



The Benefits of Acquisition Incentives

Can landowner incentives work to expedite the acquisition process?

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Regardless of the industry we are in, it seems that we are all being tasked with completing projects faster and cheaper than in the past. For acquisition and relocation, this may mean making use of incentives to motivate owners or displacees to sell or move more quickly.

The theory behind incentives is that reducing the time needed to acquire and clear the right of way will reduce the number of construction delays. This in turn should result in overall cost savings to the project and would offset the incremental cost of the incentive.

The Project

While acquisition incentives are being used more frequently, their impacts and limitations are not often demonstrated in practice. In 2008, my company began the right of way acquisition for the U.S. 95 project in Kootenai County, Idaho. This project involved the widening of an existing two-lane road into a four-lane road with the addition of some new frontage roads to reduce the number of access points along the highway.

Various methods were used to expedite the acquisition process, and incentives were one of them. We had a two-tiered goal in employing the incentives. First, we had hoped to reduce the acquisition timeframe. Second, we expected the incentives would reduce the number of parcels that could not be successfully negotiated.

As the record of decision had not been received, the initial phase of the project involved 32 parcels that were impacted identically on all of the proposed alignments. These initial parcels were all treated as voluntary acquisitions, meaning that if negotiations were not successful, the offers would be withdrawn until the record of decision was received, at which point new appraisals would be obtained and new offers made.

The incentive program was based on compensating property owners who signed a valid right of way contract within 45 days of receiving the offer. The amount would be an additional 10 percent of the fair market value with a minimum of \$2,500 and a maximum of \$100,000.

If the right of way contract was signed after the 45 day timeframe, but in less than 60 days, the incentive dropped to 5 percent of the fair market value with a minimum of \$1,500 and a maximum of \$100,000. After 60 days, the property owner was no longer eligible for any incentive payment.

Incentive payments did not preclude the use of administrative settlements. Therefore, a property owner could still receive an administrative settlement and an incentive payment as long as the final right of way contract was signed during the required time period. Incentives were not considered when calculating relocation housing payments.

The owners were also advised that the incentive program outlined below would be continued during any future negotiations.

Incentive Payment

Land (2.89 acres)	\$89,000
Permanent Easement (.5 acre)	\$1,750
Improvements – Fencing	\$ 490
Just Compensation	\$91,240
Incentive (10%)	\$9,124
Total Compensation	\$100,364

The incentive program seemed well received by the public and succeeded in at least one of the goals.

The Results

Of the 32 parcels involved, 22 were successfully negotiated. Of the 22 parcels successfully negotiated, all were negotiated within the 45 day time period, and the landowners were eligible to receive the maximum incentive. Surprisingly, there were no successful negotiations concluded after the 45 day incentive period had expired. However, it should be noted that many of the parcels successfully negotiated still required administrative settlements to reach agreement.

Our experience on this project was unique in that property owners were actually taking the initiative to follow up on the negotiations. In fact, it was not uncommon to receive phone calls from the property owners the very next day, wanting to verify the deadline for the incentive period and schedule a follow up meeting. Many of the owners told us they did not want to miss out on the incentive.

The bottom line was that if owners thought the offer was reasonable, they were motivated to complete the negotiations within the incentive period rather than lose the incentive in hopes of getting more money.

There were a variety of reasons why the remaining 10 parcels were not successfully negotiated. As these parcels were being acquired prior to the record of decision, if negotiations were not successful, the offer was withdrawn. We had one owner pass away during negotiations and a second who continued to build improvements in the acquisition area during negotiations. In a few cases, the owners were under no compulsion to sell and decided to wait until after

we had received the record of decision with the knowledge that they would then receive a new offer including an incentive, reflecting what they hoped would be better market conditions. We also had owners who expressed dissatisfaction with the offer amounts and made counteroffers ranging from 50 to 200 percent above the original amount.

For those parcels, the incentive did not appear to have any impact. The difference between the offer and the owners' expectations were so far apart that an additional 10 percent did not make any difference. It is unclear what impact, if any, the incentives would have had on the number of parcels going to eminent domain.

Conclusion

The 45-day incentive period proved to be effective in expediting the negotiation process. Property owners were acutely aware of the timeline and pushed to reach successful agreements prior to the expiration period. If a negotiated settlement was within reach, the incentive motivated the owner to reach that agreement rather than fight for the last penny.

Since there were no successful negotiations concluded between the 45-day incentive period and the 60-day period, it's obvious that the second incentive period was ineffective and only served to add a level of complexity without yielding any results.

While this 32-parcel project may be a small sample from which to make global conclusions, it does indicate that incentives have potential for expediting acquisition projects. This incentive program not only accelerated the negotiation timeframe, it also generated goodwill with the impacted property owners.

The goal of reducing the number of eminent domain cases was less successful. If issues other than the dollar amount were preventing successful negotiations, a 10 percent incentive was not enough to overcome the obstacles. If the dollar amount was the primary issue leading to condemnation, an incentive of 10 percent did not have much of an impact.

While incentives are not necessarily the only solution to reducing the number of eminent domain cases, I highly recommend trying them. In the ongoing pursuit of shorter negotiation times, incentives offer an attractive tool for delivering projects on time, if not sooner.



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