MAP-21 Amendments to Uniform Act Now Effective

By Lisa Barnes, Vice President of ORC Training, LLC

As many of you are aware, the Uniform Act was amended in July 2012 as a result of the Moving Ahead for Progress in the 21st Century Act (MAP-21). Although the law passed over two years ago, these changes became effective October 1, 2014.

Summary of Amendments

- The maximum replacement housing payment for displaced homeowners is $31,000*
- The maximum replacement housing payment for displaced tenants is $7,200*
- The maximum nonresidential fixed payment in-lieu of payment for business, etc. is $40,000
- The maximum business reestablishment expense payment is $25,000
- The length of occupancy requirement for homeowners was reduced from 180 days to 90 days before the initiation of negotiations

*These revised limits do not practically affect most displacements since displacing agencies currently have authority to pay higher amounts under the provisions of Housing of Last Resort, §24.404.
The law also contains a provision for periodic inflation adjustments for some relocation benefits, such as reestablishment expenses and the nonresidential fixed payment, which will allow for revised payment amounts without a statutory change.

**NPRM and Guidance Document**

The Federal Highway Administration (FHWA) as the “Lead Agency” for the Uniform Act, with input from other federal agencies, has been working to issue a Notice of Proposed Rulemaking (NPRM) to implement the above changes, and possible other revisions to 49 CFR Part 24. In the interim, the FHWA issued a guidance document to assist agencies and practitioners in determining when they may provide the MAP-21 increased benefits. This guidance is necessary because projects may have begun before the effective date of the new benefits, i.e., offers for some parcels were made before October 1, 2014, but relocation activities may not be completed until after that date.

For those situations, the higher benefit limits apply to an individual who qualifies as a displaced person under the definition in 49 CFR 24.2(a)(9)(i) if:

- For relocation benefits other than replacement housing payments for homeowners: The individual was not required to move from the acquired property before October 1, 2014, and did not move before that date.
- For replacement housing payments for homeowners: On or after October 1, 2014, the displaced person holds title to the real property to be acquired.

In the first situation, if a residential tenant or nonresidential displacee was not issued a notice to vacate and did not move before October 1, 2014, the individual/entity would be eligible for the increased benefits.

In the second situation, if the homeowner has not conveyed title to the agency, either through a closing or a condemnation process, before October 1, 2014, the individual would be eligible for the increased benefits.

Keep in mind that some of you may work in states or for agencies that have adopted alternate start dates or amounts for these payments. On a project with any federal assistance, an agency may have implemented these provisions sooner or at a higher level than specified herein, but it cannot delay implementation or pay a lesser amount.

The FHWA guidance document is available at the following website:

http://www.fhwa.dot.gov/real_estate/uniform_act/policy_and_guidance/map212014.cfm

The FHWA anticipates publishing the NPRM in late 2014 through the formal Federal Register process, which requires a public comment period and evaluation of these comments. FHWA anticipates publishing the Final Rule in mid-2015. Both the NPRM and the Final Rule will likely include matters beyond just the statutory changes outlined above, and it is probable that it will alter the way we implement right of way activities.
“CAP” – the Connecting Arkansas Program

By Donna Roche, Senior Project Manager

Overview

The CAP is one of the largest highway construction programs ever undertaken by the Arkansas State Highway and Transportation Department.

In November 2012, the citizens of Arkansas approved a half cent increase to the state general sales tax as “An Amendment to Provide Additional Funding for Highways, County Roads, City Streets, Bridges, and Surface Transportation.” It was estimated the tax increase over its 10 year life would provide $1.8 billion additional funding for road improvements. The program is comprised of 35 projects in 19 corridors statewide. The projects were selected based on various elements but a primary factor was the need to widen two-lane highways to modern four-lane highways in vital corridors.

The Arkansas Highway and Transportation Department (AHTD) continues to manage their regularly budgeted program but the anticipated revenue to provide funding for additional projects necessitated a new resource to manage this large initiative. The program known as the Connecting Arkansas Program (CAP) is being managed by Garver, LLC and their sub-consultant team.

O. R. Colan Associates was selected by Garver, LLC to provide expertise in right of way. Our responsibilities are to coordinate, manage, plan, direct, and control Right of Way and Acquisition services of AHTD’s on-call consultants. ORC’s Little Rock office staff is working closely with Garver to provide right of way scheduling, cost estimates, right of way task orders, invoicing, and risk assessment. The on-call consultants will submit all right of way work to our office for quality assurance review and recommendation for final approval by AHTD.

AHTD recently entered into on-call contracts with four right of way consulting firms to provide services on their regularly funded program along with the specially funded CAP. A key to delivering these projects within the aggressive schedules set out in the program will be to assign the right of way projects in a manner to best utilize the limited resources available.

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The program currently has nine right of way projects scheduled to begin by December 2015. Our original estimates show approximately 360 parcels to be acquired with limited relocations required. AHTD, as with many other agencies around the country, have limited qualified appraisers and review appraisers. In the past, the Department has used appraisers to prepare and review compensation estimates on uncomplicated tracts with a value under $10,000. To best utilize the resources available, AHTD Right of Way and O. R. Colan Associates are encouraging the on-call providers to assign the less complicated parcels to non-appraisers to prepare Waiver Valuations in order to expedite the appraisal phase of right of way activities. Other best practices from around the country are anticipated to be utilized in CAP, giving AHTD Right of Way new tools to incorporate into their program.

ORC Utility and Infrastructure (ORC U&I) – Energy Technology and Resiliency (ETR) Retreat

By Richie McNally, Director of ORC U&I

In August 2014, the ORC Utility and Infrastructure Division (ORC U&I) held a two day Energy Technology and Resiliency (ETR) Retreat in Charlotte, North Carolina. The retreat focused on understanding trends, issues and opportunities in the energy industry.

The first day of the ETR Retreat focused on the trends in the energy sector. ORC U&I had the opportunity to speak with four energy experts throughout the United States. The panel of speakers consisted of a former Public Utility Commissioner of Ohio and Department of Energy (DOE) Consultant, Supervisor System Operator at DTE Energy (Detroit Edison), Assistant General Manager at the Burbank, California Water and Power Department and a Transmission and Reliability Manager at the National Rural Electric Cooperative Association (NRECA). The energy experts focused their discussions around renewable energy sources in the United States (Wind Power, Solar Power, Hydropower) and the overall decline in coal generation production.

Day two focused on the strategic planning of the ORC U&I Division. The Leadership Team completed the development of the U&I Business Model Canvas. The completed Business Model Canvas identifies nine key result areas; Value Proposition, Customer Segments, Customer Relationships, Key Partners, Communication Channels, Key Activities, Key Resources, Cost Structure and Revenue Streams. The meeting also identified key action items and strategic areas that ORC will focus efforts over the next 12-18 months and will be part of the company’s 2015 strategic plan for the Utility Division.
SRM/PM Meeting – Sept 24-26 in Cleveland, OH

By Carmen Johnson, Vice President of Finance and Administration

ORC hosted 35 members of our Management team in Cleveland on September 24, 25 and 26 for various meetings designed to enhance the skills of our management team.

The first day of meetings was with our Senior Managers where the Leadership Team reviewed the strategic plans for O. R. Colan Associates as well as our Appraisal, Utility and Training Divisions. ORC Utility & Infrastructure Land Services, LLC (ORC U&I) and ORC Training, LLC are separate but affiliate companies. The Appraisal Division is part of O. R. Colan Associates. We also reviewed the budgeting process for 2015 and shared performance rankings of each Senior Manager with regard to our Performance Metrics. A favorite section of the Senior Managers meeting is always the report from each Senior Manager on what they expect for their profit center in the coming year.

The second day of our meetings were highlighted by a full day session with Dean Minuto of “Yescalete” (photo left). Dean is the author of the One-Page Sales Coach. He uses a technique that he summarized with the acronym MAGNET. The acronym stands for Motion, Ask, Give, Nice, Evidence, Trust and Supply.

The third day was a day of updates for all of the company managers on various management topics.
I was recently in Cleveland and looking for a new, interesting place to eat. I did some research and found Maxi’s – a “bistro in Little Italy.” Maxi’s is a small storefront-type restaurant located in an older part of Cleveland, the Italian section of town. It had about ten tables, and very friendly employees. We began with asking about salads, and the waitress suggested a tomato, red onion, and caper salad splashed with balsamic vinegar. It sounded good and we were not disappointed. We also ordered the traditional peperoni pizza but added kalamata olives at the suggestion of the waitress. Yep, I know the conflict here—Italian pizza with Greek olives! This turned out to be a great combination. One of the better pizzas I have had.

The Cleveland pizza was very good, ranking in my top three or four, but I have long ago resolved that New York City has the best pizza. You can walk down almost any street, go into any of the numerous “by the slice” eateries, and enjoy very good pizza. With some planning in New York, you can easily find outstanding pizza. We all hear how people in New York tend to be abrupt and unwilling to assist out of town visitors, but that is not always true.

One evening, three of us were trying to get into the “best” pizza restaurant in Brooklyn - Lucali’s. It was packed and the wait was three hours. In the meantime, I was chatting with a guy on the sidewalk out front who was walking his dog. He knew the owner and offered to intervene for us. Unfortunately, the owner informed us that he was actually overbooked, but had a suggestion. He called his brother who owns a similar restaurant nearby and made us a reservation. When we explained that we had driven around for twenty minutes looking for a parking spot, he arranged with his brother to save us a spot in the driveway of the restaurant. He did not want us to get lost, so walked us to our car and made sure we were headed in the right direction. Off we went for what was promised as equally good pizza. We were not disappointed.

When we got to Giuseppina’s, the owner, who also tossed, made, and cooked the pizza, treated us like valued guests. The place was quaint and the pizza was delicious. In between making pizza, the owner came to our table and thanked us for our business. He also told us that both he and his brother learned to make pizza and pizza dough from their grandmother, Giuseppina. I would say she taught them well.