff will have greater awareness of what tasks their peers are responsible for.
 - Increases pool of appraisers and relocation agents.
 - Boosts the self-sufficiency of each district.
- Potential Time Savings: High

Cons

- Could lead to decision making during the ROW process by individuals who lack technical qualifications.
- Training could be time consuming.
- Learning curve for staff will result in resource costs/time.
- Challenging to implement under current class specifications and job descriptions.

Cost: Low

Implementation Effort: Medium

Key Takeaway

Cross-training is a sensible way to build a core competency and shorten project delivery schedules. When ROW staff have greater understanding of multiple aspects of the ROW delivery process, key elements can be more easily identified relative to cost and schedule control. Staff could better anticipate impending ROW delivery obstacles, allowing them to resolve issues more expeditiously.

Author(s)

ROW Process Review Team



Right-Of-Way Process Improvement

Title

Authorize District Offices to Pay Small Filing and Recording Fees

ROW Category

Acquisition, (Condemnation)

Type: Check Appropriate Box

Best Practice

Process Change & Improvement

Tool in the Toolbox

Description (2-3 Sentences Maximum)

Establish a process that allows district ROW and OLS offices to pay small filing and deed recording fees with the local Circuit Clerk and County Clerk Offices. Investigate utilizing a KYTC Pro-Card to pay these fees.

Pros

- Saves time in obtaining check to file suit or record a deed
- Reduces risk of property ownership change during period between a check request and receipt small fees
- Reduces the opportunity to misplace the deed/paperwork that will be filed

Time savings: High

Cost: Low

Implementation Effort: Medium

Cons

- Could produce tracking and oversight issues
- Establishment of values would need to be evaluated for each District
- If using the Pro-Card, a fee is assessed since a credit card is being used. This fee is minor and much less than the cost of processing a paper check.

Key Takeaway

District payment of fees would lower the reliance on local court systems and county clerks to produce estimates to seek CO approval for checks that are small in value. Acquiring and condemning property for a project would take less time.

Author(s)

ROW Process Review Team, Attorney Survey



Right-Of-Way Process Improvement

Title

Develop Employee Performance Measures

ROW Category

ROW Personnel-HR

Type: Check Appropriate Box



Best Practice



Process Change & Improvement



Tool in the Toolbox

Description (2-3 Sentences Maximum)

Expectations for personnel vary significantly throughout the state. Developing uniform employee performance measures will foster consistency employee expectations across Kentucky. Guidelines will need to be established to ensure fairness and equality amongst employees.

Pros

- Employees from each district would be held to the same standards and expectations.
 - Incentivizes employees (e.g., promotion, bonuses, etc.)
 - Assists branch managers and/or supervisors in determining assignments and workload of staff.
 - Gives supervisors and next line supervisors clear expectations of what to expect from each employee.
 - Encourages agents to cross districts lines to meet expectations.
 - Rewards productivity and facilitates efficiency.
 - Reduces subjectivity of evaluations.
 - Could increase the interest of prospective employees.
- Potential Time Savings: High

Cost: Low

Implementation Effort: Medium

Cons

- Difficult to establish standards due to the varying complexities of parcels.
- Favoritism can influence evaluations.
- Difficulty in meeting expectations due to lack of projects.
- Could prove more difficult for less experienced agents.

Key Takeaway

With performance measures in place, agents will have an incentive to work hard instead of merely waiting for enough time to pass to receive a promotion based on years of service. Employees may need to cross district lines to complete parcels in order to meet expectations and be less resistant.

Author(s)

ROW Process Review Team



Right-Of-Way Process Improvement

Title

Strengthen Communication Among KYTC Stakeholders

ROW Category

Personnel-HR (All ROW categories)

Type: Check Appropriate Box

Best Practice

Process Change & Improvement

Tool in the Toolbox

Description (2-3 Sentences Maximum)

Establish regular opportunities for all KYTC stakeholders (Central Office, Office of Legal Services, branches, and districts) working on a project to communicate important information and/or ideas. These include but are not limited to regular project status and staff meetings, team building exercises, workplace mediations, multidisciplinary trainings, trainings on the use of established databases, and other training recommendations captured during this process.

Pros

- Good communication is integral to project success.
- Helps build realistic expectations.
- All stakeholders are better informed.

Cons

- Will demand staff time to develop and attend trainings and meetings.
- Must have participation and buy-in from staff.

Potential Time Savings: High

Cost: Low

Implementation Effort: Medium

Key Takeaway

A lack of good communication has been identified repeatedly during the ROW review process. Improving communication must be intentional and planned. Improvement of communication will only have positive effects on all aspects of KYTC's operations.

Author(s)

ROW Process Review Team, Attorney Survey



Right-Of-Way Process Improvement

Title

Provide Access to Property Owner Information

ROW Category

Technology (Acquisitions, Appraisals, Title Abstracts, Condemnation, and Relocations)

Type: Check Appropriate Box

Best Practice

Process Change & Improvement

Tool in the Toolbox

Description (2-3 Sentences Maximum)

Open up access to property owner information contained in existing databases. These databases include but are not limited to: PVA, County Clerk, Vital Statistics, White Pages, Driver's License Database, and Online Subscription Databases (e.g., QPublic, ECCLIX, MLS, and any new systems).

Pros

- Faster and broader access to property owner data.
- Frees up time for ROW staff.
- Access to the most up-to-date and accurate information.
- Access to databases reduces travel for ROW staff. Travel will no longer be necessary to retrieve information.
- Improves comp sales investigation.

Cons

- Potential misuse/abuse of information.
- Must install safeguards to maintain owner privacy.
- Access to some databases requires subscription fees.
- Staff resources (including salary and time) are needed to establish and maintain the program.

Potential Time Savings: High

Cost: Medium

Implementation Effort: Low


Key Takeaway

ROW staff must have access to accurate property owner information. These data are available from a variety of existing databases, which ROW staff can access at minimal cost to the Cabinet. Doing so will facilitate all ROW activities and improve their efficiency.

Author(s)

ROW Process Review Team

4.1.1.2 Best Practices — Sustained Initiatives



Right-Of-Way Process Improvement

Title	ROW Category
Expedite Funding Authorization	ROW Authorization
Type: Check Appropriate Box <input type="checkbox"/> Best Practice <input checked="" type="checkbox"/> Process Change & Improvement <input type="checkbox"/> Tool in the Toolbox	
Description (2-3 Sentences Maximum)	
Executive leadership should consider expediting the funding authorization process. This includes early notification of the official order number that is being reserved by Office of Legal Services and provided to ROW.	
Pros	Cons
- Results in an earlier start to ROW processes, including RWUMS data entry. Potential Time Savings: High Cost: Medium Implementation Effort: High (For electronic approval process, Cost and Effort High)	- Implementation will take significant effort and time.
Key Takeaway	
The ROW authorization process currently takes approximately 120 days. The ability to change the authorization process lies with KYTC's executive leadership, which should consider expediting the funding authorization process.	
Author(s)	
ROW Process Review Team	



Right-Of-Way Process Improvement

Title

Centralize ROW

ROW Category

Personnel-HR (All ROW Categories except Condemnation)

Type: Check Appropriate Box Best Practice Process Change & Improvement Tool in the Toolbox

Description (2-3 Sentences Maximum)

Reorganize ROW staff so that they operate under the Central Office Director of Right of Way. Office assignments for ROW staff could remain based in the districts. (Indiana DOT has centralized its ROW staff.)

Pros

- Consistency in ROW practices across the state.
 - Provides better, consistent oversight.
 - Balances workforce between projects and districts.
 - Prioritizes projects and various workloads.
 - Allows Central Office ROW to focus staff on priority projects.
 - ROW consists of a single team.
 - Helps with training of ROW staff, enabling shadowing of more experienced staff.
 - Distributes expertise across the state.
 - Helps replace subject-matter experts when staff leave/retire.
 - Increases utilization and leveraging of technology.
 - Empowers the Division of ROW to adequately staff districts and regions.
 - Could be implemented to increase ROW pay.
- Potential Time Savings: High
Cost: High
Implementation Effort: Medium

Cons

- Heavy dependence on ROW Division and/or relies on an experienced ROW Director and managers.
- Potentially removes check-and-balance system between districts and the Central Office.
- Districts no longer have authority to control their own projects, which is contrary to KYTC's strong project manager philosophy.
- Increases difficulty of hiring.
- Potential for existing staff to feel demoralized (due to more travel, more responsibility, and change being difficult).
- Demoralizing to the ROW staff who currently perform well.
- Potential misuse of staff location and relocation.
- Reorganization would be time-consuming.

Key Takeaway

Oversight capabilities within KYTC's Right of Way program are currently strained. Increased leadership and management are needed. Centralizing authority will allow the Division of Right of Way to more effectively oversee the ROW staff throughout the state.

Author(s)

ROW Process Review Team



Right-Of-Way Process Improvement

Title	ROW Category
Development of ROW Training Portfolio for Agents	Personnel-HR (All ROW Categories)

Type: Check Appropriate Box Best Practice Process Change & Improvement Tool in the Toolbox

Description (2-3 Sentences Maximum)

Current training opportunities for agents are lacking in quality and consistency. The team recommends establishing a portfolio of workshops focused on the basics of ROW practices and procedures. Previously, IRWA offered this service, but it has been discontinued. Upper level courses could be provided for experienced staff. Specific topics that could be addressed by workshops include: ROW Process; Relocation; Team Building; Basic Title Abstraction; Advanced Title Abstraction (to develop title specialists within ROW); Advanced Acquisitions, Deed Preparation, Perspectives in Environmental Justice (ROW v. Engineering); Condemnation Process; Best Management Practices, Limiting Right to Take Issues, and How to Write Administrative Settlements. With many experienced agents approaching retirement, a training on How to Capture Institutional Knowledge should also be developed.

Pros

- Staff receiving quality, up-to-date training perform at higher levels and are aware of ever-changing real estate practices.
- An efficient, knowledgeable staff will increase the pace of project delivery.
- Staff is more educated in ROW policies and procedures.
- Fosters consistent practices among the districts.
- Can use ROW Conference to deliver training, thus limiting time out of the office for training.
- Creates a vehicle to capture institutional knowledge.
- Can be used to train other interested staff on the ROW process.
- Provides networking and team building opportunities.
- ACEC could provide training.

Potential Time Savings: High
 Cost: Medium
 Implementation Effort: Medium

Cons

- Significant financial and time commitments.
- Expense
- Staff is in the office less

Key Takeaway

ROW staff with no or little experience currently lack access to a comprehensive training program. With more staff poised to retire in the coming years, it is imperative that new staff receive the training necessary to ensure the ROW Process continues to operate smoothly. Capturing the institutional knowledge of experienced staff is also critical for furthering the education of new and less experienced agents. A quality training program allows opportunities for current staff to mentor newer staff.

Author(s)

ROW Process Review Team, Attorney Survey, Consultant Survey



Right-Of-Way Process Improvement

Title Establish an Appraiser Apprentice Program **ROW Category** Appraisals

Type: Check Appropriate Box Best Practice Process Change & Improvement Tool in the Toolbox

Description (2-3 Sentences Maximum)

Use Fee Appraisers to perform the required mandatory supervision for Appraiser Certification and Licensure of KYTC staff. Employees receiving this benefit will be required to fulfill a time commitment to the Cabinet. A payback requirement, much like the EIT program, will be stipulated for employees who leave before satisfying their time commitment.

Pros

- Helps overcome the chronic shortage of appraisers.
- Staff members receive a 5% increase in pay after receiving their license.
- Strengthens a core competency.
- Provides a career path that currently does not exist for staff.
- Will motivate staff to do more complicated work.
- Increases quality of staff work in both the short and long term.
- Potentially expands the pool of appraisers available through contract.

Potential Time Savings: High

Cost: Medium

Implementation Effort: High

Cons

- Staff may leave after earning a license, but remain available as a fee appraiser.
- Increases the fee appraiser contract cost due to more work and greater liability.
- Must be approved by Appraisal Board.
- Administrative costs associated with research, development, and oversight of program.

Key Takeaway

There is a critical shortage of competent appraisers who can perform appraisals for KYTC. Without action by the Cabinet, this shortage will continue to worsen. Establishing this program has long-term benefits and will help prevent future crises due to a lack of appraisers. Currently, there is an appraiser career path, but it is unattainable for most employees. Building this program will allow for proper implementation of the statute.

Author(s)

ROW Process Review Team, Attorney Survey



Right-Of-Way Process Improvement

Title Adopt Federal Government Pay Scale
ROW Category Personnel-HR (All ROW Categories except Technology)

Type: Check Appropriate Box Best Practice Process Change & Improvement Tool in the Toolbox

Description (2-3 Sentences Maximum)

Research adjusting Kentucky personnel job specs so they allow for increases in pay scales within the same job specification (Similar to federal GS system).

Pros

- Could help state employee efficiency by providing a graduated pay scale within the same job specification.
- Could establish parity between KYTC and federal oversight authority.
- Helps with accountability if increases are based on performance.
- Avoids promoting a well performing individual to a position that requires a different skill set just to give them a deserved pay raise.

Potential Time Savings: High

Cost: High

Implementation Effort: High

Cons

- Information would need to be compiled for comparison of existing pay KYTC pay scale and benefits to federal pay scales.
- May result in unintended consequences.
- May require changes to state law.

Key Takeaway

Employees should have the opportunity to earn pay increases for good performance. At the same time, the system should protect against promoting individuals into a position that requires a skill set they do not possess (e.g., supervisory positions). This change has the potential to benefit not just ROW staff, but all KYTC personnel. The first step is to identify the current pay scale for federal employees in similar positions.

Author(s)

ROW Process Review Team, Similar to Attorney Survey



Right-Of-Way Process Improvement

Attorney Version

Title	ROW Category
Close Out Older Condemnation Cases	Condemnation

Type: Check Appropriate Box Best Practice Process Change & Improvement Tool in the Toolbox

Description (2-3 Sentences Maximum)

There are numerous condemnation cases 4 years old or older that have not been brought to a final resolution. There needs to be better communication on how to handle these old cases. ROW is hesitant to spend money on old cases, or perhaps ROW does not understand issues and is therefore hesitant to spend money. Old cases need to be closed out so the larger older project can be closed out as well. Assigning these cases to contract attorney should be considered.

Pros

- Clearing caseloads of older cases will allow attorneys to focus on higher priority cases and right of entry for new cases.
- Resolving old cases will allow for the release of any monies tied up in old projects.
- It just looks better to get these cases taken care of.

Potential Time Savings: Low

Cost: Medium

Implementation Effort: High

Cons

- Will require time and focus from both ROW and legal services to get these cases resolved.
- There may be additional costs if contract attorneys are used.


Key Takeaway

Resolving condemnation cases that are 4 years old or older will ease case loads for attorneys and allow for the release of any monies tied up in old projects.

Author(s)

The Attorney Survey, The ROW Process Review Team

4.1.1.3 Best Practices — Accelerated Reforms



Right-Of-Way Process Improvement

Title	ROW Category
Improve Communication of Clearance Dates	Acquisitions, (Relocation, Property Management, Condemnation)

Type: Check Appropriate Box Best Practice Process Change & Improvement Tool in the Toolbox

Description (2-3 Sentences Maximum)

Develop a method to prominently disseminate clearance dates (e.g., ROW clearance, sign or sue, letting), as well as any changes to them, to all responsible staff. This may include a new process or training all responsible staff on the current systems which provide the information. Modifying KROWDS to permit electronic reminders of significant dates will foster a proactive approach to sharing clearance dates.

Pros	Cons
<ul style="list-style-type: none"> - More effective work schedules. - More timely submission of ROW certification. - Clears up confusion about ROW clearance dates, sign or sue dates, and letting dates. 	<ul style="list-style-type: none"> - May require modification of systems if electronic notification is desired.

Potential Time Savings: Medium

Cost: Low

Implementation Effort: Low

Key Takeaway

Responsible staff may not understand various clearance dates and their significance. Clearance dates are not always provided to responsible staff or communicated proactively. Understanding the significance of various clearance dates and communicating them in a timely manner will allow staff to focus on completing work in quickly and responsible. Using proactive communication strategies will eliminate confusion about deadlines.

Author(s)

ROW Process Review Team



Right-Of-Way Process Improvement

Title

Improve Guidelines to Select MAR or Appraisal

ROW Category

Appraisals, (Acquisition)

Type: Check Appropriate Box Best Practice Process Change & Improvement Tool in the Toolbox

Description (2-3 Sentences Maximum)

Among districts, consistency is lacking and there is uncertainty over how to determine when a MAR should be used and when an appraisal should be used (e.g., is it a shed, or is it a barn?). ROW manual guidance should be revisited to clarify under what circumstance the two valuation methods are to be used.

Pros

- Promotes consistency in decision making on the method of valuation to use.
- May allow districts greater freedom to use a MAR when small-scale improvements are affected.

Cons

- Staff time needed to review the manual and develop clearer guidelines.
- Broaden opportunities for abuse when using MAR.

Potential Time Savings: Medium

Cost: Low

Implementation Effort: Low

Key Takeaway

There needs to be consistency among districts when deciding which valuation method to use. Revising guidance will clarify what factors should be used in making the decision and may allow for an expanded use of the MAR.

Author(s)

ROW Process Review Team



Right-Of-Way Process Improvement

Title Allow ROW or Consultants to Hire Contract Attorneys
ROW Category Title Abstracts (Acquisition)

Type: Check Appropriate Box Best Practice Process Change & Improvement Tool in the Toolbox

Description (2-3 Sentences Maximum)

In most cases OLS hires a contract title attorney for title work and most times the District attorney will do the closing. This change would allow for the ROW supervisor to either directly contract with or require the consultant to contract with the attorney to do both title work and the closing.

Pros

- Puts responsibility on the District ROW or consultant to have work done in a timely manner.
- Allows direct oversight for the work being done.
- Frees up OLS attorneys to work on condemnation issues.
- If the ROW Supervisor or consultant needs to seek a more competent attorney, it is easier to do so.
- Allows the client (ROW) who knows who does good work locally to choose the title attorney
- ROW would typically hire local attorney thus saving on costs since OLS often hires out of town attorneys
- Direct oversight from the ROW Supervisor or consultant project manager speeds up completion of the process.

Cons

- OLS does not have oversight of legal work.
- May result in giving attorneys unrealistic timelines
- Opportunity for people to play personal favorites

Potential Time Savings: Medium

Cost: Low

Implementation Effort: Low

Key Takeaway

This recommendation reinstates previous practices that were perceived to be more efficient since it eliminates going through another Office (Legal Services) within the Cabinet and it encourages a more satisfactory service by having direct accountability .

Author(s)

ROW Process Improvement Team



Right-Of-Way Process Improvement

Title

Develop time frame on review of title and deed work

ROW Category

Title Abstracts (Acquisition)

Type: Check Appropriate Box Best Practice Process Change & Improvement Tool in the Toolbox

Description (2-3 Sentences Maximum)

When OLS attorneys are responsible for title and deed review it would be beneficial to have a reasonable expectation on when the review will be completed.

Pros

- Quicker turn around allows project to move along.
- Districts will be better equipped to forecast the completion of titles and better plan work flow.
- Allows attorneys to know district priorities.

Potential Time Savings: Medium

Cost: Low

Implementation Effort: Low

Cons

- Attorneys time is already limited
- May need to employ more qualified legal assistants

Key Takeaway

Establishing a reasonable review time for title reviews allows for a better flow of work.

Author(s)

ROW Process Review Team



Right-Of-Way Process Improvement

Title Monitor Appraiser Performance **ROW Category** Appraisals

Type: Check Appropriate Box Best Practice Process Change & Improvement Tool in the Toolbox

Description (2-3 Sentences Maximum)

Tracking the past performance (timeliness) and workloads of appraisers will help KYTC identify appraisers with a history of slow completion and/or heavy workloads. Those appraisers would not be assigned more parcels. Priority parcels can be assigned to appraisers with a smaller workload, which in turn will reduce delays.

Pros

- Delays resulting from assigning too many parcels to an appraiser(s) will be reduced.
- There will be more even distribution of workload among appraisers.
- Appraisers that are not currently busy could be assigned priority parcels.
- Number of parcels assigned and status of parcels can be extracted from KROWDS.

Potential Time Savings: Medium

Cost: Low

Implementation Effort: Low

Cons

- Fee appraisers may have other types of appraisals unrelated to the state which KYTC is unable to account for.
- Hard to track other duties of staff appraisers.
- Evaluation of appraisers' performance is difficult to quantify.
- Number of appraisals may not impede the ability to complete work in a timely manner.

Key Takeaway

Appraisers tend to take on too many projects/parcels at once. With a database (KROWDS) that summarizes currently assigned parcels and timeliness of completion on past work, KYTC can avoid giving workloads that are too burdensome to appraisers. It will facilitate the assignment of available appraisers to priority projects.

Author(s)

ROW Process Review Team



Right-Of-Way Process Improvement

Title

Eliminate Purchases for Demolition Contracts

ROW Category

Property Management

Type: Check Appropriate Box Best Practice Process Change & Improvement Tool in the Toolbox

Description (2-3 Sentences Maximum)

Currently, advertisements for and contract implementation of demolition contracts are administered by the Division of Purchases. Authority for these practices should be reassigned to District ROW.

Pros

- Expedites process by eliminating an additional step in the advertisement of demolition work.
- Allows ROW to implement disciplinary action against problem contractors.
- Greater emphasis placed on performance.
- Shortens the overall demolition process.
- Allows ROW to remain in communication upon contract finalization, payment, and so forth
- More timely project delivery.

Potential Time Savings: Medium

Cost: Low

Implementation Effort: Low

Cons

- Increases current ROW workload
- Will require training to properly implement.
- Exposes District staff to accusations of abuse.
- Inconsistency in the process.
- No checks and balances.

Key Takeaway

This can reduce the amount of time needed to get improvements removed and eliminate problematic contractors. Including the Division of Purchases in the process has notable inefficiencies and leaves ROW staff without knowledge of contract status, close out, and payment.

Author(s)

ROW Process Review Team



Right-Of-Way Process Improvement

Title Evaluate Move Bids Over \$10,000 **ROW Category** Relocation

Type: Check Appropriate Box Best Practice Process Change & Improvement Tool in the Toolbox

Description (2-3 Sentences Maximum)

Move bids are difficult to get from licensed commercial movers. Currently any move above \$10,000 requires two bids from licensed commercial movers. The monetary limit requiring the use of two bids from commercial movers should be increased.

Pros

- Decrease the number of estimates to obtain.
- Speeds up move authorization offers.
- Less paperwork.
- Saves money that would otherwise be spent paying for move estimates

Potential Time Savings: Medium

Cost: Low

Implementation Effort: Low

Cons

- Potential for high estimates with no comparison.

Key Takeaway

Implementation will permit the use of a single move bid on non-complex moves valued above \$10,000. It will alleviate delays in finding commercial movers to submit bids.

Author(s)

ROW Process Review Team



Right-Of-Way Process Improvement

Title

Incentivize Training for Staff

ROW Category

Personnel-HR (All ROW Categories except Technology)

Type: Check Appropriate Box

Best Practice

Process Change & Improvement

Tool in the Toolbox

Description (2-3 Sentences Maximum)

Incentives should be offered to staff who are motivated to go above and beyond the basic training requirements of their positions. If training results in a license or certification, staff members should receive a promotion. Likewise, a one-time bonus could be made available to staff whose training results in a competency that can be objectively verified (e.g., through assessment).

Pros

- Staff with more training perform at higher levels.
- Training can help KYTC increase the number of properly trained professionals available to do Cabinet work.
- Increases employee morale and motivates staff to boost their performance.

Potential Time Savings: Medium

Cost: Medium

Implementation Effort: Medium

Cons

- Significant financial and time commitments.
- Staff will be required to administer and monitor the program.

Key Takeaway

KYTC benefits immensely when its employees exceed their minimum job requirements and actively seek opportunities to build their skill sets and bolster their performance. Incentives are a way to motivate staff and improve their job performance.

Author(s)

ROW Process Review Team



Right-Of-Way Process Improvement

Title

Offer Trainings for District and Contract Attorneys

ROW Category

Condemnation, (Title Abstracts)

Type: Check Appropriate Box

Best Practice

Process Change & Improvement

Tool in the Toolbox

Description (2-3 Sentences Maximum)

The team is aware there are a number of attorneys new to the Cabinet who are unfamiliar with condemnation issues. Therefore it recommends the development of training in condemnation and title work for district attorneys and contract attorneys.

Pros

- Better trained staff are better performing staff.
- Could be used to train other Cabinet staff to promote greater familiarity with the condemnation process
- Will improve the performance of district and contract attorneys
- Training encourages better communication

Cons

- Cost in terms of both time and money
- Need resources to develop and deliver training
- Contract attorneys may be resistant if they are required to pay for the training.

Potential Time Savings: Medium

Cost: Medium

Implementation Effort: Medium

Key Takeaway

There are a number of attorneys new to the Cabinet who are unfamiliar with condemnation. Contract attorneys may lack this experience as well. This will improve the legal services provided to the Cabinet.

Author(s)

ROW Process Improvement Team, Attorney Survey



Right-Of-Way Process Improvement

Title

Evaluate District ROW Processes

ROW Category

Personnel-HR (All ROW categories)

Type: Check Appropriate Box Best Practice Process Change & Improvement Tool in the Toolbox

Description (2-3 Sentences Maximum)

Conduct a thorough evaluation of each district's ROW policies, procedures, and resources for internal use. Recommended improvements could then be implemented statewide.

Pros

- Promotes consistency with ROW offices statewide.
- Highlights areas of need within districts.
- Highlights best practices.
- Allows management to recommend changes for best practices.

Potential Time Savings: Medium

Cost: Medium

Implementation Effort: Medium

Cons

- Need additional resources and staff to perform the reviews.
- Demoralization of district staff.

Key Takeaway

A district by district review of the ROW process will allow areas of need and improvement to be identified as well as best practices within each districts. Implementation will increase uniformity of ROW practices, policies, and procedures throughout the state.

Author(s)

ROW Process Review Team



Right-Of-Way Process Improvement

Title

Create and Fund Individual Training Accounts

ROW Category

Personnel-HR (All ROW Categories)

Type: Check Appropriate Box

Best Practice

Process Change & Improvement

Tool in the Toolbox

Description (2-3 Sentences Maximum)

Individual Training Accounts will allocate a fixed sum of money to each employee, which they can use to fund trainings that are not available through their required training. Employees will have the opportunity to pursue a specialized area unique to their interest and skill set.

Pros

- Staff with more training perform at higher levels.
- Motivates employees to improve their skills and stay with the Cabinet.
- Allows Cabinet to rank the skill level of employees.
- Fosters interdisciplinary expertise, improving KYTC's efficiency.

Potential Time Savings: Medium

Cost: Medium

Implementation Effort: Medium

Cons

- Significant financial and time commitments.
- Requires staff time to manage money and oversee accounts.

Key Takeaway

With Individual Training Accounts, employees can formulate a personalized training program. Training will help staff devise creative solutions to pressing KYTC issues and afford them the chance to pursue a individualized career path.

Author(s)

ROW Process Review Team



Right-Of-Way Process Improvement

Title Mandatory ROW Workshops for Senior Leadership **ROW Category** Personnel-HR (All ROW Categories except technology)

Type: Check Appropriate Box Best Practice Process Change & Improvement Tool in the Toolbox

Description (2-3 Sentences Maximum)

Require that Branch Managers, CDEs, and their Central Office Supervisors attend either a one-day workshop or a series of short workshops that describe the ROW process.

Pros

- Leadership will gain a better understanding of the ROW process. This knowledge will inform decision making and enable leadership to set more realistic expectations.
- The same or an abbreviated version of this training can be offered to other divisions interested in becoming more knowledgeable about the ROW process (e.g., legal, engineering).
- Knowledge is always a useful tool.

Potential Time Savings: Low

Cost: Low

Implementation Effort: Low

Cons

- Commitment of resources to develop training.
- Staff time will be consumed attending the training.

Key Takeaway

Senior leadership and management staff currently lack in-depth knowledge of the ROW process. Training will foster more informed decision making and establishment of realistic goals and deadlines for the Division of Right of Way's involvement in all projects.

Author(s)

ROW Process Review Team



Right-Of-Way Process Improvement

Consultant Version

Title	ROW Category
Create a List of Qualified Relocation Agents	Relocation

Type: Check Appropriate Box Best Practice Process Change & Improvement Tool in the Toolbox

Description (2-3 Sentences Maximum)

Consultants recommend reinstating the practice of creating a list of qualified Relocation agents. Currently, there are lists of attorneys and appraisers to choose from, and in the past, there was a list of relocation agents.

Pros

- Lessens time needed to search for a relocation agent
- Fulfilling certain requirements in order to be put on the list improves the quality of work

Time Savings - Low

Cost: Low

Implementation Effort: Low

Cons

Key Takeaway

Putting together a list of qualified Relocation agents would help the relocation process be more efficient.

Author(s)

Consultant Survey, The ROW Process Review Team



Right-Of-Way Process Improvement

Title _____ **ROW Category** _____
Establish Minimum Acquisition Offer Acquisitions

Type: Check Appropriate Box Best Practice Process Change & Improvement Tool in the Toolbox

Description (2-3 Sentences Maximum)
Establish a minimum amount for acquisition MAR offers statewide.

Pros

- Consistency with rounding statewide and at the district level.
- Property owners are more willing to meet and discuss acquisition.
- Impacts a minimum number of parcels.
- Reduces the number of meetings with owners (higher potential to sign on first meeting).
- Potential to reduce administrative settlements.

- Potential Time Savings: Low

Cost: Low

Implementation Effort: Low

Cons

- Potential for small increases in ROW spending.
- Property owners could perceive a neighbor as receiving the same money for less.
- Potential for inexperienced staff to misuse this authority.

Key Takeaway

Some districts have implemented minimum offers already. Statewide adoption will increase uniformity of practices among ROW staff.

Author(s) _____
ROW Process Review Team



Right-Of-Way Process Improvement

Title

Improve Design Displays and Supplements

ROW Category

Technology (Acquisition, Condemnation, Appraisals, Relocation)

Type: Check Appropriate Box

Best Practice

Process Change & Improvement

Tool in the Toolbox

Description (2-3 Sentences Maximum)

Property owners may not be able to envision project impacts by looking at a typical plan sheet. ROW agents need tools that will clarify project impacts. Potential solutions include use of KMZ over Google Earth and overlaying aerial photos atop plan sheets. These displays may also be used as trial exhibits.

Pros

- Helps property owners better understand the acquisition.
- Helps agent present correct information.
- Could reduce the need for staking the parcel.
- Can be implemented immediately and at low or no cost.

Potential Time Savings: Low-Medium

Cost: Low

Implementation Effort: Low

Cons

- May require a minimal change in ROW deliverables from Design.
- Agent and property owner could rely on KMZ representation, which is not as accurate as a plan sheet. Therefore, a waiver may be required to efficiently communicate project impacts.
- Imagery may be out of date and property owners be given inaccurate information

Key Takeaway

Improving the displays which are used to communicate project impacts to property owners will facilitate communication and help with appraisals and negotiations. Better understanding of project impacts may increase the chances of a settlement. These displays may also be used for trial exhibits if a settlement is not reached.

Author(s)

ROW Process Review Team



Right-Of-Way Process Improvement

Title Implement a Lump Sum Payment for Last Resort Tenants
ROW Category Relocation

Type: Check Appropriate Box Best Practice Process Change & Improvement Tool in the Toolbox

Description (2-3 Sentences Maximum)

Currently, Last Resort Tenant rent supplement payments over \$7,200.00 are broken into three disbursements over a three-year period. KYTC should instead make a one-time payment to tenants.

Pros

- Time Savings on project closeout.
- Files are closed earlier.
- Save on paper use.
- No duplication of payments.
- One relocation agent will complete the file.
- Multiple agents will not work on a single parcel due to staff turnover.

Cons

- The person being relocated may spend housing money elsewhere.
- Payments for HUD parcels will still require distribution.

Potential Time Savings: Low

Cost: Low

Implementation Effort: Low

Key Takeaway

Making one-time payments will free up a minimum of 8 hours per parcel, which a relocation agent can use to work on other duties. It minimizes the number of payments and facilitates the earlier close out of files and projects. The FHWA authorizes use of this method.

Author(s)

ROW Process Review Team



Right-Of-Way Process Improvement

Title	ROW Category
Pay for Move Estimates	Relocation

Type: Check Appropriate Box Best Practice Process Change & Improvement Tool in the Toolbox

Description (2-3 Sentences Maximum)

Right of Way Agents should pay for estimates prepared by movers, sign companies, health departments (for site evaluations), fencing, and other items acquired or personal property that needs to be moved. Therefore, estimates should be obtained. Agents should pay for estimates promptly and deliver checks in a timely manner.

Pros

- Companies are more willing to give bids/estimates.
- Estimates are less likely to be disputed by property owners.
- Provides more accurate move estimates.
- Prevents delays in all aspects of the right of way process.

Potential Time Savings: Low

Cost: Low

Implementation Effort: Low

Cons

- Obtaining estimates can be slow.


Key Takeaway

Promptly reimbursing companies for estimates helps ensure they will continue to submit their estimates to KYTC in a timely manner.

Author(s)

ROW Process Review Team

4.1.1.4 Tools — Quick Wins



Right-Of-Way Process Improvement

Title	ROW Category
Develop Procedures for Group Signing Sessions	Acquisition

Type: Check Appropriate Box Best Practice Process Change & Improvement Tool in the Toolbox

Description (2-3 Sentences Maximum)

Following initial onsite meetings with individual property owners, there should be an invitation-only meeting with owners of MAR acquisition parcels. The meeting will be attended by engineering staff, ROW staff, and all other decision makers. KYTC staff will present plans, make offers, and negotiate with the goal of signing the day of the meeting.

<p>Pros</p> <ul style="list-style-type: none"> - Implementation can be immediate. - Reduces the number of property owners comparing offers. - Property owners receive assurances they are all being treated equally. - Promotes team building and reduces delays in communication. - Provides a head start on the project. - Potentially scalable to include appraisal parcels. - Reduces administrative costs of processing the parcel acquisitions 	<p>Cons</p> <ul style="list-style-type: none"> - Requires early coordination among all decision makers. - Requires well-trained and well-performing staff and supervisors. - Small cost increases due to overtime and facility fees. - Settlement costs, on average, may be slightly higher, but administrative costs will fall with early signing.
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Potential Time Savings: High

Cost: Low

Implementation Effort: Low

Key Takeaway

Meeting with owners of MAR parcels at invitation-only meetings will increase engagement with the community, above what is possible with the typical staggered process. These meetings may help to more quickly close out the acquisition phase for MARs.

Author(s)
ROW Process Review Team



Right-Of-Way Process Improvement

Title Master Agreements for Appraiser Contracts
ROW Category Appraisals

Type: Check Appropriate Box Best Practice Process Change & Improvement Tool in the Toolbox

Description (2-3 Sentences Maximum)
Re-implement the use of Master Agreements for fee appraiser contracts.

Pros

- Reduces time required to get appraiser to begin work on the project.
- Provides consistency in appraisals throughout multi-phased projects.
- Better local knowledge.
- Enhances project delivery time frames; fewer delays.

Cons

- Can result in overuse of certain appraisers.
- Could reduce the core competency among some appraisers that are not getting the work.
- Requires programmatic oversight by the Central Office.

Potential Time Savings: High
Cost: Low
Implementation Effort: Low

Key Takeaway
Using Master Agreements for fee appraisal contracts allows projects to be delivered in a more timely fashion. This could be implemented on certain small- to medium-sized projects. For multi-phased projects this would ensure consistency in fee appraisal work, review appraisers, and elsewhere.

Author(s)
ROW Process Review Team



Right-Of-Way Process Improvement

Title

Reinstate Right of Entry Agreements and Encourage Agreed IOJs

ROW Category

Condemnation (Acquisition)

Type: Check Appropriate Box Best Practice Process Change & Improvement Tool in the Toolbox

Description (2-3 Sentences Maximum)

Reinstate the use of Right of Entry (ROE) Agreements when the property owner is willing to do so and a letting date is imminent. When used in the past, the agreement required a condemnation suit be filed within 30 days of execution. It sometimes required payment of the offer and could let the parties agree to post the offer in lieu of the Commissioners Award. In addition property owners sometimes request plan changes during ROW negotiations. Currently, KYTC refuses to make changes unless a property owner agrees to settle on compensation. This change will allow agreement to a plan change if the property owner signs an Agreed IOJ, which allows right of entry to be obtained immediately upon filing of the suit. ROW has not used this tool previously. Agents should request assistance from an attorney when legal action is being considered under favorable facts.

Pros

- Fast tracks ROE, but lets property owner to reserve right to disagree with offer.
- Legally circumvents court time lines.
- Avoids, in some instances, waiting on a Commissioners' Award report.
- Helps avoid waiting on a court date, and in some instances, on service of process.
- Can be implemented easily and immediately.

Potential time savings: High

Cost: Low

Implementation Effort: Low

Cons

- FHWA is concerned about coercion with the use of these agreements.
- Must get approval from local FHWA.
- Need to identify best practice when using either of these tool.s (e.g., having safeguard in place if money is exchanged, since property owner receives money without submitting a deed).
- Other states have ruled ROE agreements revocable.
- If not explained properly, the property owner may not understand what they are agreeing to.
- Increased costs due to design changes and construction expenses.

Key Takeaway

The Office of Legal Services used Right of Entry Agreements until approximately 2005, at which point the FHWA disallowed their use due to mistakes made by KYTC. If implemented again, best practices must be identified. Districts across the state will be required to apply the best practices consistently. A RoE Agreement or an Agreed IOJ can be a good tool if the property owner is accepting of the project but disagrees with the compensation, or when the property owner requests a plan change that is a betterment.

Author(s)

ROW Process Review Team, Attorney Survey



Right-Of-Way Process Improvement

Title

Reduce Title Requirements for Some Temporary Easements

ROW Category

Title Abstracts (Condemnation)

Type: Check Appropriate Box Best Practice Process Change & Improvement Tool in the Toolbox

Description (2-3 Sentences Maximum)

Title searches extend back 35 years regardless of the type of taking. Releases are also obtained from any lien holders regardless of acquisition type. Obtaining a release from a national bank is difficult, time consuming, and expensive. The legal implications of a shorter review time for title work and foregoing obtaining releases should be investigated. This tool should only be used when a property is left as it was previously without notable changes. The ROW policy manual does not require title reports for minor temporary easements.

Pros

- Time saved in title abstracts and foregoing getting signed releases.
- Money saved on cost of releases.

Cons

- May have a cloud on title

Potential Time Savings: High

Cost: Low

Implementation Effort: Low

Key Takeaway

The Cabinet spends tremendous effort and resources acquiring temporary easements. Any refinements to the process will speed up project work.

Author(s)

ROW Process Review Team



Right-Of-Way Process Improvement

Title

Include Staff Training in Consultant Contract

ROW Category

Personnel-HR (Acquisition, Appraisals, Relocation, Title Abstracts)

Type: Check Appropriate Box

Best Practice

Process Change & Improvement

Tool in the Toolbox

Description (2-3 Sentences Maximum)

Create contract provisions that selectively enable district right of way staff to receive on-the-job training in the following areas from consultants: Acquisition, Appraisals, Relocation, and/or Title Work.

Pros

- Assists districts where there are no experienced staff in those areas, including supervisors and ROW project managers.
- Taps into the institutional knowledge of consultants.
- Maintains a core competency and oversight capacity within the Cabinet.
- May assist with the long-term trends in the declining number of appraisers and relocation agents.
- Assists in the short term with training acquisition agents.
- Long-term cost savings because less ROW work will need to be contracted out in the future.
- Implementation could begin immediately with minor revisions to contracts.

- Potential time savings: Work may slow down initially during training, but over the long term doing work in-house will save time and money. High

Cons

- Increases contract costs.
- Consultants may have the opportunity to poach KYTC's best staff.
- May add time to consultant work.
- Could demoralize ROW staff who are doing the same work for less pay.

Cost: Low
Implementation Effort: Low

Key Takeaway

Currently, there is a severe shortage of Right of Way staff. Delivering training opportunities through consultants is efficient and will help pass on institutional knowledge. The Cabinet will be better equipped to provide competent oversight.

Author(s)

ROW Process Review Team



Right-Of-Way Process Improvement

Title

Implement FAST Act Early Acquisition

ROW Category

ROW Authorization (Acquisition, Appraisals)

Type: Check Appropriate Box Best Practice Process Change & Improvement Tool in the Toolbox

Description (2-3 Sentences Maximum)

The FAST Act has not been fully implemented in Kentucky. This change will sanction acquisitions before the NEPA process is complete. Only a few states have adopted this practice (e.g., Utah, Nevada). We recommend investigating how those states have implemented the program so that best practices and policies can be developed for KYTC. This could be helpful on some projects. Ideally this tool will be used after plans have been fully developed and the project is awaiting conclusion of the NEPA process.

Pros

- Could significantly accelerate federally funded projects through early buying.
- Potential to realize savings through buying early.
- Could be used on build-grant projects with rapid implementation.

Potential time savings: High

Cost: Low

Implementation Effort: Medium

Cons

- Property that is not needed for a project may be purchased.
- Plans may not be sufficiently developed or refined at the time of acquisition.

Key Takeaway

Early acquisition pursuant to the FAST Act has the potential to significantly accelerate federally converted and/or high priority projects and lead to more efficient delivery of the highway plan.

Author(s)

ROW Process Review Team



Right-Of-Way Process Improvement

Title

Share District Staff to Deliver ROW Program

ROW Category

Acquisition (Relocation, Appraisals)

Type: Check Appropriate Box

Best Practice

Process Change & Improvement

Tool in the Toolbox

Description (2-3 Sentences Maximum)

Districts can use staff from neighboring districts to facilitate their ROW delivery. This arrangement can be used in virtually all aspects of ROW process. This change will require supervisors to reinforce the class specification requiring ROW agents to travel.

Pros

- Districts alleviate workload burden while allowing others to supplement theirs as needed.
- Districts can use work availability in outside districts to help train less experienced ROW personnel.
- Personnel in outside districts may have more experience, for example, in business relocation versus residential, which may be applicable to a project.
- Allows for supplementation of personnel in the district instead of relying on fee agents.
- Parcels within the same project can be split between multiple districts to deliver the ROW process.
- Allows a district to maintain or accelerate the project schedule for ROW acquisition and thus the overall project.
- Maintains a core competency for new and experienced ROW staff.

Potential Time Savings: High

Cons

- May be difficult to implement with some districts that have refused to cross district lines in past.
- May be difficult for some staff to travel to other districts to work due to prior commitments.
- No incentive to travel further to do the same work.
- Potential for more proficient ROW staff to get pulled to other districts that do not pull their own weight.
- Staff working in another district would be answerable to a supervisor that is not in their organizational chain of command.

Cost: Low

Implementation Effort: Medium

Key Takeaway

A district will be able to maintain a project schedule if it has the option to use staff from outside districts to handle some of the workload. Districts can benefit by using this approach to train new hires and maintain a core competency.

Author(s)

ROW Process Review Team



Right-Of-Way Process Improvement

Title

Offer Bonuses to Vacate/Move

ROW Category

Relocation

Type: Check Appropriate Box Best Practice Process Change & Improvement Tool in the Toolbox

Description (2-3 Sentences Maximum)

Bonuses over and above the move amount can be offered for a priority project or when demolition is on the critical path, (e.g., relocation identified late in project development and then controls the time line), in order to expedite vacating the structure.

Pros

- Helps expedite a project to letting
- Allows demolition to start sooner

Potential Time Savings: High

Cost: Medium

Implementation Effort: Low

Cons

- It is an additional cost
- There is a chance for abuse
- There is a chance FHWA may not participate
- It may upset Property Owners if the deadline for a bonus is barely missed.
- It could be viewed as inconsistent if some relocation parcels do not receive bonus

Key Takeaway

Having the ability to offer bonuses for early move out will accelerate relocation, getting a high priority project to letting sooner.

Author(s)

ROW Process Review Team



Right-Of-Way Process Improvement

Title

Enhance In-Field Technologies

ROW Category

Technology (Acquisition, Appraisals, Relocation, Condemnation)

Type: Check Appropriate Box

Best Practice

Process Change & Improvement

Tool in the Toolbox

Description (2-3 Sentences Maximum)

More widespread implementation of modern technologies in the field will facilitate communication among KYTC staff and between KYTC staff and property owners. For example, iPads could be used to download and continuously update multiple files while on the go. Potential technology solutions include iPads, laptops, Surface tablets, portable printers/scanners, WiFi hot spots. Technologies should be employed consistently across all district offices and the Central Office.

Pros

- Increases efficiency of property acquisition by reducing the number of field visits.
- Mapping in Google Earth can improve parcel descriptions and their impacts on a project.
- Will allow access to web-based resources in the field.
- Will give agents the ability to take high-quality photos, which can be discussed with owners, and document existing property conditions for appraisals.
- Enables on-the-spot legal research used in court.
- Facilitates regional right-of-way collaboration

Cons

- Initial upfront costs.
- Software and devices require maintenance and updates.
- Agents could make changes without proper approval.
- Devices could be used for purposes not related to work.

Potential Time Savings: Medium-High

Cost: Medium

Implementation Effort: Low


Key Takeaway

Expanding the use of technologies in the field can increase efficiency and improve the quality of work. It can also be instrumental for establishing a better understanding between field agents and property owners with respect to project impacts and the overall situation.

Author(s)

ROW Process Improvement Team

4.1.1.5 Tools — Sustained Initiatives



Right-Of-Way Process Improvement

Title

ROW Internship Program

ROW Category

Personnel-HR (Acquisitions, Appraisals, Relocation)

Type: Check Appropriate Box Best Practice Process Change & Improvement Tool in the Toolbox

Description (2-3 Sentences Maximum)

A training and internship program will allow college students (or those who have already obtained a 4-year degree) to be hired as paid trainees/interns in KYTC's Right of Way Section within the fields of Acquisitions, Appraisals, and Relocation. Currently, the Cabinet has a similar internship program available to engineers (EIT Scholarship Program) which has proven successful.

Pros

- Promotes employee retention.
- Employees that leave usually go to work for consultants the Cabinet contracts with on projects so the expertise is not lost to the Cabinet.
- Allows hands-on experience before becoming a full-time employee.
- Ability to evaluate potential employees without an obligation to hire them (test period).
- Attracts a more tech-savvy generation.
- Provides an extra set of hands to carry out minor/trivial tasks to free up more experienced agents for major tasks.
- Opportunity to carefully teach processes to the younger generation. Conversely, the older generation is already set in its ways and perhaps not as receptive to change.

Potential Time Savings: High
 Cost: High
 Implementation Effort: Low

Cons

- Employees leave once they have fulfilled their time commitment.
- Limits the availability of CAP spaces.
- Investment in someone you may not hire.

Key Takeaway

This type of internship program has been implemented successfully at KYTC. Within Right of Way, nine interns were originally hired. Four of those interns remain with the Cabinet, each with 10+ years of experience. Two work for consultants, which in turn are contracted with by KYTC. This amounts to a 67% success rate for the previous version of this program.

Author(s)

ROW Process Review Team



Right-Of-Way Process Improvement

Title

Reduce the Use of Temporary Easements

ROW Category

Acquisitions, (Title Abstracts, Condemnation)

Type: Check Appropriate Box

Best Practice

Process Change & Improvement

Tool in the Toolbox

Description (2-3 Sentences Maximum)

Georgia and Tennessee's practice of not paying for temporary easements for entrance construction should also be reviewed. If the property owner does not agree, the agencies pave up to property line.

Pros

- Money saved on easements for entrance construction.
- Fewer condemnation cases.

Potential Time Saving: Medium - High

Cost: Medium

Implementation Effort: Medium

Cons

- There may be a greater impact to the property than the temporary easement suggests. In those cases, this tool should not be used.
- Potential inverse condemnation cases.

Key Takeaway

The Cabinet spends tremendous effort and resources acquiring temporary easements. Any refinements to the process will speed up project work.

Author(s)

ROW Process Review Team



Right-Of-Way Process Improvement

Title

Research Use of Quick Take Authority

ROW Category

Condemnation

Type: Check Appropriate Box Best Practice Process Change & Improvement Tool in the Toolbox

Description (2-3 Sentences Maximum)

Ohio has two types of condemnation procedure: a traditional condemnation procedure and a 'quick take' condemnation procedure. KYTC should research the 'quick take' process to determine whether it should be adopted. The research should establish whether it is reimbursable as a federal rule program.

Pros

- Significantly decreases legal time line.

Potential Time Savings: High

Cost: High

Implementation Effort: High

Cons

- Would require a change in law, which is difficult and leads to unintended consequences.
- Will likely lead to a constitutional challenge since the current process is required by case law as well as by statute.
- May generate negative PR for the Cabinet.
- Potential for abuse.

Key Takeaway

This would modify Kentucky law, allowing the use of a different process than the sometimes-cumbersome Commissioners' Award procedure. A cursory review of the Ohio Statute authorizing the 'quick take' condemnation procedure appears to allow for a 60 day right of entry process.

Author(s)

ROW Process Review Team



Right-Of-Way Process Improvement

Title Incentivize Staff **ROW Category** Personnel-HR (All ROW Categories Except Technology)

Type: Check Appropriate Box Best Practice Process Change & Improvement Tool in the Toolbox

Description (2-3 Sentences Maximum)
Reward ROW staff with bonuses (e.g., SPOT Awards) for work that is both complete and exemplary. The Indiana DOT's Right of Way section currently awards spot bonuses.

Pros

- Motivates staff.
- Improves morale.
- Tangible way to show appreciation.
- Employees have a greater personal investment in their performance.

Potential Time Savings: High
Cost: Medium
Implementation Effort: Medium


Cons

- Lack of fairness.
- Biases.
- Favoritism.
- Difficult to administer.
- Jealousy.
- Public may harbor a bad image of state employees.

Key Takeaway
This recommendation will require more research on the spot bonuses utilized by the Indiana DOT before implementing this practice.

Author(s)
ROW Process Review Team

4.1.1.6 Tools — Accelerated Reforms



Right-Of-Way Process Improvement

Title	ROW Category
Explore the Use of Purchase Options	Acquisition

Type: Check Appropriate Box Best Practice Process Change & Improvement Tool in the Toolbox

Description (2-3 Sentences Maximum)

Explore the feasibility of compensating owners for the option of future property acquisition at current market value.

<p>Pros</p> <ul style="list-style-type: none"> - Eliminates potential purchase of improved properties, reducing cost. - Being a good steward of taxpayer money. - The Cabinet is able to reserve corridors. - Less up front expenditures to reserve property or corridor. <p>Potential Time Savings: Medium</p> <p>Cost: Low</p> <p>Implementation Effort: Medium</p>	<p>Cons</p> <ul style="list-style-type: none"> - Limited time frame for purchase option on property. - Additional expense associated with cost of this option.
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Key Takeaway

Implementation will help preserve a corridor for future projects.

Author(s)

ROW Process Review Team



Right-Of-Way Process Improvement

Title	ROW Category
Transfer Comp Book Among Projects	Appraisals, (Technology)

Type: Check Appropriate Box Best Practice Process Change & Improvement Tool in the Toolbox

Description (2-3 Sentences Maximum)

Modify RWUMS or KROWDS to permit transfer of a comp book or portions of a comp book from one project to another.

Pros

- Automates the transfer process.
- Can be done concurrently with the recommendation to allow multiple appraisers on the same project to share comp sales.
- Improves the efficiency of staff and fee appraisers who follow up on their own work along the same corridor.

Potential Time Savings: Low

Cost: Low

Implementation Effort: Medium

Cons

- Requires development changes in KROWDS, possibly slowing current software development.
- Appraisers can benefit, but this may not translate into lower costs in their contracts.
- Appraisers may be tempted to use outdated sales and avoid performing additional research.

Key Takeaway

Comp books are currently prepared for each project, even if two or three projects along the same corridor would rely on a similar set of comps. The automated transfer of a comp book or portions of a comp book will prevent repetitive data entry. This recommendation applies only to situations in which the same fee appraiser works on multiple projects. If staff appraisers are working on the projects, comp books from area projects can be made available and shared among staff. This recommendation could be enacted alongside implementation of the recommendation to allow the sharing of comp sales among multiple appraisers on the same project .

Author(s)

ROW Process Review Team



Right-Of-Way Process Improvement

Title	ROW Category
Establish Director of Condemnation within OLS	Condemnation

Type: Check Appropriate Box Best Practice Process Change & Improvement Tool in the Toolbox

Description (2-3 Sentences Maximum)

Hire a knowledgeable and experienced attorney who focuses entirely on and is responsible for overseeing the condemnation work of district attorneys and improving communication and relationships between OLS, ROW, and Design. An attorney with district experience is preferred.

Pros

- Allows a single point of contact within OLS.
- Allows a focus on ROW priorities.
- Provides a resource to attorneys working on condemnation matters.
- Management of Workload among district attorneys.

Cons

- Assigns too much responsibility to one individual.
- If the person does not perform well, every district will suffer negative impacts.
- Cost of additional staff
- May require a review of legal personnel grades.

Potential Time Savings: Medium

Cost: High

Implementation Effort: Low

Key Takeaway

Currently, the Central Office does not have an individual focused solely on the oversight of condemnation and related work. Both ROW and District attorneys will benefit from the resources and focus afforded by this position. It will streamline communication between ROW and OLS, encouraging a well informed partnership between the two offices.

Author(s)

ROW Process Review Team



Right-Of-Way Process Improvement

Title	ROW Category
Limit Scope of Cases Handled by District Attorneys	Condemnation

Type: Check Appropriate Box Best Practice Process Change & Improvement Tool in the Toolbox

Description (2-3 Sentences Maximum)

Attorneys are currently understaffed and required to work on a variety of cases (e.g., condemnation, claims commission, workers compensation, encroachments). Limiting the types of cases district attorneys (OLS) have responsibility for will let them focus on condemnation and right of entry. It is also recommended that all condemnation cases originate and remain in districts, at least until an IOJ is obtained.

Pros

- Allows district attorneys to focus on ROW issues such as deeds, titles, and promptly filing cases and right of entry.
- Assists in meeting letting dates.
- Keeping condemnation work in-house saves on contract attorney fees.

Potential Time Savings: Low

Cost: High

Implementation Effort: Low

Cons

- May create more work for Central Office attorneys.
- There are additional costs if contract attorneys are used to take the work that is shifted from districts.

Key Takeaway

District Attorneys are most capable at handling condemnation work. Project Development benefits from having these attorneys focused on ROW issues and project letting dates.

Author(s)

ROW Process Review Team, Attorney Survey



Right-Of-Way Process Improvement

Title
Incentivize Adoption of Web-Based Applications

ROW Category
Technology (Title Abstracts, Acquisition, Appraisals, Condemnation, Relocation)

Type: Check Appropriate Box Best Practice Process Change & Improvement Tool in the Toolbox

Description (2-3 Sentences Maximum)

Less than half the County Clerk and PVA offices make their information available via the Internet. Some counties rely on books alone and have nothing scanned. We recommend a study of counties that currently have such systems in place to determine if KYTC should incentivize offices to adopt a web-based application. Ideally all 120 counties would use the same web-based system. The Cabinet should also explore receiving a financial benefit for its investment (e.g., free subscription or discounted filing fees). Alternatively, legislatively mandating the provision of information via the internet could accomplish the same goal.

Pros

- Improves access to critical information used across many KYTC offices.
- Would save travel time, wear and tear on vehicles.
- KYTC's existing presence with counties via hardware used for licensing and fee collection could be leveraged for access to property records.
- This would be of particular benefit for agents working away from their home districts.

Potential Time Savings: Medium

Cost: High

Implementation Effort: High

Cons

- Might need to deal with each county individually, which would be tedious and time consuming.
- Costly to implement.
- Potential for misuse by employees
- Persuading 240 elected officials to undertake such a project would be challenging.
- Savings may not outweigh the expenses.
- Once implemented, it may not be maintained.

Key Takeaway

KYTC employees spend an excessive amount of time in each district traveling to County Clerk and PVA offices to gather critical information. Providing access to this information online would make all aspects of the ROW process more efficient. Projects would move faster through the ROW process and staff would have time for other necessary duties.

Author(s)

ROW Process Review Team



Right-Of-Way Process Improvement

Title Stabilize/Improve Internet Access
ROW Category Technology (All ROW Categories)

Type: Check Appropriate Box Best Practice Process Change & Improvement Tool in the Toolbox

Description (2-3 Sentences Maximum)

This recommendation is intended to address both hardware improvement and policy enforcement. Currently internet access is spotty at best. This situation is due in part to poor internet connectivity, and partly because staff stream information that is not work related, absorbing a lot of bandwidth. In addition, the quality of wireless access differs among locations, creating frustrations. Improvement of internet access and internet policy will allow for improved working conditions and an increase in work product. Research could include but not be limited to: working with local providers to get a higher speed line in the district office; enforcing policies against employee usage for non work purposes; exploring assisting KY Wired to complete fiber optic availability; limit employee use of guest accounts; considering wifi extenders to improve internet access throughout entire buildings.

Pros

Better access, quicker work completion.
Better and more stable interaction with cabinet systems.

Cons

Employees may take advantage of better bandwidth for personal use.
Costs associated with improvements.

Potential Time Savings: Low-Medium

Cost: Medium

Implementation Effort: Medium

Key Takeaway

It is 2018. Excellent internet access should not be an issue in this electronic age. Better internet access when applied with proper oversight will aid the Cabinet in completion of individual assignments and its overall agenda. The cabinet has made digitization a priority but has failed in providing consistent and quality broadband services to accomplish those goals.

Author(s)

ROW Process Improvement Team



Right-Of-Way Process Improvement

Title Provide Information to Circuit Clerks **ROW Category** Condemnation

Type: Check Appropriate Box Best Practice Process Change & Improvement Tool in the Toolbox

Description (2-3 Sentences Maximum)

KYTC should provide information to circuit clerks which will offer guidance on condemnation cases. This material could include but is not limited to a pamphlet, brochure, or packet explaining how to submit a correct commissioners award report. This should be done by first obtaining permission from the Circuit Court Judge.

Pros

- Fosters correct submission of Report of Commissioners.
- Avoids multiple trips by the commissioners to a project.
- It can possibly help attorneys move for the IOJ sooner if the report is submitted correctly.
- Avoids unnecessary motions to correct a Report of Commissioners.

Potential Time Savings: Medium

Cost: Low

Implementation Effort: Low

Cons

- Judges and clerks could be resistant to KYTC's suggestions
- It could create a perception among the judges and/or clerks that they are being told how to do their job.
- Cost to create materials to provide to courts/ clerks
- Time required to compile training materials.

Key Takeaway

Many times the Report of Commissioners is submitted with errors. This results in additional time to get the Report corrected. Sometimes additional motions are required. This not only costs money, it consumes extra time — ranging from 15-20 days.

Author(s)

ROW Process Review Team, Attorney Survey



Right-Of-Way Process Improvement

Title Increase ROW Supervisor Settlement Authority
ROW Category Acquisitions

Type: Check Appropriate Box Best Practice Process Change & Improvement Tool in the Toolbox

Description (2-3 Sentences Maximum)

The current settlement authority ranges for ROW supervisors are as follows:
-Settlement authority of \$2,500 for acquisition offers ranging between \$2,500-\$25,000;
-Settlement authority of \$5,000 for acquisition offers ranging between \$25,001-\$50,000;
-Settlement authority of \$10,000 for acquisition offers over \$50,001; and
-Any settlements over \$10,000 require Central Office approval.

We recommend delegating increased settlement authority for selected proficient ROW Supervisors above the amounts listed above.

Pros

- Allows for quicker turnaround times for signing parcels.
- Frees up Central Office management to work on other parcels/issues.

Potential Time Savings: Low

Cost: Low

Implementation Effort: Low

Cons

- Could create a risk for reimbursement with FHWA.
- There is potential for abuse (deal making).
- Supervisors with lack of experience need be trained to qualify for this responsibility.
- Could result in a lack of justification for settlements.
- May increase project costs (i.e., settlement-happy)

Key Takeaway

With this process change, more parcels could be signed more quickly. This frees up staff to work on other parcels/projects.

Author(s)

ROW Process Review Team



Right-Of-Way Process Improvement

Title _____ **ROW Category** _____
Mediation Prior to Condemnation Acquisition

Type: Check Appropriate Box Best Practice Process Change & Improvement Tool in the Toolbox

Description (2-3 Sentences Maximum)
District offices may hold mediated discussions with property owners on sensitive parcel negotiations in an effort to reach an agreement and avoid condemnation.

Pros
- Potentially reduces workload of district attorney.
- In the long term, could reduce court costs associated with pursuit of condemnation action.
Potential Time Savings: Low
Cost: Low
Implementation Effort: Low

Cons
- Someone would need to pay for mediator.
- ROW staff would need to establish additional coordination with a third party.
- Unclear how this would affect the condemnation process if mediation is not successful during acquisition phase. The question arises: Would a second mediation be necessary once condemnation begins?

Key Takeaway
Negotiation during the acquisition process can occur today without the involvement of a third party. If a parcel goes to condemnation, it is possible the mediation process would be duplicated.

Author(s) _____
ROW Process Team



Right-Of-Way Process Improvement

Title	ROW Category
Investigate Segmentation of Comp Book	Appraisals

Type: Check Appropriate Box Best Practice Process Change & Improvement Tool in the Toolbox

Description (2-3 Sentences Maximum)

Developing a build-as-you-go comp book for fee appraisers will reduce the amount of comparable sales that must be submitted before appraisals are started and will keep track of milestones for payment. Comparable sales should be added to the book at later dates once appraisals are started — resulting in a living sales book.

Pros

- First appraisals get out quicker.
- Reduces entry of comparable sales that are not used.
- Comps stay more current.
- Inspection of subject allows for more accurate selection of comparable(s).

Potential Time Savings: Low

Cost: Low

Implementation Effort: Low

Cons

- May result in multiple trips to the project rather than one trip to review all of the sales.
- Increases the appraiser's/reviewer's workload.
- Potentially requires contract change with Professional Services.
- Does not speed up the process.
- Difficult to track progress/manage appraisers.

Key Takeaway

With a living sales/comp book, first appraisals may be completed sooner. However, the review process may take longer.

Author(s)

ROW Process Review Team



Right-Of-Way Process Improvement

Title Share Sales Book Datum **ROW Category** Appraisals

Type: Check Appropriate Box Best Practice Process Change & Improvement Tool in the Toolbox

Description (2-3 Sentences Maximum)
Allow multiple staff appraisers to use a common set of sales book datum within RWUMS.

Pros

- Comp is entered one time instead of multiple times by each appraiser working on the project.
- Frees up appraisal staff for other duties.
- Simple to implement.
- Useful for medium and large projects or high priority projects with multiple appraisers.

Potential Time Savings: Low
Cost: Low
Implementation Effort: Low

Cons

- Potential for some staff to freeload off the work of others.
- Some appraisers may not be as familiar with the comps as they should be, meaning that oversight will be needed.
- Will need to address how this will interface with the attempt to license staff appraisers.

Key Takeaway
In many cases a common set of comparable sales will be relevant to multiple parcels on the same project and can be used by multiple appraisers. This tool will eliminate redundant work and free staff to complete other tasks. It could easily be built into KROWDS.

Author(s)
ROW Process Review Team

4.2 Ranking of KYTC ROW Process Review Team Ideas

At the end of the review process, all members of the ROW Process Review Team were asked to examine each of the process improvement ideas described in the foregoing pages and select what they felt were the 10 best ideas. In administering this survey, KTC researchers decided that allowing each team member to use their own subjective judgment to define what is meant by *best ideas* was the optimal approach so as not to unduly constrict, bias, or influence the ranking process. Table 5 lists, in descending order according to vote tally, the team's rankings. Please note that team members only ranked ideas originally generated during their working sessions. They did not rank ideas originating with attorneys or consultants.

Table 5 ROW Process Improvement Team Ranking of Ideas

Idea	Votes
Centralize ROW	7
Mandatory ROW Workshops for Senior Leadership	6
Incentivize Staff	6
Provide Online Access to Property & Owner Information	5
Authorize District Offices to Pay Small Filing/Recording Fees	5
Establish Appraiser Apprenticeship Program	4
Reinstate Right of Entry Agreements and Encourage Agreed IOJs	4
Share District Staff to Deliver ROW Program	4
Develop ROW Training Portfolio	4
Enforce the 45-Day Sign-or-Sue Policy	3
Delegate Approval Authority to Review Appraiser	3
Cross-Train Agents in Basic ROW Functions	3
ROW Internship Program	3
Evaluate District ROW Processes	3
Incentivize Adoption of Web-Based Applications	3
Develop Employee Performance Measures	3
Limit Scope of Cases Handled by District Attorneys	3
Implement a Lump Sum Payment for Last Resort Tenants	2
Include Staff Training in Consultant Contract	2
Develop Procedures for Group Signing Sessions	2
Increase ROW Supervisor Settlement Authority	2
Enhance In-Field Technologies	2
Allow ROW or Consultants to Directly Hire Contract Attorneys	2
Use Design Funds for Titles, Appraisal, Relocation Research	2
Research Use of Quick Take Authority	2
Early ROW Staff Participation in Design	2
Eliminate Division of Purchases from Demolition Contracts	2
Expedite Funding Authorization	2
Stabilize/Improve Internet Access	2
Adopt Federal Government Pay Scale	2
Establish Director of Condemnation within OLS	2

Implement FAST Act Early Acquisition	2
Hold Property Owner Information Meetings	2
Offer Bonuses to Vacate/Move	1
Transfer Comp Book Among Projects	1
Investigate Segmentation of Comp Book	1
Master Agreements for Appraiser Contracts	1
Strengthen Communication Among KYTC Stakeholders	1
Monitor Appraiser Performance	1
Evaluate Allowing Move Bids Over \$10,000	1
Reinstate Right of Entry Agreements and Encourage Agreed IOJs	1
Reduce Title Requirements for Temporary Easements	1
Offer Trainings for District & Contract Attorneys	1
Pay for Move Estimates	0
Share Sales Book Datum	0
Improve Communication of ROW Clearance Dates	0
Mediation Prior to Condemnation	0
Establish Minimum Acquisition Offer	0
Improve Guidelines to Select MAR or Appraisal	0
Establish Recommended Time Frames for ROW Tasks	0
Require Design Displays or KMZ	0
Explore the Use of Purchase Options	0
Provide Educational Information to Circuit Clerks	0
Create Individual Training Accounts	0
Incentivize Training for Staff	0

4.3 KYTC Railroad ROW Process Improvement Ideas

The Railroad ROW Process can be a time-consuming endeavor, oftentimes lasting multiple years. To identify strategies to accelerate ROW acquisition for railroad parcels, KTC researchers interviewed Cabinet experts in the Railroad ROW Process. They offered several recommendations for shortening its duration. Process phases mentioned below (in italics) correspond to those listed in Gantt charts in Appendix C.

During the phase, *Preliminary Agreements with Railroad*, experts advocated for the use of digital signatures. They commented that while most railroads would be amenable to this shift in policy, KYTC currently requires a physical signature for agreements (however, electronic signatures may be used for invoices). Using digital signatures reduces the mailing of forms among railroad offices and could therefore save up to two weeks. For the phase, *Plans Returned to KYTC & Revised Add Structure Plans*, Cabinet experts endorsed the importance of KYTC submitting preliminary — but not final — structure plans to railroads. Although railroads do want final construction plans to ensure no significant changes have been made on a final design, at this stage it is sufficient to submit plans that adequately delineate the location and extent of a proposed structure. Specifically, railroads want plans that contain information on abutments, piers, footings, clearances, drainages, and fencing. Likewise, Highway Design personnel should identify and focus their efforts at this stage on the reach that will be affected by a project. It is critical for them to supply drainage calculations and cross sections to railroads. Overall, KYTC's goal at this juncture should be to prepare advance designs in areas proximate to railroads such that the designs are locked in but at the same time can accommodate future modifications if necessary. For *Construction Agreements*, switching to digital signatures would accelerate the Railroad ROW Process between one and three weeks. Another area that warrants further investigation is the establishment of master agreements with companies performing review work on behalf of railroads. Such agreements, which have been used, can expedite project reviews. The final recommendation put forward KYTC experts is to begin work on railroad parcels as soon as possible during project development, even before starting work on other parcels.

4.4 Training Opportunities for KYTC Staff and Consultants

With staff attrition gradually thinning the ranks of experienced ROW personnel at the Cabinet, the ROW Process Review Team stressed the need to make different types of training available to new and relatively inexperienced staff as well as consultants, under particular circumstances. Several process improvement ideas described in Section 4.1 speak to the need for a robust training program — *Development of ROW Training Portfolio*, *Training for District and Contract Attorneys*, *Create Individual Training Accounts*, and *Include Staff Training Requirements in Consultant Contracts*. In addition to recommending specific types of training, the ROW Process Review Team emphasized that it is critical to incentivize training. Staff who seek out training to improve their performance and expand their skill sets deserve awards for their dedication and the new competencies they acquire. Different incentives could be offered based on the type of training a KYTC staff member participates in. For example, if an employee obtains a license or certification, the Cabinet could potentially offer them a promotion. Or, if personnel demonstrate some threshold level of competency through training (and which is objectively assessed through an exam), an attractive option is to give them a one-time bonus. Creating Individual Training Accounts was also recommended by the ROW Process Review Team. With these accounts in place, each staff member would be allocated a fixed sum that could be used for training not otherwise offered through the Cabinet’s ROW Training Portfolio. Employees would therefore have the opportunity to pursue a specialization unique to their interest and skill set. Table 6 lists the forms of training recommended by team members as well as the target audience for each training.

Table 6 Proposed ROW Trainings and Target Audiences

Proposed Right-Of-Way Trainings and Target Audiences									
	Title Abstractors	Relocation Agents	Appraisers & Reviewers	Negotiators	Property Management	Project Managers, Supervisors, Unit Leaders	Attorneys	Contract Attorneys	All New Staff
TYPE OF TRAINING									
ROW Process							•		•
Relocation		•					•		
Team Building	•	•	•	•	•	•	•		•
Title Abstraction – Start to Finish	•						•		
Title Abstraction – Advanced Issues	•						•		
Advanced Acquisition									
Environmental Justice Perspectives – ROW v. Engineering						•			
Condemnation Process							•	•	
Best Management Practices						•			
Limiting Right to Take Issues				•		•			•
Writing Up Administrative Settlements				•			•		•

4.5 Consultant Surveys

KTC researchers surveyed seven ROW consultants, all of which have more than 20 years of experience working on ROW for the Cabinet. Appendix A contains the survey and the responses of all consultants. Their responses and ideas for improving the ROW process are summarized briefly in this section.

When asked about the ROW subject matter area in which they are proficient, all respondents mentioned Acquisitions and Finding MAR Range of Values. Only three of the seven respondents reported being proficient in the Sales Book Process and Appraisals. Four respondents said they are proficient in Title Abstractions and Property Management, while six remarked they are proficient in Project Reports, Business Relocation, and Residential Relocation.

Respondents were also asked to comment on what they viewed as the most time-consuming aspect of the ROW process. Relocations were mentioned most frequently, with respondents saying that difficulties in finding comparable properties are a primary reason for delays. One respondent cited appraisals as a cause for prolonged timelines. Appraisals are often delayed, which narrows the window for negotiations and relocations. Other factors which slow the close out of a parcel include major plan changes, contract changes, or decision making, such as whether to sign or sue. Respondents also highlighted smaller details, such as delivery of checks, obtaining contact information for a property owner, response times, and initial project data setup as being causes for drawn out ROW timelines.

Respondents offered numerous ideas for improving the Cabinet’s ROW process, and these are listed individually in Table 7. They have been lightly edited but appear in the form they were submitted. Several their ideas overlapped with those generated by the ROW Process Review Team. Appraisals were cited as a hindrance to the quick completion of the ROW process. Respondents suggested it would be beneficial to streamline the appraisal process and improve the consistency with which it is carried out across districts. Other factors which contribute to delays are last-minute plan changes and having to bring in new appraisers to cope with burdensome workloads. Like the ROW Process Review Team, respondents encouraged better communication of plan changes and other issues pertaining to ROW between KYTC’s district offices and Central Office. Although strengthening communication methods and streamlining the appraisal process will require changes to KYTC policy, once those have been made ROW staff will be able to deliver projects more efficiently. Respondents reiterated the importance of bolstering the consistency and timeliness of all ROW activities. Among the key ideas they had for ROW process changes and best practices were:

- Establish time frames for completing ROW work, similar to what is done in the Division of Highway Design.
- Prepare a list of qualified relocation agents.
- Hire appraisers and attorneys prior to contracting with a ROW firm.
- Develop consistent methods for completing administrative settlements.

Table 7 ROW Process Improvement Ideas (Consultants)

1. Negotiations — the decision to sign or sue on a parcel is imperative to clear the project.
2. Allow electronic signature to be accepted for payments. Better database (RWUMS) that includes relocation data for status reports.
3. Allow consultants to hire own title/closing attorneys. Staff attorneys are often too busy to assist, and title attorneys assigned by the consultants are more manageable for completing projects.
4. KYTC should have titles in hand and appraisals in progress prior to contracting with a ROW firm for relocation and acquisition work.
5. ROW plans should be correct and researched, and deeds plotted, before dealing with changes. Provide final plans to work with and hold no scoping meetings until plans are finalized.

6. Setting realistic clearance dates that take into account the complexity of the project as well as the design plan changes that occur.
7. Better cooperation with Central Office on administrative settlements to reduce the number of condemnations.
8. Appraisals should be done in a timely manner. The appraisal process should be consistent. Often appraisers are brought on board late or have numerous revisions due to plan changes.
9. Clearer communication from district offices when there are plan changes that affect ROW — there is a reluctance to communicate. May not hear back when an answer is needed. Meetings are needed when changes arise to explain what is expected; clearer communication and faster response time from district offices and the Central Office.
10. Complete the review of deeds to be signed in a timelier manner.
11. Complete appraisal reviews in a timelier manner.
12. Use reliable computer programs. Increase the file size limits for KYTC email.
13. Training opportunities for new KYTC agents, either formal or having a qualified consultant provide training.
14. Hire appraisers and legal services prior to contracting with a ROW firm. This is more beneficial to KYTC.
15. Permit title attorneys to update titles and close parcels.
16. Create a list of qualified relocation agents, similar to the practice with title attorneys and appraisers.
17. Increased consistency in administrative settlements.
18. Establish time frames for completing work, similar to what is used in the Division of Design; complete time limit; timely scoping and contract negotiations; ROW decisions made in a timely manner.
19. Complete tasks in a timely manner, particularly appraisals, scoping, contract negotiations, and ROW decisions.
20. Uniformity and consistency among districts and between districts and the Central Office for the following: processes, paperwork, submittals, requirements.

4.6 Attorney Surveys

KTC researchers surveyed Cabinet attorneys via telephone. The survey consisted of 17 questions and focused on the ROW process and condemnation. Of the 12 attorneys contacted, nine completed the survey. While all attorneys had over three years of legal experience, their experience in condemnation ranged from 50+ years to less than a year. The first three questions were general and open-ended, asking respondents to make recommendations for improving the ROW process, comment on the ways in which the legal services provided to the Division of Right of Way and Utilities could be improved, and discuss how district attorneys could offer better services to district offices. The remaining questions focused on legal activity required to obtain right of entry once a case has been assigned to the Office of Legal Services, targeting where delays occur in the process and the cause of those delays. Tables 8–10 summarize the ideas attorneys submitted on:

- Improving the ROW process (Table 8),
- Improving legal assistance offered to the Division of Right of Way and Utilities (Table 9), and
- How district attorneys can do to better serve their districts (Table 10).

Appendix B includes the survey and the unabridged answers provided by attorneys to all questions.

Respondents offered a variety of comments on and suggestions for improving the ROW process. Many comments highlighted the need to improve communication between ROW staff and attorneys. Legal issues, often, are not prioritized or understood throughout the project management process. Previously, Districts 8 and 9 had an engineer on staff that assisted in reviewing plan sheets, creating trial exhibits, and speaking with property owners. These engineers also served as expert witnesses in condemnation trials. Respondents also commented that they would like to see more careful language used in title abstractions, improvements in negotiations, training made available to legal and ROW staff, and an increase in the number of expert appraisal and engineering witnesses.

Another common theme underscored by respondents was the importance of addressing human resources issues. Attorneys want to be viewed and regarded as part of the team. They also contended that more ROW agents and attorneys need to be hired in each district. District attorneys are spread thin, handle cases other than condemnation, and mentioned wanting to see the introduction career progression system similar to what is available to KYTC engineers.

Approximately 20% of all parcels go to condemnation, however, 90 to 95% of the work done by district attorneys involves condemnation. Respondents supplied a number of recommendations for improving the content of the condemnation packet and its distribution. Making sure the information contained in the packet is complete and accurate is one step that can be taken to provide more efficient legal services. ROW staff should be diligent about checking the information and ensuring copies are legible. Staff must also identify all parties they believe have a legal interest in property, that title and contact information is accurate, and include correct names and addresses for each person having an interest in the property in the packet. Respondents proposed the use of a new summary sheet in the packet, one that explains the issues related to a property owner which precipitated a failed settlement. The respondents also indicated they would also like to see a more user friendly PROLAW system.

Other recommendations advanced by the respondents either echoed those mentioned by the ROW Process Review Team or had considerable affinities with them. Among these were communicating firm deadlines for ROW clearance, allowing project managers to establish priority parcels, limiting time for negotiations, improving the process for requesting checks, and recruiting more appraisers. Other attorney comments focused in greater detail on the types of information attorneys need in order to file suit in a timely manner. Respondents said that most short-term delays appear to result from incomplete or outdated information in the title report or complications in the chain of title. These delays can extend weeks or months. The source

of the longest delays is right to take challenges pursued by property owners. These delays can drag out for multiple years (three to eight). Service of Process is another area where time is lost, but respondents felt they had little control over the task since the law requires service by a Sheriff or use of certified mail.

Table 8 Attorney Suggestions for Improving the Right of Way Process

Category	Recommendations
Authorization	<ul style="list-style-type: none"> • Money should be in the project at the time it starts. • Have right of entry on all parcels in a project before the project is let to contract.
Engineering	<ul style="list-style-type: none"> • Do not use design/build because appraisals and condemnation require firm plans. • Better review of plans on a parcel-by-parcel basis. • Engineering witnesses are in short supply. Project development engineers have other responsibilities. As a result, many attorneys use a consultant engineer as an expert witness. A proactive effort to recruit engineer expert witnesses is needed. • Not many people focus on legal issues, so sometimes it is hard to get engineers to understand or prioritize legal issues. It would be beneficial to have an engineer available and/or assigned to specialize in legal issues, plan sheets, trial exhibits (a go-to engineer). Ideally, an engineer would be assigned to Legal. It could be a part-time position. There is precedent for this Districts 8 and 9.
Title Abstraction	<ul style="list-style-type: none"> • Consultants do not use access language in the deeds they prepare. This must be corrected.
Appraisals	<ul style="list-style-type: none"> • Improve the process for getting fee appraisers approved for legal work. It takes too long. • Shorten appraisal form for legal work so other side does not have so much information to use during cross examination. • The enormous lack of trial appraisers is becoming a crisis — and there is no sign of recruitment happening. We need to be proactive in recruitment efforts to get licensed people as trial witnesses. • It takes a long time for the completion of appraisals. Appraisers sometimes wait until the trials are coming up. There needs to be a deadline, and it needs to be enforced. • Appraisal approval takes too long. It is unclear if the problem results from first- or second-level approval. Even then, attorneys

	<p>are sometimes not told they have been approved.</p> <ul style="list-style-type: none"> • Stop the practice of waiting for the second trial witness to turn an appraisal in before the first one is reviewed and approved.
Accounts	<ul style="list-style-type: none"> • There are delays in the check-requesting process — it needs to be streamlined. Checks for filing fees, Commissioners’ Awards, payment of Commissioners’ fees, warning order attorney fees, and recording fees are slow.
Acquisition	<ul style="list-style-type: none"> • Have a firm time frame for acquisition and communicate that to the attorney. • When acquiring the entire parcel, deal with the property tax at the time a deed is taken.
Acquisition — Negotiation	<ul style="list-style-type: none"> • ROW needs to refer cases for condemnation more quickly so that the Office of Legal Services can begin its work sooner. Do not spend 9 months negotiating and wait to send to Legal at last minute. • Allow more authority during ROW negotiations for both money and plan changes. • Give more people settlement authority for mediations. • Do not publish settlement authority in the ROW manual. • In dealing with poor people, be more understanding, especially when acquiring their home. They become fearful more readily. It is easier for people with money to move. • Negotiators need to review title report with the property owner to ensure all encumbrances are addressed. If the property owner does not know if an encumbrance has been addressed, the agent or title person should research it. • Consultants seem to be in a hurry, passing parcels off to Legal Services quickly. Process needs to reward settlement, so consultants will try harder to settle.
Condemnation	<ul style="list-style-type: none"> • Refer all condemnation parcels on a single project to Legal in close succession — not one to two years apart.
Condemnation — Packet	<ul style="list-style-type: none"> • Be more diligent in checking packet before giving it to Legal Services. • When putting the condemnation packet together, do not copy or print front and back. Copy or print front only. The information is

	<p>too hard to read when printed on front and back. This includes the title report and supporting documents. Review the packet to ensure all copies are legible.</p> <ul style="list-style-type: none"> • Make sure title and contact information is accurate and complete prior to sending a parcel packet to Legal. ROW must identify all parties it believes have a legal interest in property (there used to be a form for this). • Add new information to packet: Summary sheet explaining what the issues on the property owner that made settlement fail, rather than bury that information deep in packet. • Make sure names and addresses are correct — Do not supply post office box numbers. ROW must acquire physical address for each person having an interest in the property.
Communication	<ul style="list-style-type: none"> • Attorneys need greater contact with project managers. They require awareness of priorities, real deadlines, and the critical path. This is especially important when priorities shift. The letting date is never included in the packet. • Acquisition needs closer coordination between ROW and Legal Services. Have the branch manager identify which cases to do and in what order. • Have attorney go to project review in Central Office if they can. If not, have a Central Office attorney attend. Attorneys can learn of problems and priorities that way. • If there are issues with the quality of title work, let Legal Services know. Feedback is needed. • There needs to be a better understanding and communication on handling old cases that need attention. ROW is hesitant to spend money on old cases, or perhaps ROW does not understand issues and is therefore hesitant to spend money. Old cases need to be closed out, so the larger older project can be closed out.
Training	<ul style="list-style-type: none"> • Improve skills in deescalating confrontational behavior. Consultants are not as good at this as KYTC staff.
Human Resources	<ul style="list-style-type: none"> • Hire more ROW agents in the district offices and use consultants less, if at all. • Think of Legal Services as part of the team.

Table 9 Attorney Suggestions for Improving Legal Services Provided to the Division of ROW and Utilities

Category	Recommendations
Appraisals	<ul style="list-style-type: none"> • Have attorneys request fee appraisers for trial work for all parcels on an entire project, but only assign appraiser to do appraisals on just those parcels that are sent to condemnation.
Acquisition — Negotiation	<ul style="list-style-type: none"> • Get the attorney involved earlier — it seems like cases could settle but instead they go to condemnation. • Questions to address: <ul style="list-style-type: none"> ○ Are there problems hearing back from the property owner? ○ Are there problems getting information from the property owner?
Condemnation — Packet	<ul style="list-style-type: none"> • If Legal Services has information that is complete and accurate, it can provide better services. • Having a more user friendly PROLAW-type system. • Continue working with the attorney after a case is turned in for suit. Do not think it is over because a parcel is turned into Legal Services — consultants are bad for this.
Communication	<ul style="list-style-type: none"> • Better communication and coordination between ROW supervisors and attorneys (staff and contract) to build relationships and improve communication. For example, have a meeting at the start of a project to review the overall project, why the project is important, and what the potential problem parcels are. Engineers should be included in this meeting. Communication between Legal Services and ROW needs improvement when negotiations ensue and the case is in Legal Services. • Give attorneys constructive criticism so any issues can be improved. • There needs to be someone coordinating contract attorneys in the Central Office or district. • Let ROW supervisor in the district know the chain of command, so if there is a district problem that cannot be resolved, a known contact exists. • Attorneys should provide the branch manager with a list of all legal cases. • Have a discussion among attorneys to come up with best practices.

Training	<ul style="list-style-type: none"> • Have attorney and ROW mentors for new attorneys. • Attorneys need more information about the ROW process when hired.
Technology	<ul style="list-style-type: none"> • Access to better technology (e.g., iPhone, iPad).
Human Resources	<ul style="list-style-type: none"> • Staff up Legal Services — fill empty positions. Districts that are really busy or have complicated cases that need at least two attorneys. • Do not spread district attorneys too thin — they work on issues other than condemnation. • Having district attorneys handle Claims Commission cases is a problem if a case raises a factual issue critical of actions of a coworker. It creates a conflict where there should not be one.

Table 10 Attorney Suggestions for Improving District Attorneys’ Service to Districts

Category	Recommendations
Communication	<ul style="list-style-type: none"> • Coordinate priorities with Central Office — Office of Legal Services and district. The district may have priorities that are different than CO-OLS. • Meet with each section and discuss issues affecting them in order to build relationships. Visit all barns. • Have more communication and opportunities to discuss issues and ways to improve. • Collect feedback on how attorneys are doing, including feedback on how contract attorneys are performing. • Attend some of each other’s meetings to keep abreast of issues and remain responsive to those priorities. • Sharing ideas with other staff.
Training	<ul style="list-style-type: none"> • Produce a manual or guidebook on the Office of Legal Services legal issues and how to practice a condemnation case. • Develop a better understanding between Legal Services and ROW of each other’s processes and priorities. • Have an orientation to learn more about what district does and what is expected from the district attorney when the attorney is first hired. • Training on what is needed in a settlement recommendation.

Human Resources	<ul style="list-style-type: none">• More Staff• Currently there are no promotional opportunities for attorneys. Attorney salaries should be reviewed in the same manner as engineers' salaries. Attorney I and II are the same grade, so there is only one opportunity for promotion: from Attorney II to Attorney III.• More access to state vehicles or reimbursement at the federal rate.
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4.7 Comparison of Process Improvement Ideas

Table 11 documents areas in which the ideas advanced by the ROW Process Review Team, consultants, and attorneys overlap. The left column lists each idea suggested by the ROW Process Review Team. The subsequent columns contain ideas put forward by consultants and attorneys which are similar to those of the ROW Process Review Team. For some of the consultant and attorney ideas, their phrasing or content do not perfectly align with those of the ROW Process Review Team. Nonetheless, the affinities in these cases are pronounced enough to place the ideas side by side.

Table 11 Comparison of KYTC Process Improvement Ideas and Consultant/Attorney Perspectives

KYTC Process Improvement Idea	Consultant Perspective	Attorney Perspective
Provide Online Access to Property & Owner Information		<ul style="list-style-type: none"> · Have ROW agent identify heirs and retrieve their addresses.
Enforce the 45-Day Sign-or-Sue Policy	<ul style="list-style-type: none"> · Negotiations — the decision to sign or sue on a parcel is imperative to clear the project. 	<ul style="list-style-type: none"> · ROW needs to refer cases for condemnation more quickly so that the Office of Legal Services can begin its work sooner.
Include Staff Training in Consultant Contract	<ul style="list-style-type: none"> · Training opportunities for new KYTC agents, either formal or having a qualified consultant provide training. 	
Delegate Approval Authority to Review Appraiser		<ul style="list-style-type: none"> · Getting appraisals approved takes too long. It is unclear whether the problem resides with first- or second-level approval. Even then, attorneys are sometimes not told they have been approved.
Establish Appraiser Apprentice Program		<ul style="list-style-type: none"> · The enormous lack of trial appraisers is becoming a crisis — and there is no sign of recruitment happening. We need to be proactive in recruitment efforts to get licensed people for trial witnesses.
Increase ROW Supervisor Settlement Authority		<ul style="list-style-type: none"> · Allow more authority during ROW negotiations for both money and plan changes. · Give more people settlement authority for mediations.
Enhance In-Field Technologies	<ul style="list-style-type: none"> · Allow electronic signature to be accepted for payments. Better database (RWUMS) that includes relocation data for status reports. 	<ul style="list-style-type: none"> · Access to better technology (e.g. iPhone, iPad).
Allow ROW or Consultants to Directly Hire Contract Attorneys	<ul style="list-style-type: none"> · Allow consultants to hire own title/closing attorneys. Staff attorneys are often too busy to assist, and title attorneys assigned by the consultants are more manageable for completing projects. 	

Use Design Funds for Titles, Appraisal, Relocation Research	· KYTC should have titles in hand and appraisals in progress prior to contracting with a ROW firm for relocation and acquisition work.	
Reinstate Right of Entry Agreements and Encourage Agreed IOJs		· Have right of entry on all parcels in a project before the project is let to contract.
Early ROW Staff Participation in Design	· ROW plans should be correct and researched, and deeds plotted, before dealing with changes. Provide final plans to work with and hold no scoping meetings until plans are finalized.	
Improve Communication of ROW Clearance Dates	· Setting realistic clearance dates that account for the complexity of the project as well as the design plan changes that occur.	· Attorneys need to have greater contact with project managers. They need to know priorities, real deadlines, and the critical path. This is especially important when priorities shift. The letting date is never included in the packet.
Mediation Prior to Condemnation	· Better cooperation with Central Office on administrative settlements to reduce the number of condemnations.	
Master Agreements for Appraiser Contracts	· Appraisals should be done in a timely manner. The appraisal process should be consistent. Often appraisers are brought on board late or have numerous revisions due to plan changes.	

Strengthen Communication Among ROW Stakeholders	<ul style="list-style-type: none"> · Clearer communication from district offices when there are plan changes that affect ROW — there is a reluctance to communicate. May not hear back when an answer is needed. Meetings are needed when changes arise to explain what is expected; clearer communication and faster response time from district offices and the Central Office. 	<ul style="list-style-type: none"> · Better communication and coordination between ROW supervisors and attorneys (staff and contract) to build relationships and improve communication. · Meet with each section and discuss issues affecting that section in order to build relationships. Visit all the barns. · Have more communication and opportunities to discuss issues and ways to improve.
Establish Recommended Time Frames for ROW Tasks	<ul style="list-style-type: none"> · Complete the review of deeds to be signed in a timelier manner. 	
Monitor Appraiser Performance	<ul style="list-style-type: none"> · Complete appraisal reviews in a timelier manner. 	
Stabilize/Improve Internet Access	<ul style="list-style-type: none"> · Use reliable computer programs. Increase the file size limits for KYTC email. 	
Adopt Federal Government Pay Scale		<ul style="list-style-type: none"> · Currently there are no promotional opportunities for attorneys. Attorney salaries should be reviewed in the same manner as engineers' salaries.
Develop ROW Training Portfolio for Agents	<ul style="list-style-type: none"> · Training opportunities for new KYTC agents, either formal or having a qualified consultant provide training. 	
Offer Trainings for District & Contract Attorneys		<ul style="list-style-type: none"> · Have attorney and ROW mentors for new attorneys · Attorneys need more information about the ROW process when hired. · Have a manual or guidebook on OLS legal issues and how to practice a condemnation case. · Develop a better understanding between Office of Legal Services and ROW with respect to each other's processes and priorities.

4.8 Human Resources and Staffing

Staffing issues affect the Cabinet's ability to deliver projects on schedule. A high rate of attrition among ROW personnel results in uneven knowledge bases across KYTC districts. Personnel shortages contribute to the significant variability in ROW practices across the state. Moving forward, capturing what institutional knowledge exists — especially among staff poised for retirement — will be integral for ensuring the ROW process transpires smoothly.

When examining personnel issues, reflecting on the importance of capturing institutional knowledge, and assessing whether to add new training options, it is helpful to review historical trends in staffing levels to grasp how KYTC has evolved organizationally (Figure 1). In 2006 — just prior to a wave of retirements in 2008 — the Cabinet employed 111 ROW agents statewide across district offices and the Central Office. At this time, there was no Director or Assistant Director. Of the 111 agents, 14% had between 1 and 5 years of experience; 29% had between 6 and 10 years of experience; 14% had 11 to 15 years of experience; 29% had 16 to 20 years of experience, and 14% had 21+ years of experience. There were 11 vacancies in agent positions across district offices and 9 vacancies in the Central Office.

Presently, there are 81 ROW agents in district offices and the Central Office. The Central Office lacks an Acquisition Branch Manager and Relocation Branch Manager. Districts 6 and 10 do not have permanent Right of Way Supervisors. Of the 81 agents, 35% have 1 to 5 years of experience; 20% have between 6 and 10 years of experience; 14% have 11 to 15 years of experience; 20% have between 16 and 20 years of experience; and 11% have 21+ years of experience. Any future retirements could have significant consequences for the Division of Right of Way and Utilities. Figure 1 presents a graphic summary of the ROW employment trends at the Cabinet.

The ROW Process Review Team shared a number of ideas for improving the human resources situation within the Division of ROW and Utilities. Consultants, attorneys, and KYTC branch managers brought up many of the same issues as team members. ROW professionals commented that not enough staff are available to handle the current load of project work, especially in the areas of Appraisals, Title Abstracts, and Relocation. Many individuals observed that it is critical to rebuild depleted districts and replace ROW staff when they leave. Replacing departed staff is particularly important when the vacated positions play an essential role in completing the ROW process. One suggestion put forward to alleviate staff shortages is simplifying the processes of hiring new staff and promoting current staff. A short-term fix to the problem of personnel shortfalls is to let districts borrow staff from other nearby districts to assist with ROW delivery. This strategy could be used for virtually all aspects of the ROW process. However, supervisors would need to allow for overtime and reinforce the class spec requirement that ROW agents must travel.

A more permanent solution to staffing challenges may lie in bringing new staff into the ROW profession. Establishing a vibrant internship program within the Division of Right of Way and Utilities could help the Cabinet recruit college students or other trainees. It would also bring the promise of on-the-job learning in Acquisitions, Appraisals, and Relocation. ROW professionals also believe it is important for good work to be recognized. It is also critical to motivate employees by offering performance incentives and establishing a ROW career path that includes specialization (i.e., Appraisals, Title Work, Relocation) where the pay scale is commensurate with level of achievement. Providing a training allowance to ROW personnel can give them the opportunity to build their knowledge or develop new forms of expertise. Acquiring more training and knowledge also places staff in the position to serve as effective mentors to new hires.

To understand how the pay scale for its ROW personnel series compares with those adopted by other states, salary ranges for the Cabinet and transportation agencies in states bordering Kentucky were analyzed in a study conducted by KYTC staff. Table 12 and Figures 2 and 3 highlight key findings. Figure 2, which compares minimum salaries for each position in the ROW series, and Figure 3, which captures the salary

midpoints for each position, clearly illustrate the disparities in pay among states. Kentucky frequently ranks at the bottom of the seven states included in the comparison for ROW personnel pay, especially for more senior positions. For positions that qualify as entry level or mid-tier (e.g., ROW Agent I through ROW Unit Leader) discrepancies are slightly less pronounced, at least for Kentucky, Virginia, Tennessee, and Indiana. Across the board, the highest salaries are typically found in Ohio, Illinois, and Missouri.

KYTC Right-Of-Way Personnel

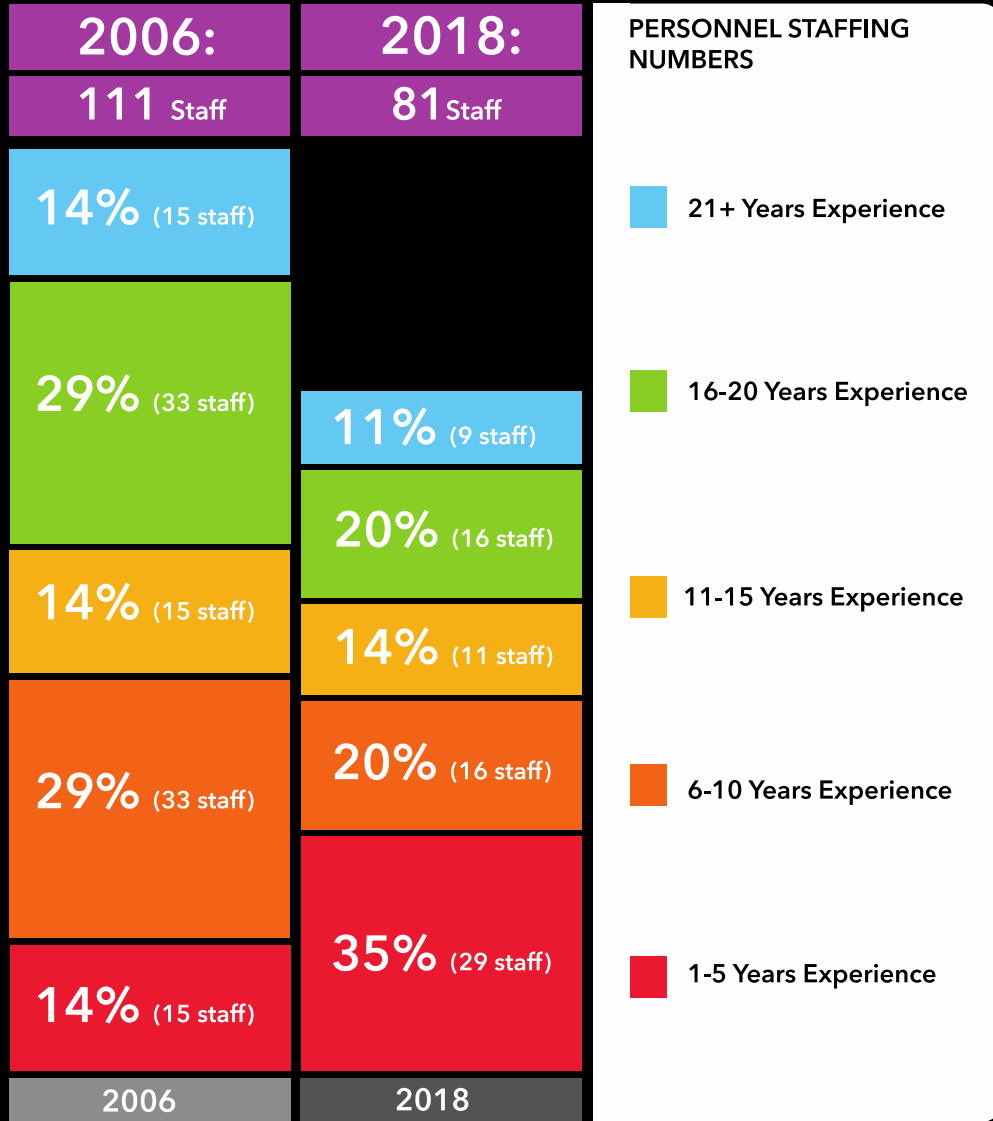


Figure 1 Comparison of ROW Personnel — 2006 versus 2018

Table 12 Comparison of ROW Salaries in Kentucky and Bordering States

Position	Kentucky	Ohio	Indiana	Illinois	Missouri	Tennessee	Virginia
Director	\$56,756.88 \$75,190.08	\$75,795.00 \$98,446.50	\$100,000.00 \$157,000.00	\$105,600.00 \$130,800.00	\$76,680.00 \$106,164.00	\$76,704.00 \$107,388.00	\$97,863.00 \$159,937.00
Assistant Director	\$51,600.96 \$68,359.20	\$68,744.00 \$82,970.50	\$75,000.00 \$100,000.00	DNA	\$69,732.00 \$96,396.00	\$79,956.00 \$103,944.00	\$74,913.00 \$123,753.00
RW Branch Manager	\$46,907.28 \$62,144.64	\$62,566.00 \$73,466.00	\$65,000.00 \$80,000.00	DNA	\$64,680.00 \$76,680.00	\$32,228.00 \$53,172.00	\$57,342.00 \$96,053.00
RW Agent Supervisor	\$42,646.56 \$56,495.52	\$62,566.00 \$73,466.00	\$65,000.00 \$80,000.00	\$67,200.00	\$64,680.00 \$76,680.00	\$40,392.00 \$52,500.00	\$57,342.00 \$96,053.00
RW Specialist II	\$42,646.56 \$56,495.52	\$56,909.00 \$68,931.50	\$65,000.00 \$80,000.00	DNA	\$64,680.00 \$76,680.00	\$30,132.00 \$48,228.00	\$43,892.00 \$74,851.00
RW Unit Leader	\$38,770.08 \$51,361.20	\$51,626.00 \$60,632.00	\$37,778.00 \$64,974.00	\$64,524.00 \$81,486.00	\$55,682.00 \$65,928.00	\$40,392.00 \$52,500.00	\$43,892.00 \$74,851.50
RW Specialist I	\$38,770.08 \$51,361.20	\$44,533.00 \$51,698.50	\$37,778.00 \$64,974.00	DNA	\$47,820.00 \$65,928.00	\$27,348.00 \$43,740.00	\$33,598.00 \$58,623.00
RW Agent III	\$35,246.40 \$46,690.80	\$44,533.00 \$50,877.00	\$33,748.00 \$57,486.00	\$54,852.00 \$68,694.00	\$47,820.00 \$56,736.00	\$36,636.00 \$47,616.00	\$43,892.00 \$74,851.50
RW Agent II	\$32,042.40 \$42,656.40	\$41,122.00 \$46,613.00	\$30,082.00 \$51,168.00	DNA	\$42,912.00 \$50,748.00	\$33,228.00 \$43,200.00	\$33,598.00 \$58,623.50
RW Agent I	\$29,129.28 \$38,588.64	\$36,629.00 \$39,686.00	\$30,082.00 \$51,168.00	\$47,484.00 \$58,866.00	\$38,556.00 \$45,288.00	\$30,132.00 \$39,180.00	\$25,718.00 \$46,200.50
AASHTO (2015 mid salaries)		\$49,213 Realty Specialist III	\$45,617 Program Director II	DNA	\$55,758 Senior Right of Way Specialist	\$47,148 TDOT Right of Way Agent	\$66,837 Land Acquisition & Property Management Agent III

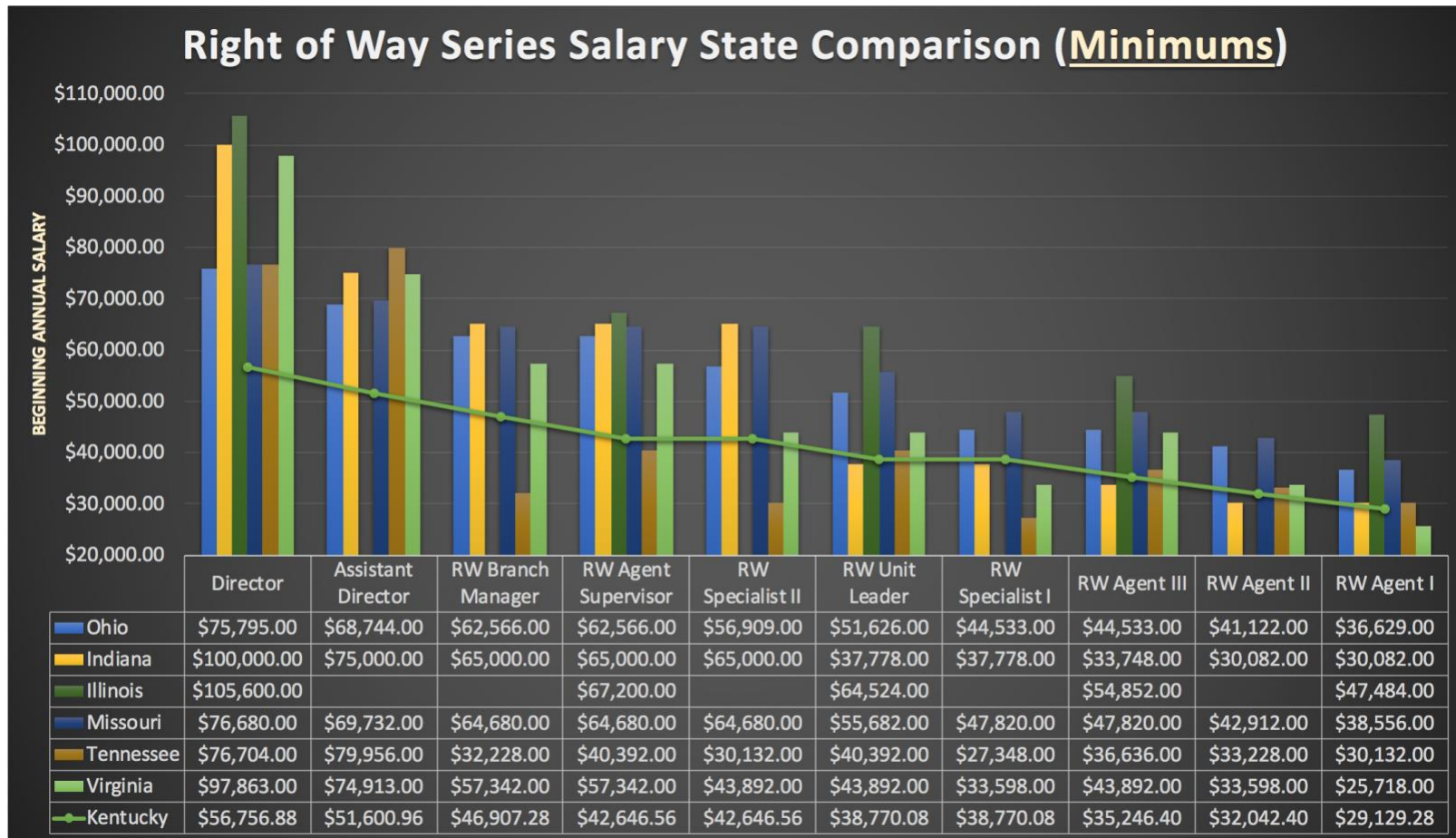


Figure 2 Comparison of ROW Salaries in Kentucky and Bordering States (Minimums)

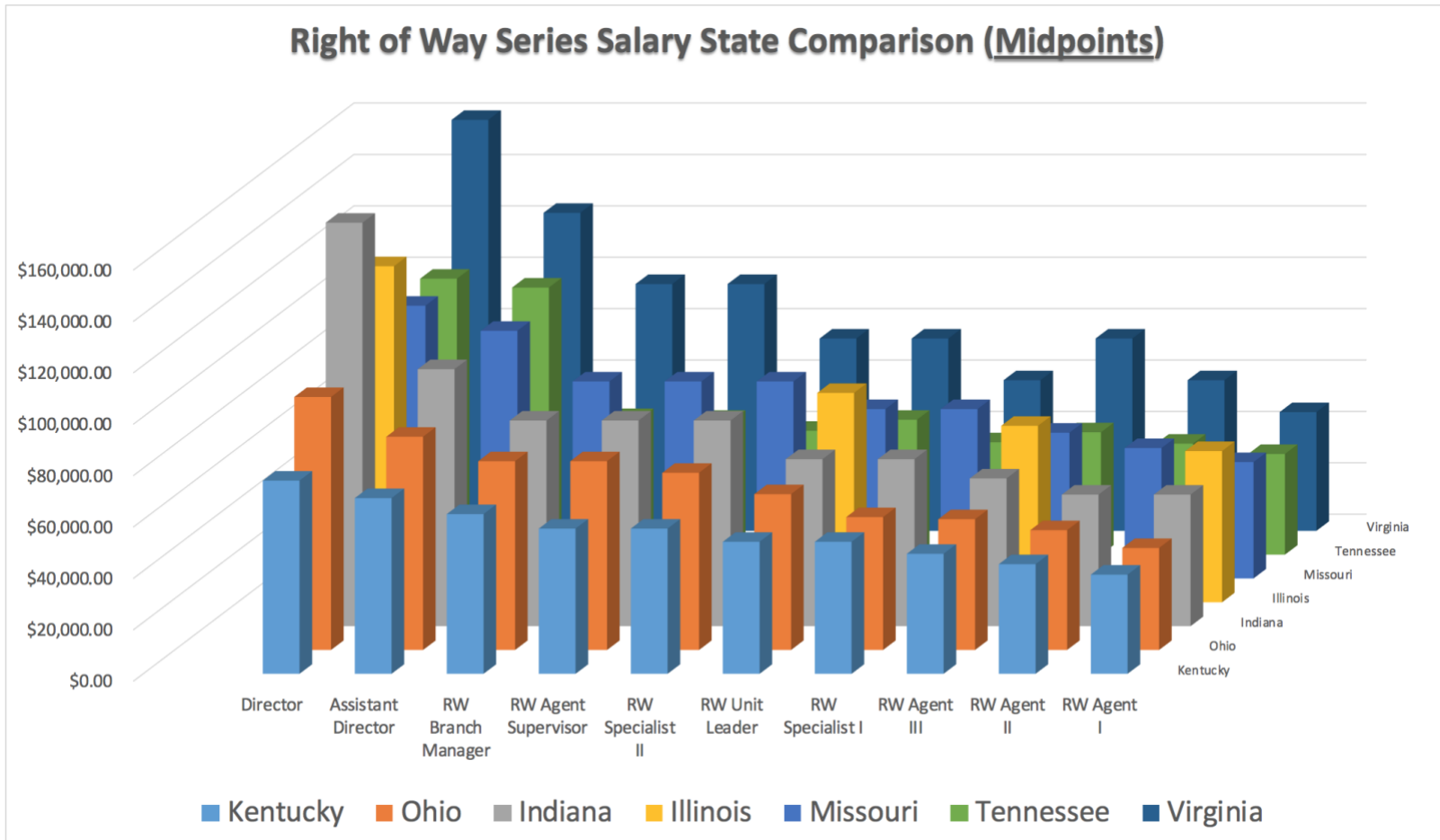


Figure 3 Comparison of ROW Salaries in Kentucky and Bordering States (Midpoints)

5. Conclusion

5.1 Presentation of Improvement Ideas to KYTC Leadership

After finalizing its work, the ROW Process Review Team met with several members of KYTC’s leadership team during a one-day conference to present its findings and recommendations. Prior to the event, ROW Process Review Team members broke into small groups to review all the ideas for which process improvement forms had been generated to determine which should be presented to Cabinet leadership. Each process improvement idea was originally assigned to one (or more) of nine ROW categories, however, the team decided in some cases to group together multiple categories that aligned with one another. For the purpose of presentation, the Condemnation and Titles categories were combined into a single category, as were Authorizations, Property Management, Relocation, and Technology. Groups selected between three and seven ideas to present during the conference. Limiting the number of ideas presented reserved time for discussion of other ideas within a category that did not receive formal treatment. KYTC leadership, after the conclusion of structured presentations within each category, chose additional topics to discuss from a menu of options. The menus listed all of the ideas that had not been presented. Table 13 summarizes the top-tier ideas team members presented during the conference.

Table 13 Ideas Presented by ROW Process Review Team to KYTC Leadership

ROW Categories	Ideas Presented
Acquisitions	<ul style="list-style-type: none"> • Share District Staff to Deliver ROW Program • Enforce 45-Day Sign-or-Sue Policy • Authorize District Offices to Pay Small Filing/Recording Fees
Appraisals	<ul style="list-style-type: none"> • Delegate Approval Authority to Review Appraiser • Early ROW Staff Participation in Design • Improve Guidelines to Select MAR or Appraisal • Establish Appraiser Apprenticeship Program • Investigate Segmentation of Comp Book • Share Sales Book Datum • Master Agreement for Appraiser Contracts • Monitor Appraiser Performance
Condemnation and Titles	<ul style="list-style-type: none"> • Use Design Funds for Titles, Appraisals, Relocation Research • Reinstate the Use of Right of Entry Agreements and Encourage Agreed IOJs • Establish Director of Condemnation within OLS
Authorizations, Property Management, Relocation, and Technology	<ul style="list-style-type: none"> • Implement FAST Act Early Acquisition • Expedite Funding Authorization • Provide Online Access to Property & Owner Information
Personnel and Human Resources	<ul style="list-style-type: none"> • Develop ROW Training Portfolio for Agents • Incentivize Training for Staff • Adopt Federal Government Pay Scale • Centralize ROW

KYTC leadership and ROW Process Review Team members extensively discussed process improvement ideas during the conference. These conversations revolved around identifying the benefits and drawbacks of each idea and the potential consequences of instituting best practices or adopting new policies to operationalize them. No final decisions have been made with respect to implementation. Cabinet leadership plan to review this deliverable and make a formal decision on implementation in the coming months. Phase II of this project, if authorized, will focus on the implementation of ideas prioritized by KYTC leadership.

5.2 Prioritization Matrix for ROW Process Improvement Ideas

After reviewing each idea a process improvement form was generated for, a four-quadrant prioritization decision matrix was developed that captures the relationship between each idea's estimated impact (time savings) and level of effort (resources, financial costs) needed for adoption (Figure 4). An important note for readers to bear in mind is that classifications were developed based purely on what is required to do the planning and development work required to bring an idea to the point where it can be implemented. It does not account for any operating costs needed to sustain implementation efforts. The upper-left-hand quadrant — *Quick Wins* — contains ideas that have low resource requirements but will translate into significant time savings. These ideas can be put into practice quickly without significant expense. The upper-right-hand quadrant — *Sustained Initiatives* — encompasses ideas whose resource costs are high, but the potential impacts of which are high as well. Ideas in this category are either costly or will require a long period of planning and development in the run up to implementation. In the lower-left-hand quadrant are low-cost, low-impact ideas — *Accelerated Reforms*. While their implementation is not resource intensive, they will not generate massive returns on investment, but could nonetheless contribute to reducing the duration of the ROW process. The final quadrant, in the lower-right-hand corner is reserved for high-cost, low-impact ideas. This quadrant lacks content because all ideas fitting this description were discarded by the ROW Process Review Team during brainstorming. Table 3 defines *low* and *high* implementation costs and effort and time savings. Table 4 also sorts ideas into the categories of *Quick Wins*, *Sustained Initiatives*, and *Best Practices*.



Figure 4 ROW Prioritization Matrix

Appendix A Results of Consultant Surveys

Q1 — How many years have you been involved in Right of Way Work?

Answer	Percentage	Number
<5 years	0.00%	0
5-10 years	0.00%	0
10-20 years	0.00%	0
>20 years	100.00%	7
Total	100%	7

Q2 — In which of the following Right of Way subject-matter areas are you proficient? (Select all that apply).

Answer	%	Count
Project Reports	13.04%	6
Title Abstractions	8.70%	4
Sales Book Process	6.52%	3
MAR Range of Values	15.22%	7
Appraisal Process	6.52%	3
Acquisition	15.22%	7
Business Relocation	13.04%	6
Residential Relocation	13.04%	6
Property Management	8.70%	4
Total	100%	46

Q3 — What is/are the most difficult (time consuming) part(s) of the Right of Way process? Why?

- Appraisals, often the appraisals are late and narrow the window for negotiations and relocation. Relocations, some projects that have a lot of tenants or low income delay the projects by the scarcity of comparable rentals and CO approval for last resort housing. Negotiations, from a consultants standpoint, the decision to sue or sign a parcel often becomes a problem when trying to make a letting date. This decision is made by the R/W Supervisors. Titles, the closing of projects and expert advice lies in the hands of the attorney for the project assign by KYTC. When trying to complete projects the delivery of checks and the advice of ownership often can delay a project.
- Response times from District offices when issues arise. Turnaround times on plan changes and contract modifications.
- Contact information for property owners. Cell phones have made that very difficult. Also, mortgage releases. That is a very long process
- Initial project data setup because the projects are started before final ROW plans are complete. Changes and updates during the ROW phase, impact the appraisals and/or the offers made prior to the change notification.
- Relocations are the most intensively time-consuming part of the process.
- Plans not complete at time delivered for R/W acquisitions. Must have changes made to complete acquisition process
- Relocations, very time consuming and comparables sale and sometimes are hard to find.

Q4 — How could KYTC's Right of Way process be improved?

- Appraisals, the most efficient way to complete projects with tight schedules is to have the appraisals done in a timely manner before the project is let to the consultants. The problem with that is that often the plans are not complete, and the appraisers are brought on board late or have numerous revisions to make due to plan changes.
- No scoping meetings until all aspects of the plans are finalized and approved.
- First of all, the ROW plans should be correct. Plans should be thoroughly researched and deeds plotted. Then dealing with plan changes.
- KYTC have the titles in hand and appraisals in process prior to contracting with r/w firm for acquisition and relocation work.
- Being provided with final Right of Way Plans from which to work, and not preliminary.
- Provide ample time to complete work, as is done for design.
- Wording by one person that is not the same as you does not mean it's not correct.
- Relocation — on some projects there needs to be a realistic expectation that some parcels are going to be difficult to find comparables.
- More uniformity between ALL of the District Offices regarding submittals and processes.
- Complete time limit.
- Consistency of the ROW processes across the districts and CO.
- Clearer communication from the District when plan changes occur that affect right of way.
- Have reliable computer programs.
- Younger PM knowledge does not correspond with PM working on project.
- Negotiations, the decision to sue or sign a parcel is imperative to clear the project.
- Redundant paperwork. Continual changes of the ROW process/paperwork.
- Consistency with the appraisal process. Site improvements and PE lumped in damages on sht 10, while others itemize them on sht 16.
- Timely scoping and contract negotiations with consultants.
- Decisions made in a timely manner concerning ROW.
- Titles, title attorneys assigned by the consultants are more manageable to complete projects. Staff attorneys are often too busy to assist.
- Districts doing things differently. The process should be the same in all districts.
- I believe that it would be of more benefit to KYTC to hire the appraisers and legal prior to contracting ROW firm.
- Setting realistic clearance dates that take into account the complexity of the project as well as the design plan changes that occur.
- Allow title attorneys to update titles and close parcels.
- Reluctance to communicate. Sometimes you may not hear back from a needed phone call when an answer is needed.
- Consistency from District to District in right of way processes, paperwork, etc.
- Complete appraisal reviews in timelier fashion.
- Lack of communication. Meetings are needed when changes arise to explain what is expected.
- Clearer communication and faster response time from District and CO.
- Allow electronic signature to be accepted for payments.
- To have a list of qualified relocation agents to choose from like we used to as we now do with title attorneys and appraisers.
- Better consistency in administrative settlements.
- Increase KYTC email receiving size.
- Training opportunities for new KYTC agents, either formal or having a qualified consultant provide training.
- Have more uniform requirements between districts and CO.
- Better database (RWUMS) that includes relocation data for status reports.
- Have review of deeds to be signed completed in a timelier manner.

- Better cooperation with CO on administrative settlements to decrease the number of condemnations.
- Allow consultants to hire own title/closing attorney.

Appendix B Results of Attorney Survey

How to Improve ROW and Legal Services

1. Suggestions for Improvement of the Right of Way Process:

Authorization

- Money should be in the project at the time it starts
- Have right of entry on all parcels in a project before the project is let to contract.

Engineering

- Don't use design/build because appraisals and condemnation require firm plans.
- Better review of plans on a parcel by parcel basis.
- Engineering witnesses are also in short supply. Project development engineers have other responsibilities. As a result, many attorneys use a consultant engineer as an expert witness. There needs to be a proactive effort to recruit engineer expert witnesses.
- Not a whole lot of people focus on legal issues, so sometimes it is hard to get engineers to understand or prioritize legal issues. It would be good to have an engineer available and or assigned to specialize in legal issues, plan sheets, trial exhibits. A "go-to" engineer. Ideally, an engineer would be assigned to legal. It could be a part time position. There is precedent for this in two districts, 8 & 9.

Title Abstraction

- Access language is not used by consultants in the deeds they prepare. This needs to be corrected.

Appraisals

- Improve the process for getting fee appraisers approved for legal work. It is taking too long.
- Shorten appraisal form for legal work so other side doesn't have so much information to use during cross examination.
- The enormous lack of trial appraisers is becoming a crisis—and there is no sign of recruitment happening. We need to be proactive in recruitment effort to get licensed people for trial witnesses.
- It takes a long time to get appraisals completed. Appraisers sometimes wait until the trials are coming up. There needs to be a deadline, and it needs to be enforced.
- It takes too long to get appraisals approved – don't know if the problem is with 1st or 2nd level approval. Even then, attorneys are sometimes not told they have been approved.
- Stop the practice of waiting for the second trial witness to turn an appraisal in before the first one is reviewed and approved.

Accounts

- There are delays in the check requesting process—it needs streamlined. Checks for filing fees, commissioners' awards, payment of commissioner's fees, warning order attorney fees, and recording fees are slow.

Acquisition

- Have a firm time frame for acquisition and communicate that to the attorney.
- When acquiring the entire parcel, deal with the property tax at the time a deed is taken.

Acquisition - Negotiation

- ROW needs to refer the case for condemnation sooner so legal can start sooner. Don't spend 9 months negotiating and wait to send to legal at last minute.
- Allow more authority during ROW negotiations for both money and plan changes.
- Give more people settlement authority for mediations.
- Don't publish settlement authority in ROW manual.

- In dealing with poor people, be more understanding, especially when acquiring their home. They get scared easier. It is easier for people with money to move.
- The negotiator needs to review title report with the property owner to ensure each and every encumbrance is addressed. If the property owner doesn't know if an encumbrance has been addressed, then the agent or title person should research it.
- Consultants seem to be in a hurry, passing parcels off to legal quickly. Process needs to reward settlement, so consultants will try harder to settle.

Condemnation

- Refer all condemnation parcels on a single project to legal in close succession –not 1 to 2 years apart.

Condemnation – Packet

- Be more diligent in checking packet before giving it to legal.
- When putting the condemnation packet together, do not copy or print front and back. Copy or print front only. The information is too hard to read when printed on front and back. This includes the title report and supporting documents. Review the packet to ensure all copies are legible.
- Make sure title and contact information is accurate and complete prior to sending a parcel packet to legal. ROW must identify all parties they believe have a legal interest in property (there used to be a form for this).
- Add new information to packet: Summary sheet explaining what the issues on the property owner that made settlement fail, rather than bury that information deep in packet.
- Make sure names and addresses are correct –DO NOT supply Post Office Box numbers. ROW must get physical address for each person having an interest in the property.

Communication

- Attorneys need to have more contact with project manager. They need to know priorities, real deadlines, and the critical path. This is especially important when priorities shift. The letting date is never included in the packet.
- Acquisition needs closer coordination between ROW and Legal. Have the Branch Manager identify which cases to do and in what order.
- Have attorney go to project review in CO if they can, if not, then have a CO attorney go. Attorneys can learn problems and priorities that way.
- If there are issues with the quality of title work, let OLS know. Feedback is needed.
- There needs to be a better understanding and communication on handling old cases that need attention. ROW is hesitant to spend money on old cases, or perhaps ROW does not understand issues and is therefore hesitant to spend money. Old cases need to be closed out so the larger older project can be closed out.

Training

- Improve skills at de-escalating confrontational behavior. Consultants are not as good at this as KYTC staff.

Human Resources

- Hire more ROW agents in the district offices and use consultants less, if at all.
- Think of legal as part of the team.

2. Ways in which legal services provided to ROW can be improved:

Appraisals

- Have attorneys request fee appraisers for trial work for all parcels on an entire project, but then only assign appraiser to do appraisals on only those parcel that are sent to condemnation.

Acquisition – Negotiation

- Get the attorney involved earlier; it seems like cases could settle but instead they go to condemnation.
 - Are there problems hearing back from the property owner?
 - Are there problems getting info from the property owner?

Condemnation – Packet

- If we have complete and accurate information, we can provide better services.
- Having a more user friendly PROLAW – type system.
- Continue to work with the attorney after case is turned in for suit: don't think it's over because a parcel is turned into legal—consultants are bad for this.

Communication

- Better communication and coordination between ROW supervisors and attorneys (staff and contract) to build relationships and improve communication. For example, have a meeting t the start of a project to review overall project, why the project is important, and what the potential problem parcels are. Engineers should be included in this meeting. Also communication between legal and ROW needs to be improved when negotiations ensue and the case is in legal.
- Give attorney constructive criticism so any issues can be improved.
- There needs to be someone coordinating contract attorneys in CO or district.
- Let ROW supervisor in the district know chain of command, so if there is a district problem that can't get resolved, there is a known contact.
- Attorneys should provide the Branch Manager with a list of all legal cases.
- Have discussion among attorneys to come up with best practices.

Training

- Have attorney and ROW mentors for new attorneys.
- Attorneys need more information about the ROW process when hired.

Technology

- Access to better technology like an I-phone and/or an I-Pad.

Human Resources

- Staff up legal—fill empty positions. Districts that are really busy or have complicated cases need at least 2 attorneys.
- Don't spread district attorneys too thin— they are doing things other than condemnation.
- Having district attorneys handle Claims Commission cases is a problem if case raises a factual issue critical of actions of a co-worker. It creates a conflict where there should not be one.

3. What would help the district attorney provide better service to the district?

Communication

- Coordinate priorities with CO -OLS and District. The district may have priorities that are different than CO-OLS.
- Meet with each section and discuss issues affecting that section in order to build relationships. Visit all the barns.
- Have more communication and opportunities to discuss issues and ways to improve.
- We need to collect feedback on how attorneys are doing, including feedback on how contract attorneys are doing.
- Attend some of each other's meetings to keep abreast of issues and be responsive to those priorities.
- Sharing ideas with other staff.

Training

- Have a manual or guidebook on OLS legal issues and how to practice a condemnation case.
- Develop a better understanding between legal and ROW of each other's processes and priorities.
- Have an orientation to learn more about what district does and what is expected from the district attorney when the attorney is first hired.
- Training on what is needed in a settlement recommendation.

Human Resources

- More Staff
- Attorney salaries need to be reviewed like engineer salaries were reviewed. There are no promotional opportunities right now for attorneys in the district. Attorney I and II are the same grade, so there is only one opportunity for promotion: from Attorney II to Attorney III.
- More access to state vehicles or reimbursement at the federal rate.

Issues with the Legal Process

4. When and how do you receive the case packet from Right of Way?
 - Once an e-mail is assigned from CO-OLS, the district hand delivers the packet. The packet is delivered early if a problem with information (title).
 - Once a case is assigned, the file is obtained from CO (usually assigned older cases).
 - A hardcopy of the packet is delivered by district ROW at the time the parcel is sent to CO ROW for condemnation.
 - The legal assignment memo is delivered with the packet. The packet is never delivered before the assignment.
 - Previously a hard copy was delivered at the time ROW sent to CO – ROW for suit. Now we must go into PROLAW after assignment memo is received. The old way was better.
5. Do your condemnation packets contain all the information you need to prepare the pleadings? If the packet is incomplete, what information is missing?

- Most of the time, yes they contain all the needed information, but sometimes they do not.

Condemnation - Packet

- The Official Order # is sometimes missing. The official order itself should be included in the packet.
- An electronic word version of the deed is preferred.
- Addresses or contact information for parties having an interest in the property is sometimes missing. ROW is responsive when asked to provide this information.

Training

- It would be good for ROW to understand what information is important to the attorney and make sure that information is in the packet.

Title Abstraction

- Support information to title report is sometimes missing. In those cases, ROW and legal work closely before and after the case is assigned to legal. ROW is good about giving heads ups on title issues. Estate information is missing.
- A failure to update the title immediately before turning it in for suit.
- Agents are unaware of divorces and documentation for that.
- Proposed deed for KYTC is sometimes missing

6. How long does it take to get condemnation case filed after it is assigned? What are the types of things that slow down the time of filing?

- On average, a normal case is filed when the filing fee check comes in (2-4 weeks).
- Typically, cases are filed within 35 days if nothing is missing from the packet.

Engineering

- Incorrect plans have been a problem.

Title Abstraction

- Mainly title problems slow things down. It is not unusual for there to be issues with title (not blaming ROW). Previously, a standard case took about 35 days to file. Now it's out the window. Title problems are the cause.
- Depends on nature of case. If there are a lot of title issues, it can take many weeks or even months to get the correct information in order to file suit.
- Trying to identify heirs can take a long time.

Acquisition – Negotiation

- Questions from Property Owner that go unanswered during negotiation can slow down the filing of a case. This mainly occurs with parcels handled by consultants.

Communication

- The time of filing depends on the priority given to the parcel by ROW project manager (priorities set by ROW), otherwise there is not a lot of slowdown.

Accounts

- Waiting on checks for filing takes as long as 50 or 60 days.

7. When you have an out of state defendant, how do you serve them?

- Secretary of State office—there is a delay because we need to request check to pay Sec. of State. Obtaining certified copies of petition and other documents can also slow down service.
- Rarely use warning order attorney— Secretary of State usually quicker.
- Warning Order Attorney
- Mainly use Certified mail for service.
- Have Warning Order cases identified by ROW early and get those filed first.
- Always use a Warning Order Attorney. Defendants won't sign for certified mail many times, or the wrong person signs the certification.

8. How long does it usually take to get the parties served?

a.) Do you have problems with obtaining service in a timely manner? If so, what problems do you run into?

- Sometimes a few weeks and sometimes multiple months. Certified mail is usually used. Getting certification signed is a problem. If this fails, Summons are served by the Sheriff. This can be done quickly, or it can take months. Generally, the delay is with law enforcement.
- It does take a while, sometimes weeks. The reason for the delay is unknown.
- Occasionally there is a delay with service. It varies from county to county. Some sheriffs require upfront payment, so it takes time to get the check. Some sheriff offices are just slow.
- There is typically a delay when there are a lot of parties to serve. Some judges don't understand the Warning Order Attorney process and let it go beyond timelines.
- Usually service is obtained within 2 weeks of the summons being issued.
- Commissioners not being timely appointed delays service. Sometimes the Sheriff just won't serve— it depends on location.

- One attorney sends the Summons and Petition to the Defendants in regular mail. While this is not good service, oftentimes after receiving it in the mail, the owner gets an attorney and enters an appearance thus submitting to the jurisdiction of the court. If the party calls, they are told they have not actually been served.

9. Do you ever have problems getting the Commissioners appointed?

a.) How often?

- Yes, in every case in certain counties.
- Yes, and recently commissioners refuse to serve (those who have done it for years), and the new Commissioners are unfamiliar with process.
- Yes, one county that hasn't done condemnation in a while so there is a lack of knowledge about the process. One time the Judge called and asked about the requirements (Allen County).
- No, not right now.
- Sometimes it can take a month or two because the judge serves multiple counties.
- Sometimes 4-8 weeks, but those instances are rare.

10. Do you ever have problems with the commissioner not filing their report within the statutory time period?

a.) How often?

- Yes, less frequent but in 2 counties happens 50% of the time. Other counties there is a delay only 20% of the time. If the report is late it is usually late by 2-3 weeks.
- Yes, and there is no accountability if not timely filed.
- Yes, and the delay is due to lack of knowledge for new commissioner of what to do
- Perhaps there should be training for clerks?
- No
- Yes – Allen

11. Do you ever have problems with the commissioners not filling out the report properly?

a.) How often?

- Many, many times
- Fairly rare. 10% of the time
- Yes, on occasion

b.) What are the errors?

- Usually computation errors – people just can't do math
- Sometimes there is a misunderstanding of what is being acquired.
- Sometimes they refuse to use the Commissioners' Report form because they want to do it their own way
- One time when there was a complicated strip mall taking with a gas station. It took months.
- Sometimes the total is not filled in and sometimes the before and after values are ignored. Experience over time helps overcome these errors. Might want to add 4th line:
 - Before
 - After
 - Temp Easement
 - Total Award

12. How often is a right to take challenge made?

- Not common in most cases, but in 3 counties a right to take challenge is made as a matter of course. This is a new practice.
- A handful of attorneys will make a challenge but not actually pursue it.
- Seldom, rare

a.) What is used as basis for a right to take challenge?

Engineering

- Usually the basis is frivolous, and the challenge is made in order to get a change in the design of road or in access.
- Discrepancy between original survey and our plan sheets.

Acquisitions - Negotiations

- Sometimes a challenge is used to force the case to mediation early.
- Bad faith negotiations, not a fair market offer (inadequate). The attorney attempts to make an objection to the offer into a right to take challenge.
- Didn't follow FHWA regulations
 - No planning
 - No chance to accompany appraiser
 - No appraisal (MAR)

b.) How long does a right to take challenge postpone right of entry?

- 3-4 years: If the case goes to the Court of Appeals, it can postpone the proceedings for 8 years.
- It can take months to get it resolved short of a hearing.

c.) Has a right to take challenge ever been successful?

- No.

d.) What are the facts on successful challenges?

- One case handled by another attorney had successful right to take challenge based on no appraisal and no offer.

13. Are there ever delays in getting an IOJ?

- Not really.
- Yes.

a.) What are the reasons for those delays?

- The Judge won't rule.
- Scheduling hearing dates when the court only meets 1 or 2 times per month.
- Hearings on right to take challenge take time to prepare and schedule.
- Sometimes the court will delay an IOJ at the request of a property owner.
- Complicated case w/ commissioners.
- Bankruptcy can delay a case.
- There can be a Notice issue. For example, in a case one of the parties died and the case went through several attorneys.
- Obtaining service on all defendants is a major reason for delays.

b.) Are the delays frequent or infrequent?

- Yes, 2 counties there is an issue every time.
- Very seldom.

- Frequent.

14. What amount of time is required from the time a case is assigned to the time an IOJ is obtained, assuming a right to take challenge is not made?

- 6 months – because of commissioner’s appointment, warning order attorney report, and other service.
- If there are no issues with service of process, then 2 months.
- 45 to 70 days, if you don’t get an agreed IOJ.
- Encourage the use of agreed IOJs
- Don’t really know
- Ordinary case 3 months, 90 days

a.) Do you have suggestions on how to shorten that time?

- Better service from Sheriff’s offices.
- No, much is out of control of attorney an set by statute and civil rules of procedure.

Title Abstraction

- Have ROW agent identify heirs and get their addresses.

Acquisition - Negotiations

- Get cases to legal earlier so letting date is not a pressing issue.

Communication

- If access to a parcel is needed fast, identify it as a priority so the case begins early.

Condemnation - Packet

- Good addresses for defendants need to be in the condemnation packet.

Human Resources

- Improve staff morale.

15. Once contact is made with a property owner, are there ever non-solicited complaints about the right of way process? (aside from not enough money or about the project in general)?

a.) What are they?

- Yes, no, and very rarely.

Negotiations

- Owners claim ROW didn’t give the owner enough time to respond.
- Sometimes, if more than 1 owner, some owners didn’t hear from ROW prior to being served.
- Sometimes owners didn’t care for attitude of agent. (These complaints are few and far between).
- Rudeness.
- Confusion about relocation.
- Agent is not familiar enough with the project to answer questions.
- Agent did not tell owner everything
- Agent didn’t explain information correctly.
- Not getting questions answered regarding plan changes.
- There was a refusal to change plans if the owner wouldn’t settle on the money.
- Sometimes plans aren’t shown or the owner didn’t understand the plans.

16. How would you describe your working relationship with the district Right of Way staff?

- Good, excellent
- A majority are helpful and respectful
- Helpful, positive

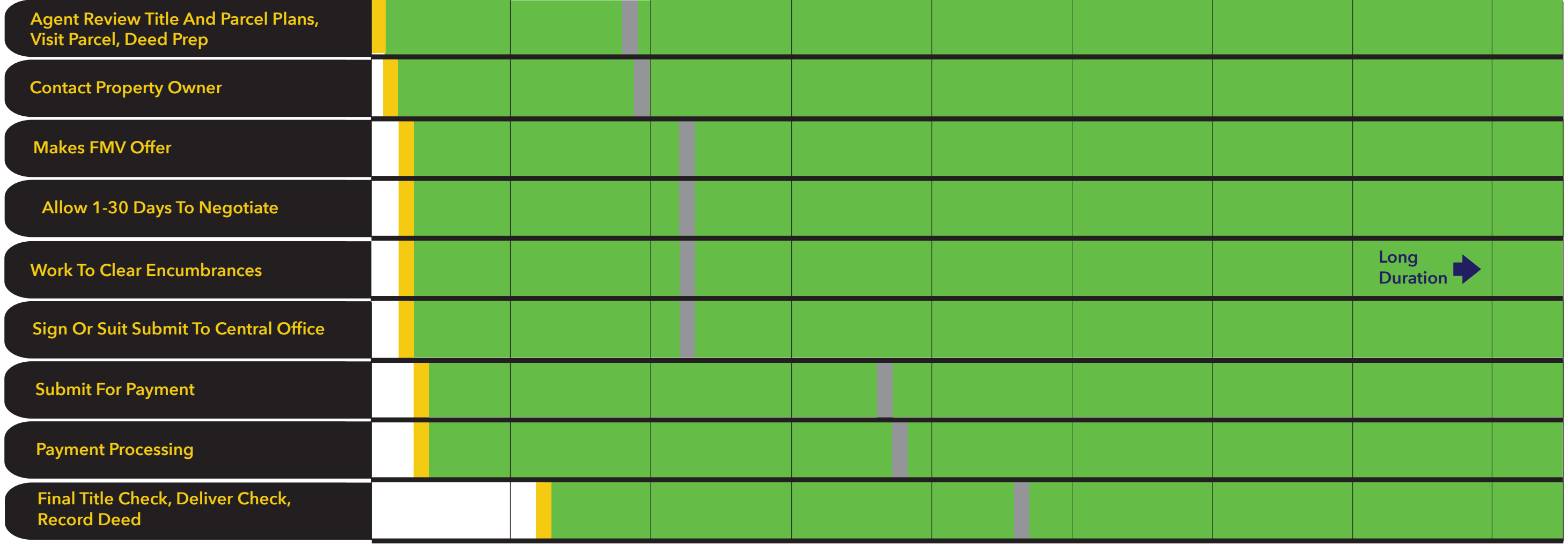
- Extremely good, a lot of communication and support both ways
- a.) With the district project development engineering staff?
- Great, but there is frustration due to lack of understanding.
 - Helpful and respectful
 - Good
 - A lot of communication and support both ways
17. Anything I didn't ask that you would like to comment on?
- There is confusion with the Clerks on issuing summons after commissioners' report is filed.
- Appraisals
- Biggest issue is lack of appraisers for trial. There are far less people willing to testify than do project appraisal
- Human Resources
- Good engineering witnesses need to be cultivated for every district
 - Would like to see raises like engineers received.
 - Send Help!

Appendix C Right of Way Process Gantt Charts

Appraisal Process

ACQUISITION

130 - 170 Day Timeframe (MaximumDuration) Up to 85 days

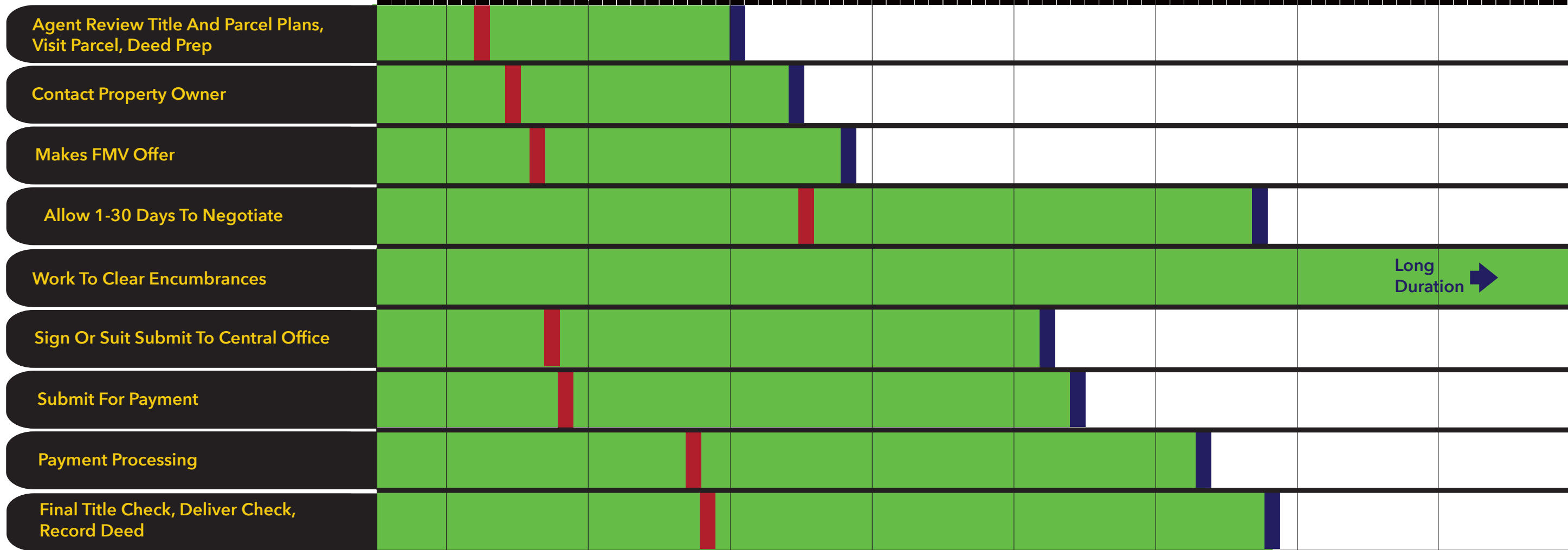


Long Duration →



ACQUISITION

115 - 170 Day Timeframe (MaximumDuration) 86 - 170 days



Long Duration →

Property Management*

ROW Certification



Sales Book Process

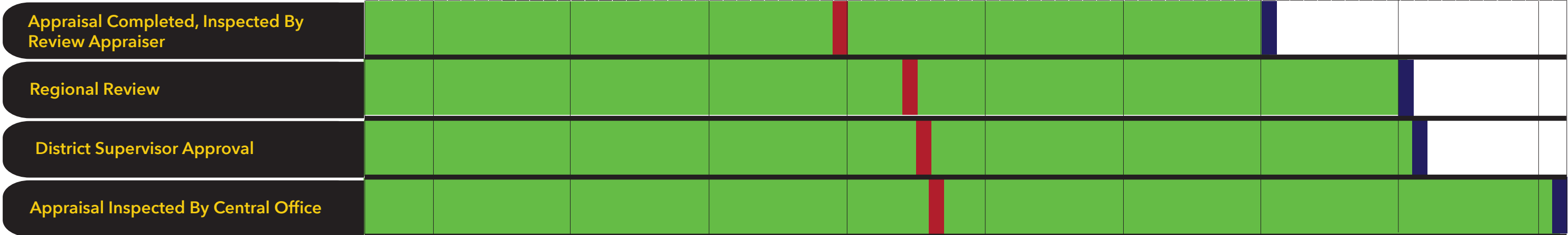
APPRAISAL PROCESS

127 - 172 Day Timeframe (MaximumDuration) Up to 85 days



APPRAISAL PROCESS (CONT.)

127 - 172 Day Timeframe (MaximumDuration) 85 to 172 days



Relocation

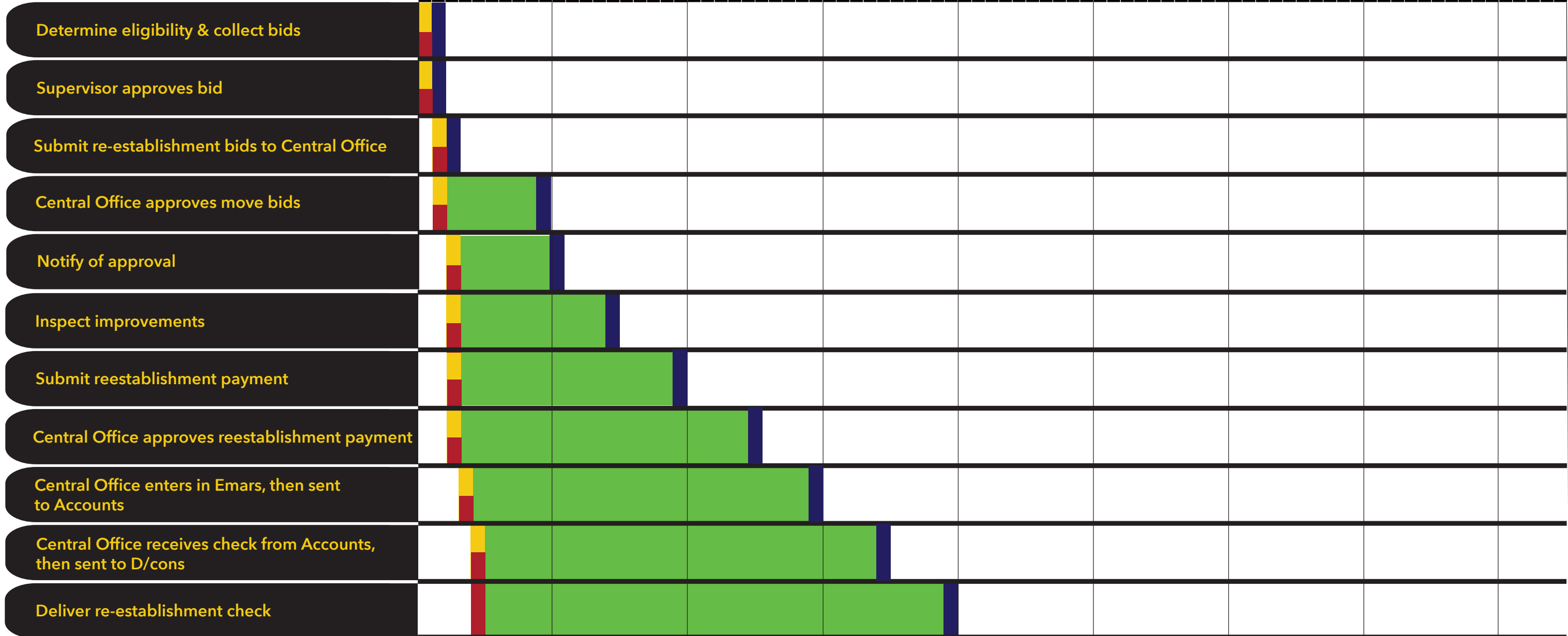
Acquisition



Complete Certified Inventory

RE-ESTABLISHMENT

5- 20 Day Timeframe (Maximum Duration)

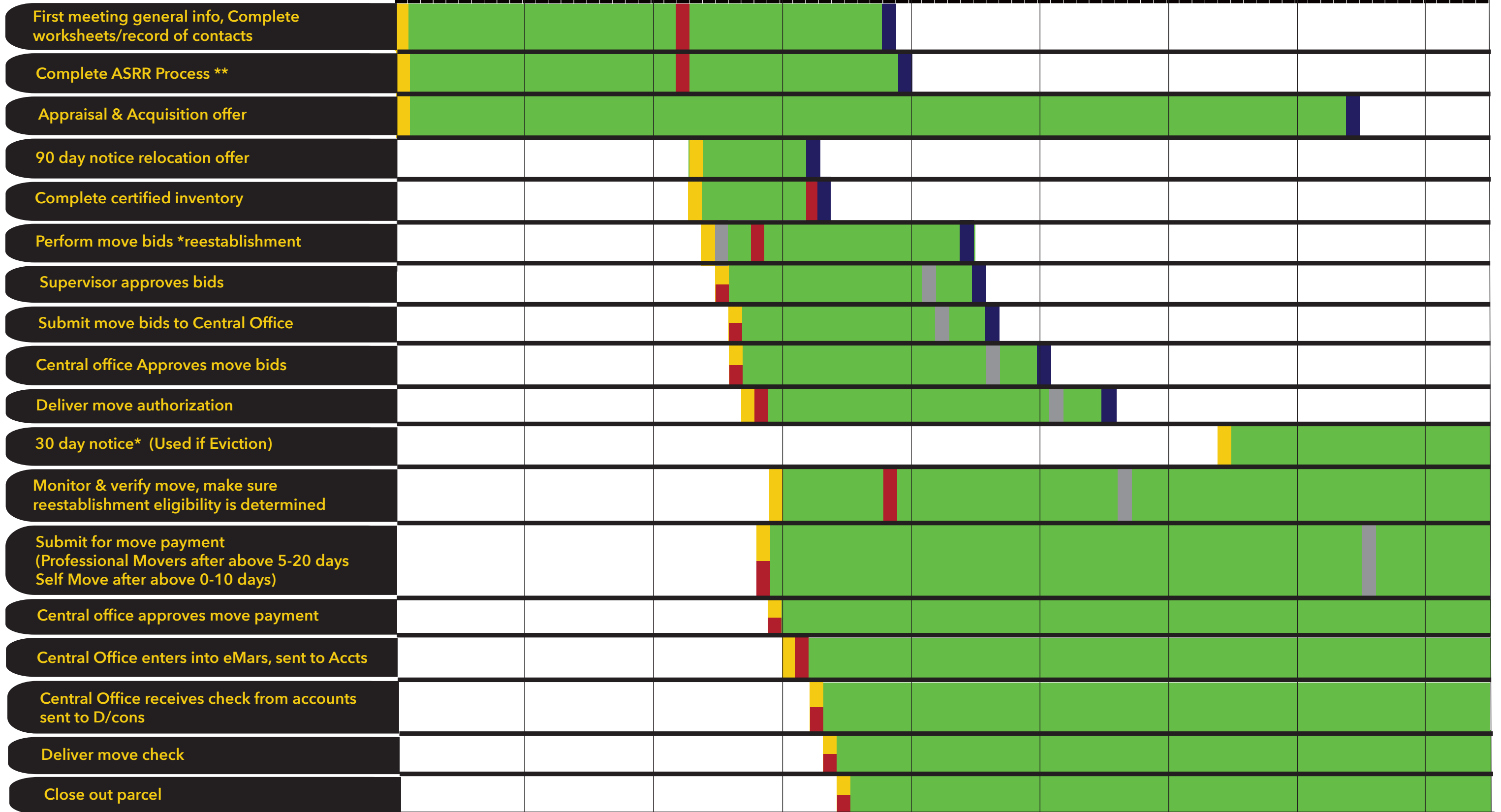


Supervisor Approves Bids and Submits Move Bids to Central Office



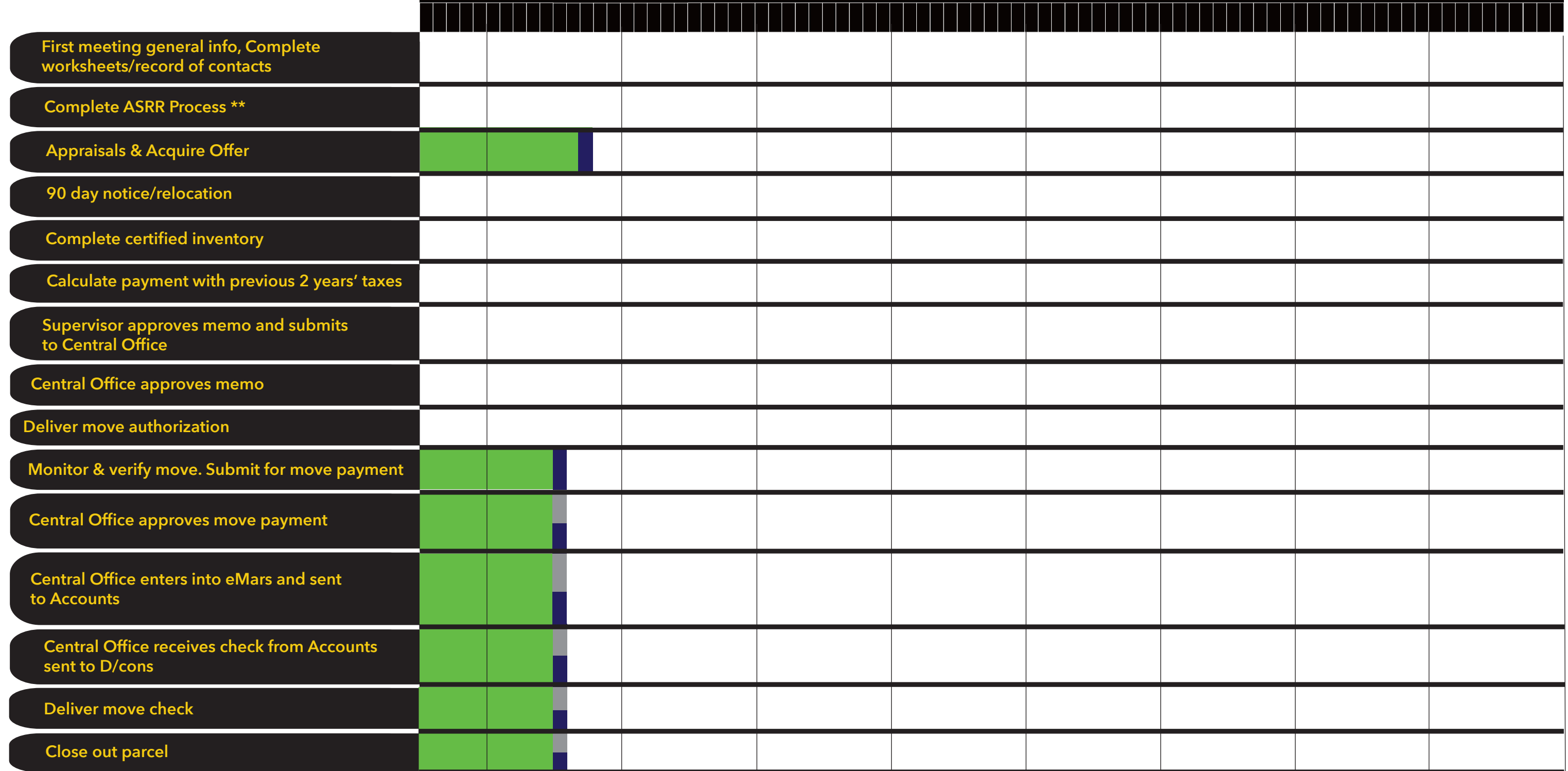
BUSINESS RELOCATION: Option 1 Self or Commercial Move

129 Day Timeframe (MaximumDuration) Up to 85 Days



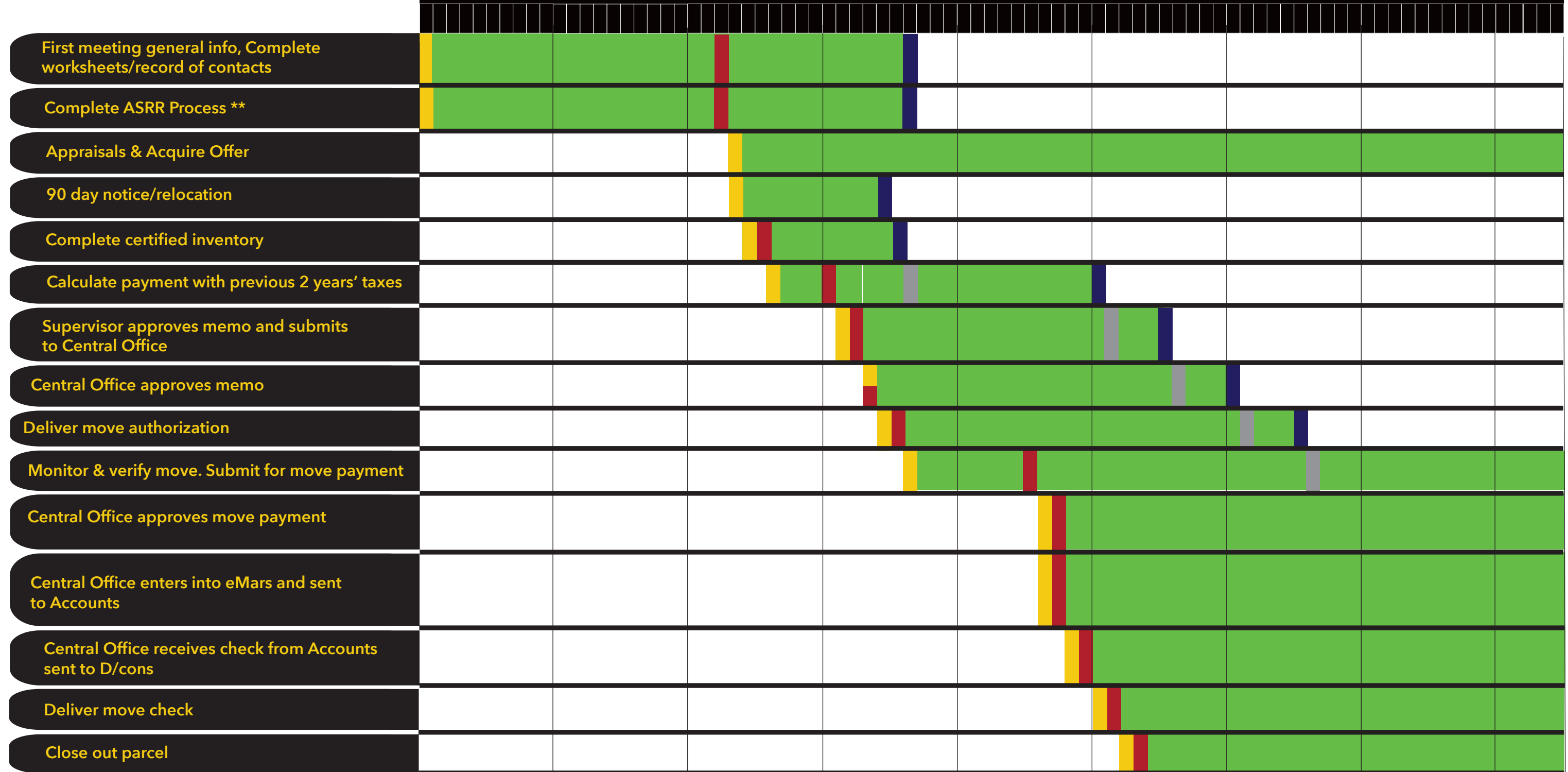
BUSINESS RELOCATION: Fixed Rate

97 Day Timeframe (MaximumDuration) 86 - 170 days



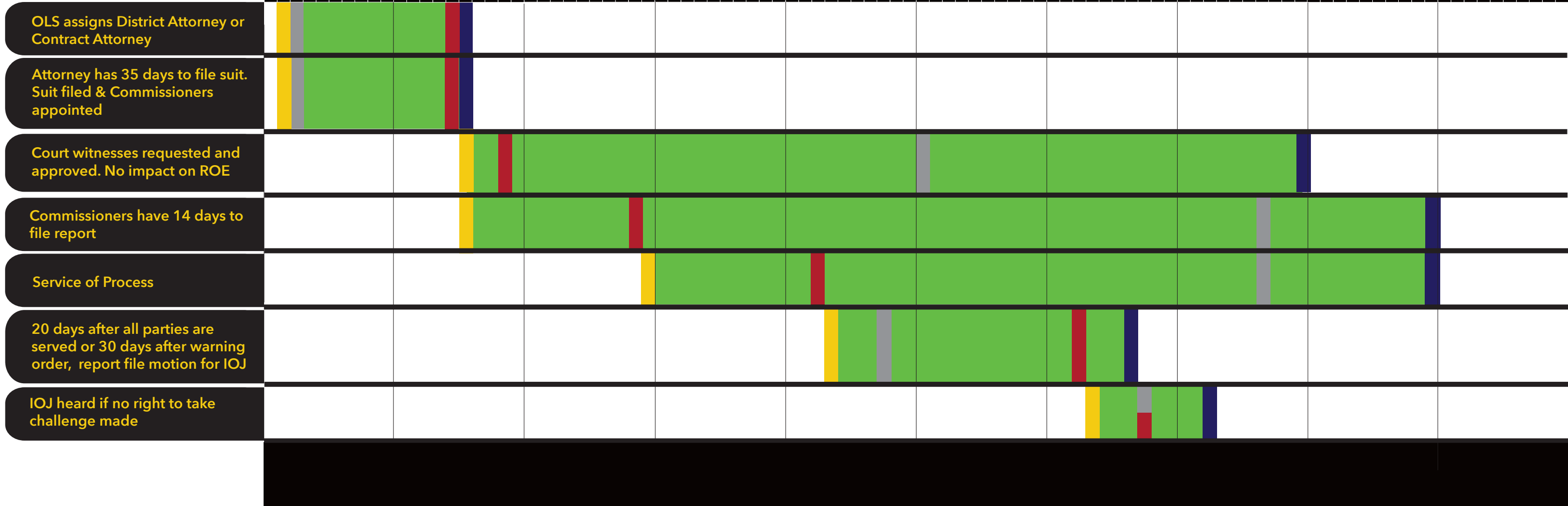
BUSINESS RELOCATION: Fixed Rate

97 Day Timeframe (MaximumDuration) Up to 85 days



CONDEMNATION

77 - 90 Day Timeframe (MaximumDuration) 10 - 110 days



Property Management

ROW Certification



Sales Book Process

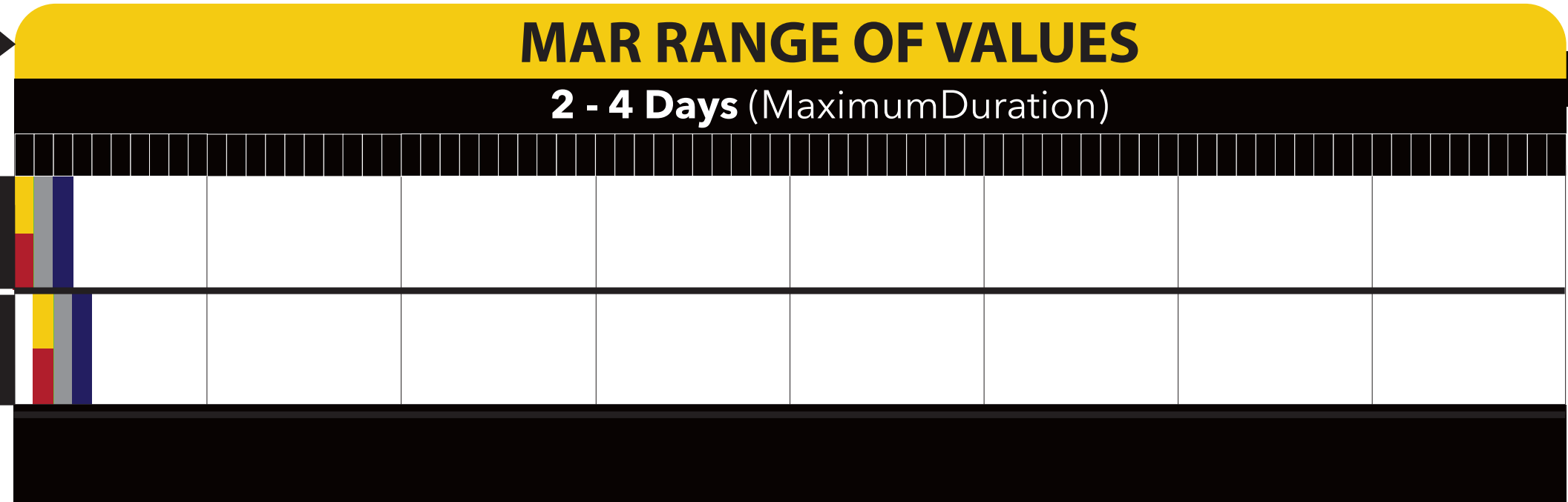
MAR RANGE OF VALUES

2 - 4 Days (Maximum Duration)

Vacant Sales Pull from Sales Book to develop MAR Range of Values

ROW Supervisor Reviews MAR Range And Approves If To Standard

Acquisition



ROW Authorization

PLAN REVIEW

5 Day Timeframe (MaximumDuration)

Check Acreage For Parcels

Check Plan Vs Deed

Verify Fee Simple Vs Easement

Verify ROW Limits

Check Summary Sheets

Sales Book Process

MAR Value Range

Work Day

Early Start

Late Start

Early Finish

Late Finish

Duration

If Applicable *

ROW Authorization

PROJECT REPORTS

3 - 7 Day Timeframe (MaximumDuration)

Project Report Creation

Summary of Improvements

Sales Book Process

MAR Value Range

Work Day

Early Start

Late Start

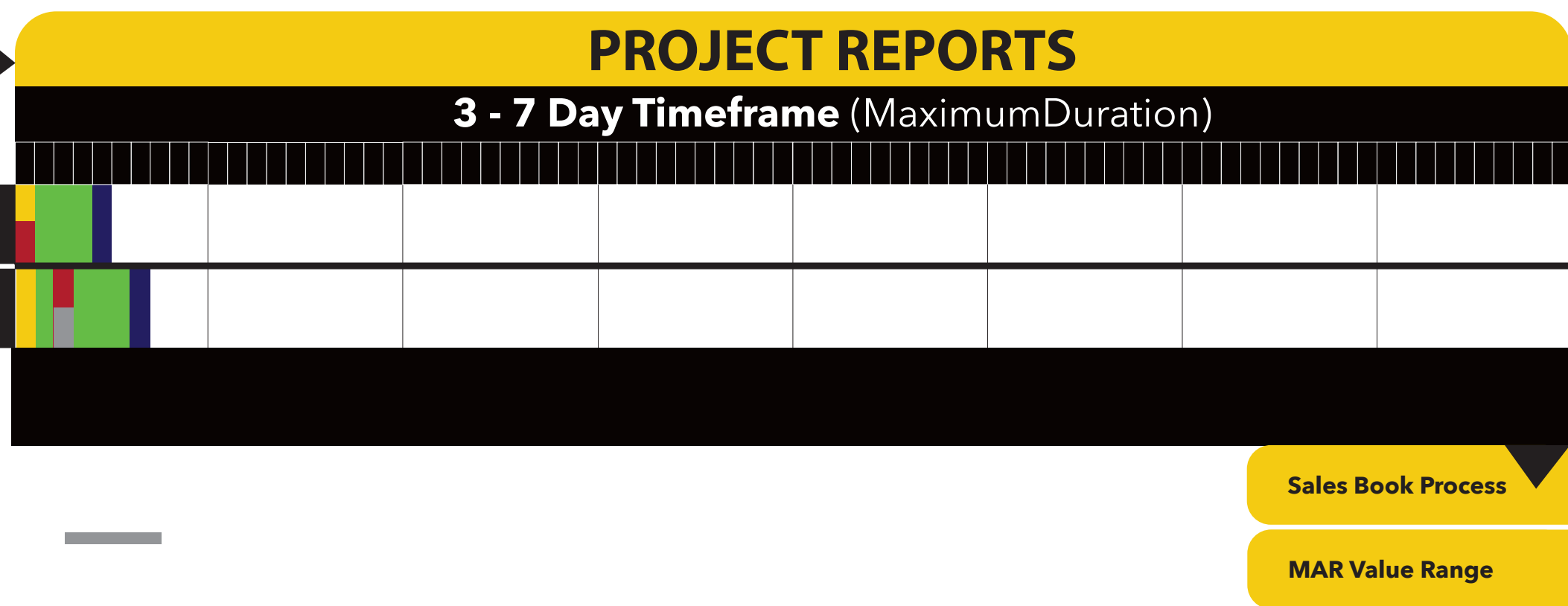
Early Finish

Late Finish

Duration

If Applicable

*



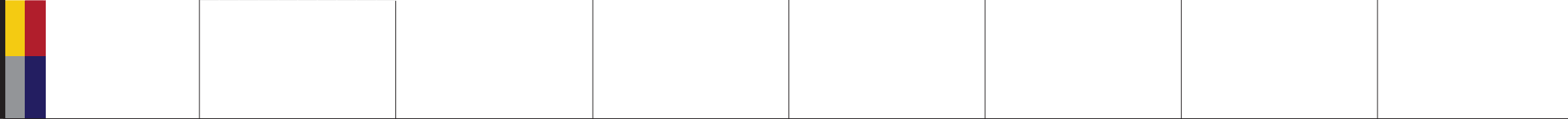
ROW Authorization

PROJECT SETUP

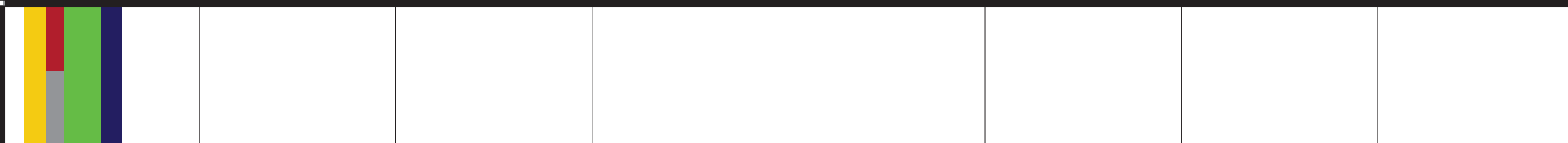
4 - 6 Day Timeframe (MaximumDuration)



Assign Agent Roles To Each Parcel
(Appraiser, Review Appraiser,
Negotiator)*



Create Parcels In RWUMS
(Property Owner Names, Parcel
Numbers, Area Of Tract, Area Of
Acquisitions)



(*Can run until last appraisal is approved)

Sales Book Process

MAR Value Range

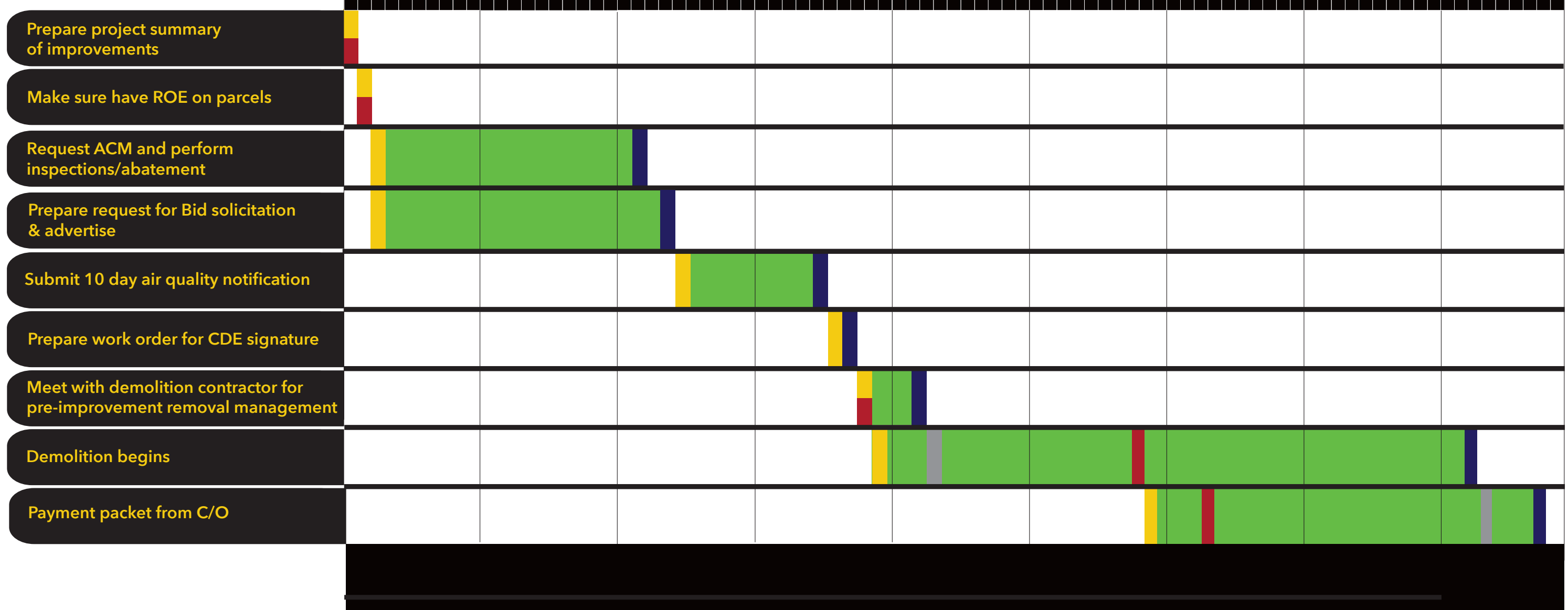


Acquisitions

Relocation

PROPERTY MANAGEMENT

61 - 76 Day Timeframe (Maximum Duration)



ROW Certification



PL&G 30% Plans

ROW Authorization

Railroad ROW Process

363 - 703 Day Timeframe (MaximumDuration) 1 to 85 days

Preliminary Plans sent to Railroad (RR)

Railroad Engineering Review #1

Preliminary Engineering Agreements w/RR

Plans Returned to KYTC & Revised
Add Structure Plans

Railroad ROW Process

363 - 703 Day Timeframe (MaximumDuration) 86 to 170 days

Preliminary Engineering Agreements w/RR

Plans Returned to KYTC & Revised
Add Structure Plans

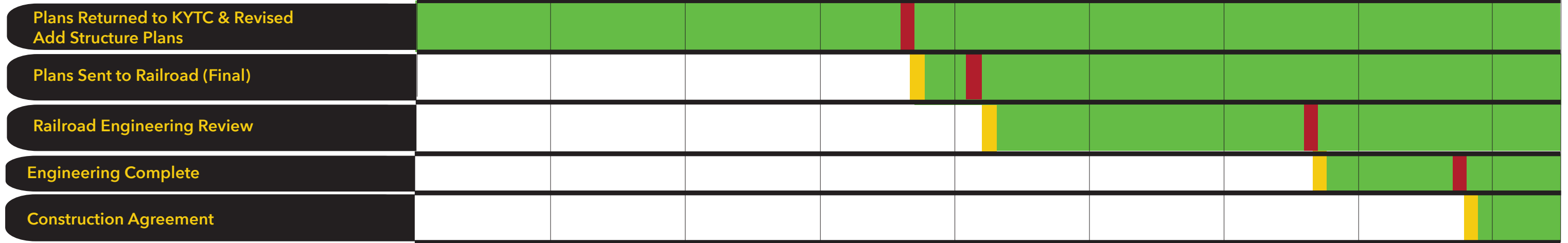
Railroad ROW Process

363 - 703 Day Timeframe (MaximumDuration) 171 to 255 days

Plans Returned to KYTC & Revised
Add Structure Plans

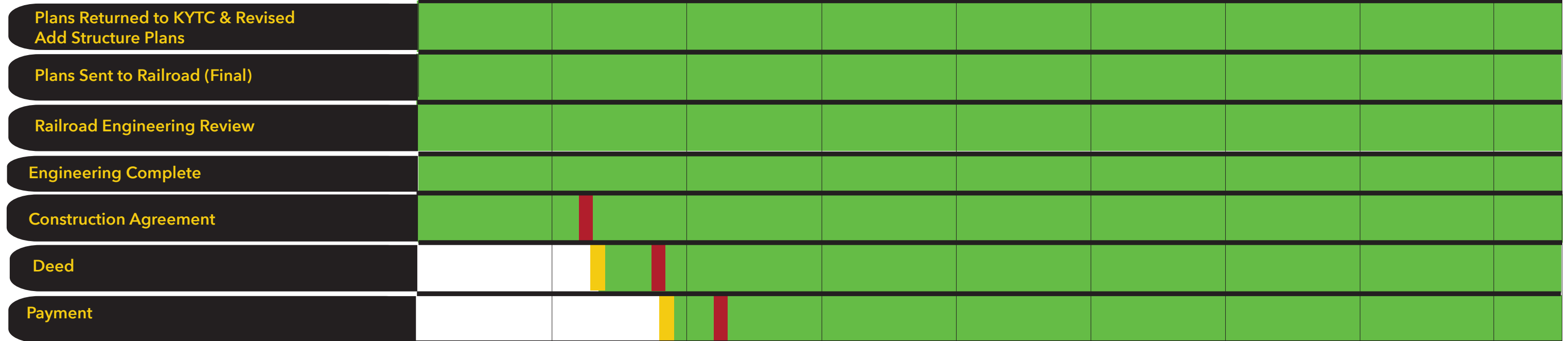
Railroad ROW Process

363 - 703 Day Timeframe (MaximumDuration) 256 to 340 days



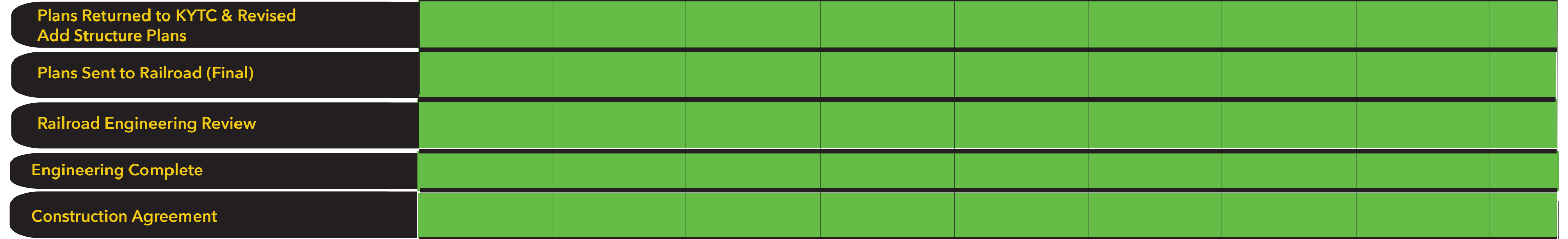
Railroad ROW Process

363 - 703 Day Timeframe (MaximumDuration) 341 to 425 days



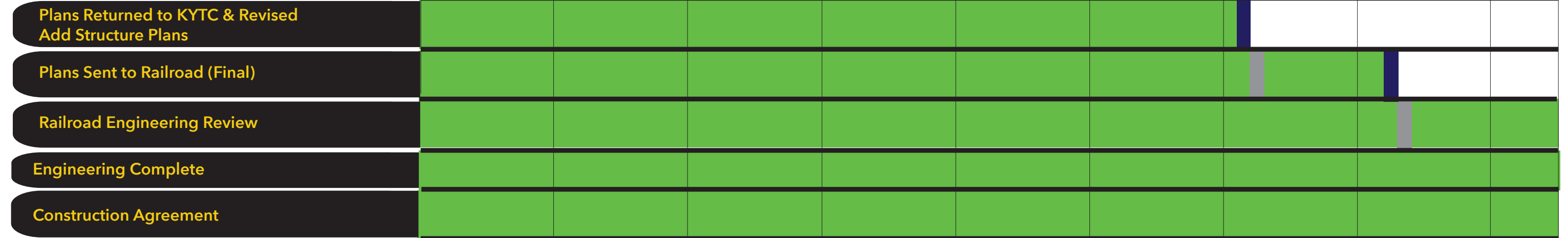
Railroad ROW Process

43 - 158 Day Timeframe (MaximumDuration) 426 to 510 days



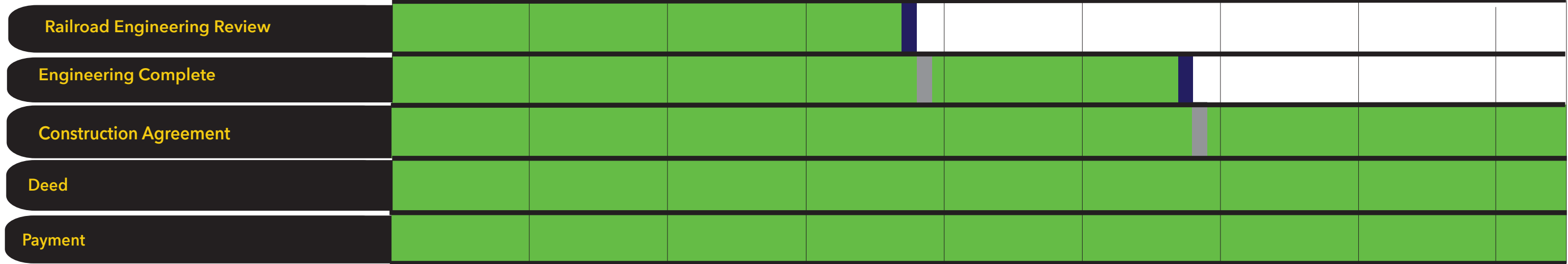
Railroad ROW Process

43 - 158 Day Timeframe (MaximumDuration) 511 to 595 days



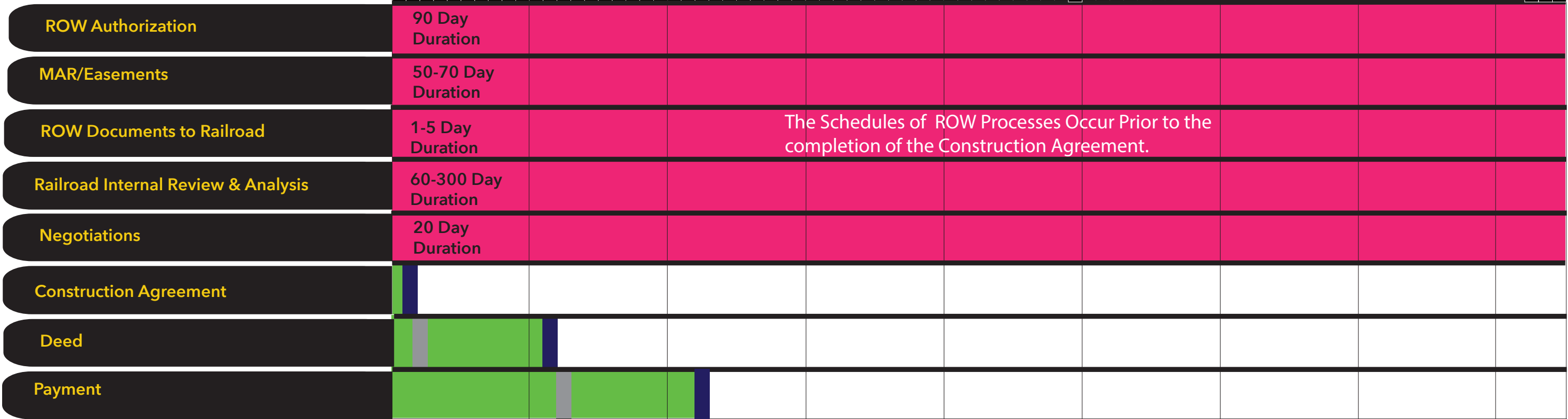
Railroad ROW Process

363 - 703 Day Timeframe (MaximumDuration) 596 to 680 days



Railroad ROW Process

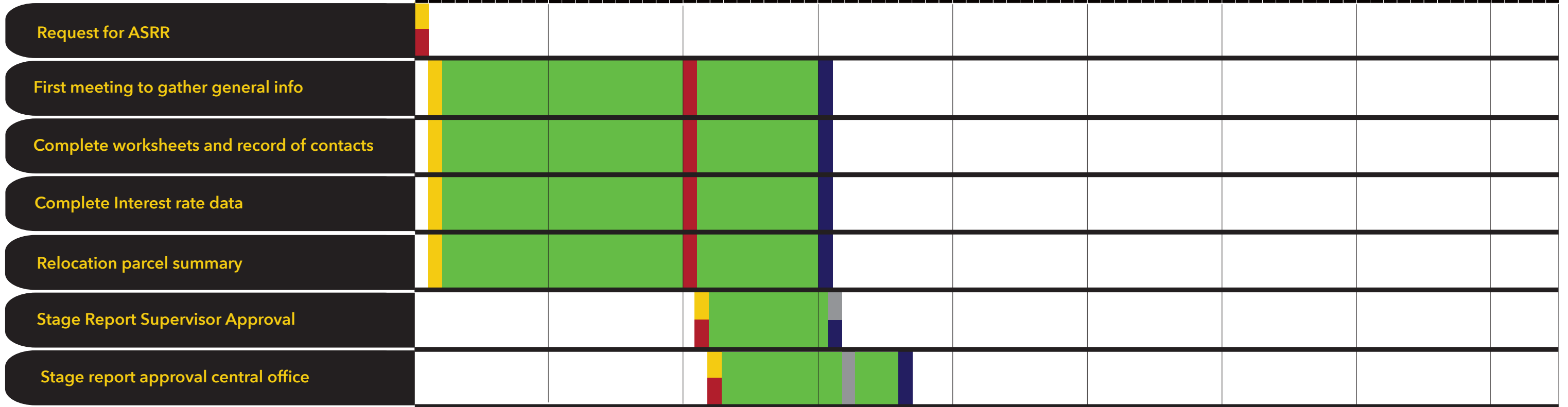
363 - 703 Day Timeframe (MaximumDuration) 681 to 765 days



Appraisal Process

RELOCATION: ASRR**

23 - 37 Day Timeframe (MaximumDuration)



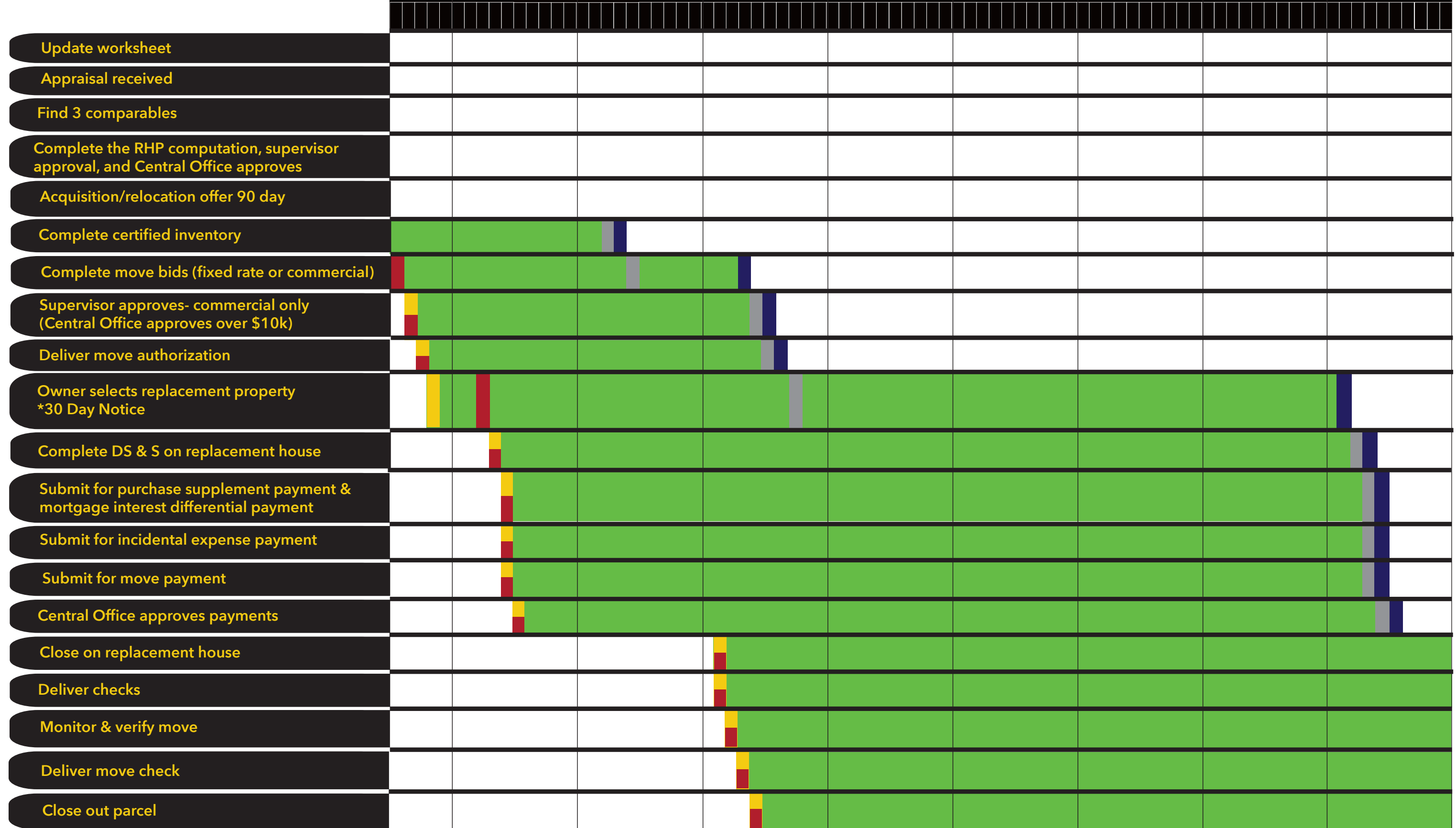
Business Relocation

Residential Relocation



RESIDENTIAL RELOCATION

43 - 158 Day Timeframe (MaximumDuration) 86 - 170 days



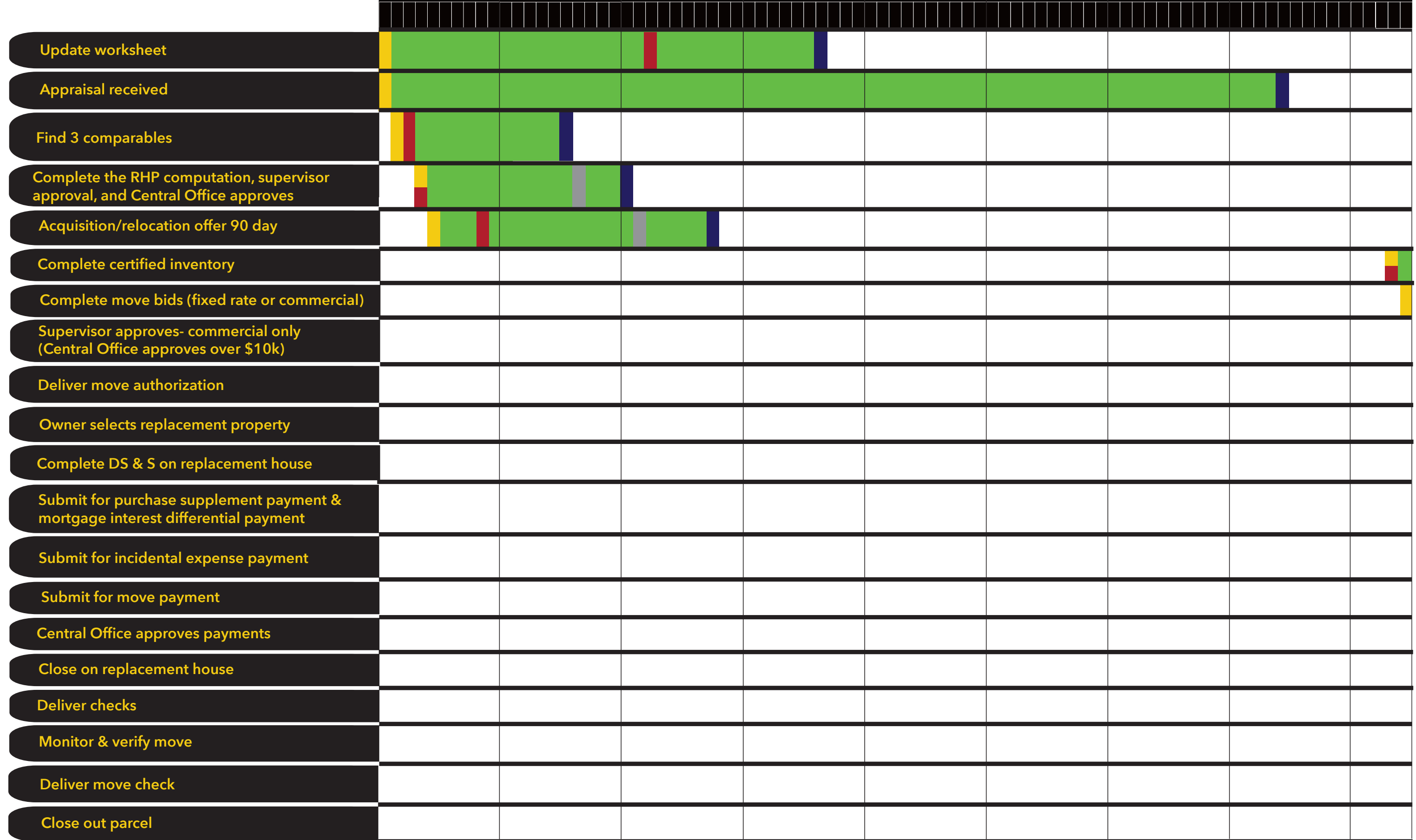
RESIDENTIAL RELOCATION

43 - 158 Day Timeframe (MaximumDuration) 171 - 250 days

Update worksheet																					
Appraisal received																					
Find 3 comparables																					
Complete the RHP computation, supervisor approval, and Central Office approves																					
Acquisition/relocation offer 90 day																					
Complete certified inventory																					
Complete move bids (fixed rate or commercial)																					
Supervisor approves- commercial only (Central Office approves over \$10k)																					
Deliver move authorization																					
Owner selects replacement property *30 Day Notice																					
Complete DS & S on replacement house																					
Submit for purchase supplement payment & mortgage interest differential payment																					
Submit for incidental expense payment																					
Submit for move payment																					
Central Office approves payments																					
Close on replacement house																					
Deliver checks																					
Monitor & verify move																					
Deliver move check																					
Close out parcel																					

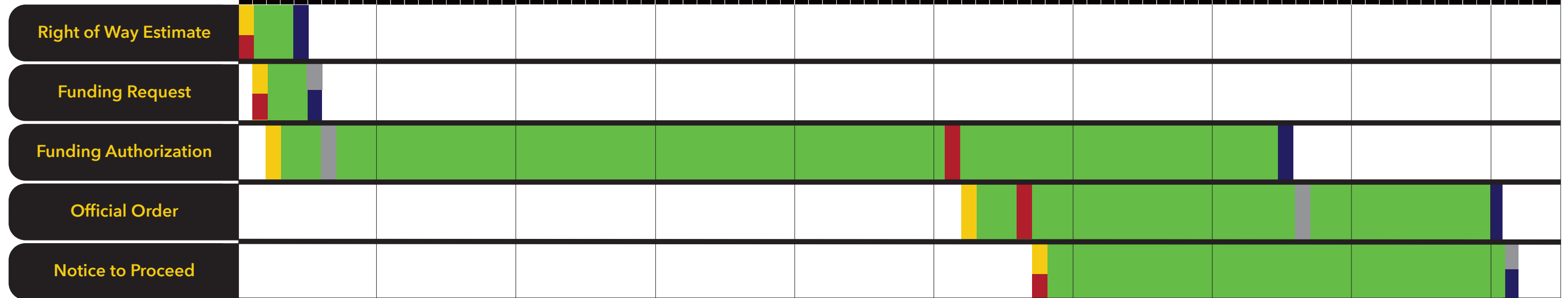
RESIDENTIAL RELOCATION

43 - 158 Day Timeframe (MaximumDuration) Up to 85 days



RIGHT - OF - WAY AUTHORIZATION

92 Day Timeframe (MaximumDuration)



- Project Reports
- Title Abstractions
- Plan Review
- Project Setup



Property Management

Condemnation

Acquisitions

Relocation

RIGHT OF WAY CERTIFICATION

5 - 15 Day Timeframe (MaximumDuration)

Review Status, Compile Information, Complete Form

Submit to C/O

C/O Review and approval

Completed

Work Day

Early Start

Late Start

Early Finish

Late Finish

Duration

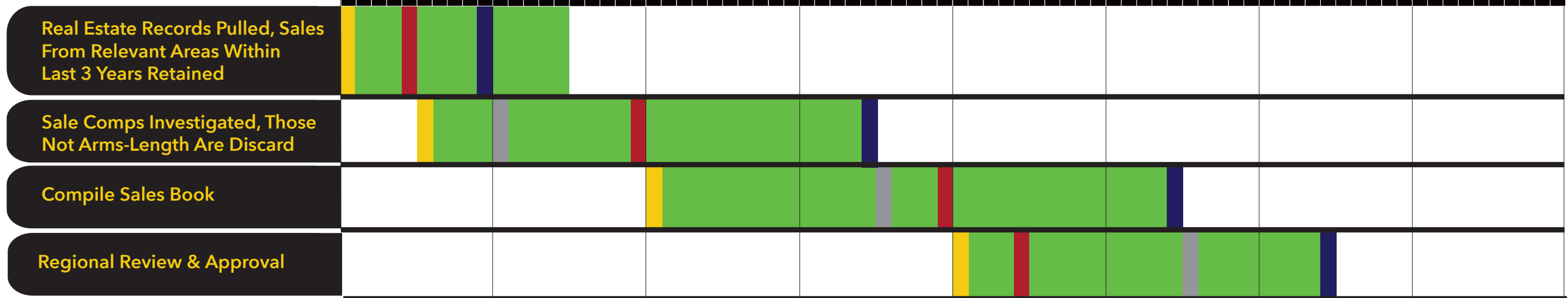
If Applicable

*

- Title Abstractions
- Plan Review
- Project Setup
- Project Reports

SALES BOOK PROCESS

45 - 65+ Day Timeframe (MaximumDuration)



- Appraisal Process
- MAR Value Range

Work Day
Early Start
Late Start
Early Finish
Late Finish
Duration
If Applicable *

ROW Authorization

TITLE ABSTRACTIONS

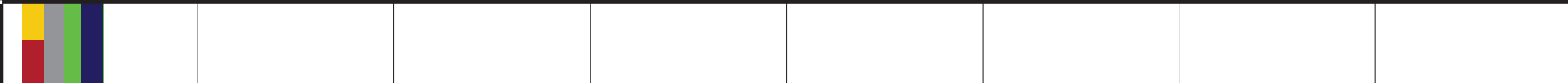
27 - 80+ Day Timeframe (MaximumDuration)



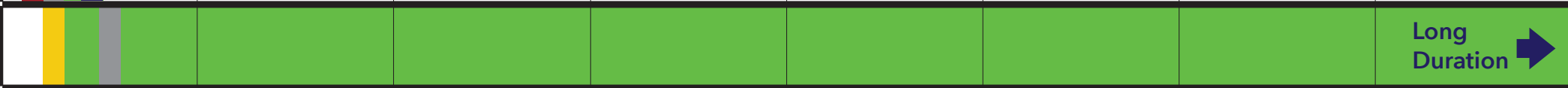
Obtain Summary Sheet From Plan Set



Search PVA Records W/ Plan Set For Owner Accuracy (Strip Map)



Mineral Rights Titled*



Complete Title Research At Courthouse Going Back 35 Years



Type Title Reports And Construct Them In Order



Have Titles Reviewed/Signed By Staff Attorney



Notify Design Of Summary Sheet Changes



Sales Book Process

MAR Value Range

