

Improving Transportation Project Development & Environmental Reviews Through Collaborative Problem Solving

An Interagency Regional
Workshop Series

Final Report



U.S. Department
of Transportation
**Federal Highway
Administration**

U.S. Institute for



Environmental Conflict Resolution

Morris K. Udall Foundation

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EXECUTIVE SUMMARY

The Federal Highway Administration (FHWA) believes that the use of collaborative problem solving and alternative dispute resolution in the process of developing transportation projects under the National Environmental Policy Act (NEPA) is key to improving transportation decision making and the effectiveness of environmental reviews. This belief underlies FHWA's Environmental Streamlining and Stewardship Program. Principles of collaborative problem solving and conflict management have been captured in a Guidance Document prepared by FHWA, in partnership with the U.S. Institute for Environmental Conflict Resolution (U.S. Institute), entitled: *Collaborative Problem Solving: Better and Streamlined Outcomes for All*. The guidance focuses on identifying and addressing the sources of conflict among state and Federal agencies during the transportation project development and review process.

To further encourage effective interagency collaboration and conflict management during NEPA reviews of transportation projects, the FHWA and U.S. Institute developed a series of facilitated, interagency workshops for each of the standard Federal regions. The objectives of the workshop were to 1) engage participants in discussions about their regional transportation project review process in a manner that would encourage the use of interest-based negotiation and collaborative problem-solving skills, 2) stimulate discussion about how to manage conflicts and resolve disputes when they occur, and 3) enhance trust and respect among staff members of the various agencies so that ongoing relationships could be strengthened.

A total of 11 workshops were held between May 2003 and March 2004. Each workshop included a balanced representation of Federal transportation and environmental review and permitting agencies; state transportation, environmental, natural resources and historic preservation agencies; and affected Native American Tribes. A total of 367 agency and tribal representatives participated. The common thread among all participants was a significant and continuing involvement in transportation project development and reviews.

A design team consisting of FHWA and U.S. Institute staff, and environmental conflict resolution trainers and facilitators developed a standard workshop format and agenda. Each workshop was facilitated by two of the four facilitators on the design team. The workshop format emphasized facilitated discussion rather than training. Each workshop was customized for the region in which it was held by interviewing selected participants beforehand to learn about key topics, issues and concerns.

Participants evaluated each workshop using standardized U.S. Institute questionnaires. Survey results were used to adapt and improve the workshop format and agenda. Overall, the participants found the workshop experience to be worthwhile. Based on the success of the regional workshops, FHWA and the Institute have initiated a state-level workshop series. These workshops will focus on state-specific issues and continue to stress collaborative problem-solving approaches. Each workshop will be partially underwritten by FHWA.

BACKGROUND AND PURPOSE

Attempting to solve transportation problems while protecting and enhancing environmental and cultural resources often leads to controversy and stalled decision-making. Congress recognized this dilemma when it created the environmental streamlining and stewardship provisions of the Transportation Equity Act for the 21st Century (TEA-21), which directs agencies who are developing and reviewing transportation projects to work cooperatively and continuously together with the goal of reducing project timelines and achieving better outcomes.

To help achieve these goals, the U.S. Institute for Environmental Conflict Resolution (U.S. Institute) and the Federal Highway Administration (FHWA) worked in partnership to develop a conflict management and collaborative problem-solving framework for Federal and state agencies, as part of the FHWA's Environmental Streamlining and Stewardship Program.

The framework has four major components:



- **Guidance Document:** Guidance on managing interagency conflict throughout the transportation development process, including inter-agency coordination and relationship building at the transportation planning stage, and interagency collaborative problem solving and dispute resolution during NEPA reviews of specific projects. The Guidance Document, entitled "*Collaborative Problem Solving: Better and Streamlined Outcomes For All*," identifies the type of conflict that emerges at various stages in the project development and review process, and outlines when and how to refer disputes that can not be resolved at lower levels, to higher authorities within the disputing agencies.
- **Transportation Roster:** A roster of qualified neutrals that includes over 40 facilitators and mediators with experience resolving transportation and environmental conflicts. These neutrals are available, as appropriate, to assist agencies in designing and using project review processes and in helping to resolve disputes.
- **Dispute Procedures:** Steps for elevating disputes to the Secretary of the USDOT per existing legal authority (Section 1309 of TEA-21), when disputes cannot be resolved at lower organizational levels. A final USDOT order is now in place.

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- **Facilitated Workshops:** Development of facilitated, regional workshops about interagency collaborative problem solving, with a focus on environmental streamlining and stewardship issues relevant to each of the 10 Federal regions (these are the same as the U.S. Environmental Protection Agency regions). These workshops (11 in total) build upon principles of interest-based negotiation and alternative dispute resolution discussed in the Guidance Document. They were designed for staff members within transportation, environmental resource, environmental regulatory, and historic/archeological review agencies at the Federal and state level, and Native American tribes. These facilitated interagency workshops were intended to “put into practice” the conflict management framework, and by so doing, help achieve the objectives of better and faster project reviews cited in the President’s Executive Order 13274: *Environmental Stewardship and Transportation Infrastructure Project Reviews*. These workshops have fostered a climate of understanding and cooperation between Federal, state and tribal teams who work to deliver environmentally sound transportation programs.



DESIGN AND DEVELOPMENT OF THE WORKSHOP SERIES

The Design Process

Through a competitive process, a team of facilitators and trainers was selected to work with the FHWA and U.S. Institute to develop the facilitation process, including workshop objectives and a basic format highlighting topics. The workshop development team included:

- Dale Keyes and Mari Kemper (*U.S. Institute*)
- Ruth Rentch, Lucy Garliauskas and Harold Peaks (*FHWA, Office of Project Development and Environmental Review*)
- Chris Carlson (*Policy Consensus Initiative*)
- Louise Smart and Jonathan Bartsch (*CDR Associates*)
- Carie Fox (*Fox Mediation*)
- Jack Wofford (*Facilitator and Mediator Consultant*)

The team developed a Facilitator’s Guide, workshop agenda and workshop materials to be used at all 11 workshops.

Prior to each regional workshop, the facilitators interviewed key invitees to identify topics of specific concern and/or interest. Exploring the underlying dynamics of the relationships among agencies within the region was a key factor in customizing the workshop. Although the focus of the workshop series was to enhance participants' understanding and use of collaborative problem-solving and dispute-resolution techniques, this preparatory work increased the relevancy of the learning and skill-building opportunities among participants, by encouraging them to apply the skills in the context of discussions about current issues and problems specific to their locale.

The workshop agenda included discussions based on the principles of conflict management and dispute resolution in the Guidance Document, and focused on interest-based negotiation and collaborative problem-solving among agencies and tribes. Included were facilitated discussions on issues or problems of significance to the specific region that had been identified from the pre-workshop interviews. The design team determined that a two-and-a-half day format provided the best balance between accommodating critical information and activities, and not unduly intruding upon the participants' busy schedules.

After each workshop, the design team used participants' evaluation feedback to collaboratively revise and fine-tune methods, materials, activities and agendas for the remaining workshops. (The final workshop agenda is included as **Appendix A**.)

Workshop Materials

A workshop notebook was created for participants to use with the session agenda and as a future reference tool. The notebook included:

- Presentation materials (flip chart pages) and notes
- The FHWA Guidance Document: *Collaborative Problem Solving: Better and Streamlined Outcomes for All*
- Pertinent transportation statutes, memoranda of understanding, executive orders, and federal environmental laws
- Information about the U.S. Institute/FHWA Transportation Roster
- A directory of state alternative dispute resolution contacts
- CEQ and USDOT correspondence on lead and cooperating agencies under NEPA



(The complete Table of Contents can be found in **Appendix B**.)



To encourage discussions and direct interaction among participants, the workshops were presented using a low-tech approach. Activities were highly interactive including breakout discussions, role-plays and “fishbowl” exchanges. Key ideas and skills being presented by the facilitators were highlighted on permanent flip charts created by a calligrapher, rather than projected using an electronic medium. In this way, a classroom atmosphere with

dimmed lights and a screen orientation was avoided. Copies of all the permanent flipchart pages were included in the participants’ notebook as reference points. Throughout the entire workshop, open discussion and interaction were paramount.

WORKSHOP PLANNING AND LOGISTICAL ARRANGEMENTS

Identifying and Inviting Participants

Working with selected FHWA workshop coordinators in each of the 10 Federal regions, the U.S. Institute workshop coordinator identified candidate participants from relevant Federal and state transportation, environmental and historic preservation agencies and affected tribes. Selected participants were “NEPA practitioners” – those who work on developing and reviewing or permitting transportation projects on a regular basis. (For a copy of the letter to FHWA coordinators explaining the workshop and how to develop an invitation list, see *Appendix C*.)

To enhance the opportunity for everyone to be involved in the discussions during the workshops, attendance was capped at 40, and averaged 35. Where an agency had multiple offices within a Federal region, and especially where state agencies had multiple sub-state regional offices (many of which are active in transportation development or review activities), the search for participants was narrowed to the target numbers by focusing on those candidates who were involved in the largest, most complex and perhaps most controversial projects.



Improving relationships among those staff members routinely working together on transportation projects was an important concept. As a result, field staff rather than agency managers were more likely to be candidates. (For a copy of the “Guide for Identifying Invitees” letter, see *Appendix D*.)

The following agencies were identified as those with a likely involvement in transportation project reviews:

- FHWA Headquarters (Office of Project Development & Environmental Review)
- FHWA Divisional Offices
- Federal Lands Highway (Central, Eastern and Western Divisions) (FLH)
- Federal Transit Administration (FTA)
- Advisory Council on Historic Preservation (ACHP)
- U.S. Army Corps of Engineers (USACE)
- U.S. Coast Guard (USCG)
- U.S. Environmental Protection Agency (EPA)
- U.S. Fish & Wildlife Service (USFWS)
- U.S. Forest Service (USFS)
- State Department of Transportation (State DOT)
- State Historic Preservation Officer (SHPO)
- State Natural Resource or Environmental Protection Agencies
- National Marine Fisheries Service (NMFS)
- National Park Service (NPS)
- National Trust for Historic Preservation (NTHP)
- Bureau of Land Management (BLM)
- Tribal Historic Preservation Office (THPO)
- Affected Tribal Governments



The FHWA coordinator gathered names of possible participants from these agencies and, in consultations with the U.S. Institute workshop coordinator, prioritized them.

To encourage the participation of all agencies involved in the project development and review process, FHWA underwrote the cost of travel and accommodations for participants, and the U.S. Institute processed all expense reimbursements. Even under these conditions, it was sometimes difficult to get agencies to commit a staff person from their office to participate due to internal scheduling and workload constraints, especially for the first few workshops. In order to attain the desired number of overall program participants, a total of 723 candidates were invited and 367 confirmed.



A waiting list of alternates was maintained for each workshop and, when there was a cancellation, the next person on the list was notified and invited as a replacement. Surprisingly, only once did weather (an ice storm) affect workshop attendance. Even though tribal representation was somewhat more problematic to achieve due to difficulty in finding the appropriate tribal individual to invite, tribal members

participated in nine workshops and definitely added to the richness of workshop discussions. Given the total number of agencies and tribes that could be accommodated, the tribal/agency balance was good. As the workshop series progressed, word spread and the desirability of participating grew. Individuals began requesting an invitation on their own, either for themselves or for someone else from their agency.

The distribution of workshop participants by agency type or affiliation is shown in the table below.

Table 1. Workshop Participants

Agency	# Participants	% of Total
Federal Transportation Agency	77	21%
Federal Environmental, Regulatory, Resource Agencies	146	40%
State Transportation Agency	67	18%
State Environmental, Regulatory, Resource Agencies	52	14%
Tribal Governments	25	7%
Total	367	100%

Selecting Workshop Sites and Facilities

Workshop sites were selected to maximize convenience, obtain accommodating facilities and minimize cost. The U.S. Institute handled all contracting and facility arrangements. One workshop was held in each Federal region except Region 4, where two workshops were held due to the large number of states in that region (eight states plus Puerto Rico).

Two facilitators were assigned to each workshop, mixing and matching all combinations of the four facilitators. The size and lighting of the workshop room were taken into account when selecting facilities. The map below shows the cities where workshops were located. Additional logistical details are listed in **Table 2**.

Location of FHWA Workshops



Table 2. FHWA Workshop Logistics

LOCATION	ATTENDEES	FACILITATORS	DATES	AGENCIES
Region 9 (AZ, CA, HI, NV) San Diego, CA	32	Carie Fox Louise Smart	May 20-22, 2003	FHWA Headquarters & all Division Offices; all State DOTs; USFWS; NPS; USACE; CA & NV SHPOs; HI THPO; EPA; NMF; CA Fish & Game.
Region 1 (CT, MA, ME, NH, RI, VT) Newport, RI	31	Jonathan Bartsch Jack Wofford	June 17-19, 2003	FHWA Headquarters and Division Offices from CT, ME, NH, RI and the Northeast Resource Center; all State DOTs; USCG; USACE; EPA; NMFS; USFWS; NH & RI SHPOs; Naragansett Tribe; Wampanoag Tribe
Region 10 (AK, ID, OR, WA) Portland, OR	34	Carie Fox Louise Smart	July 22-24, 2003	FHWA Headquarters & all Division Offices; all State DOTs; NMFS; USFWS; EPA; USACE; AK & WA SHPOs; Department of Central Lands; ID Fish & Game; OR Fish & Wildlife Service; WA Department of Ecology; Colville Confederated Tribe
Region 8 (CO, MT, ND, SD, UT, WY) Denver, CO	34	Jonathan Bartsch Louise Smart	Aug. 19-21, 2003	FHWA Headquarters & Division Offices; FTA; all State DOTs; EPA; USACE; USFWS; Central Federal Lands; BLM; USFS; NPS; CO, SD, & WY SHPOs; SD Game & Fish; MT Fish and Wildlife; Rosebud Sioux; Ute Mountain Ute Tribe; Confederated Salish and Kootenai Tribes
Region 5 (IL, IN, MI, MN, WI, OH) Indianapolis, IN	32	Carie Fox Jack Wofford	Sept. 16-18, 2003	FHWA Headquarters & all Division Offices; all State DOTs (except IL); USACE; USFWS; EPA; USCG; NPS; IN, MI, MN & OH SHPOs; IN Natural Resources Conservation Services; IL DNR; MN Pollution Control Agency; Menominee Indian Tribe of Wisconsin
Region 6 (AR, LA, NN, OK, TX) Dallas, TX	31	Louise Smart Jack Wofford	Oct. 8-10, 2003	FHWA Headquarters & all Divisional Offices; FTA; State DOTs; USACE; USFWS; EPA, USCG; LA & NM SHPOs; BLM; NM Environmental Department; LA Wildlife & Fisheries; Caddo Nation

(Table continued on next page.)

Table 2. FHWA Workshop Logistics (continued)

LOCATION	ATTENDEES	FACILITATORS	DATES	AGENCIES
Region 2 (NJ, NY) West Point, NY	34	Jonathan Bartsch Jack Wofford	Nov. 4-6, 2003	FHWA Headquarters and all Division Offices; FTA; all State DOTs; USACE; USFWS; USCG; EPA; NMFS; NJ & NY SHPOs; NJ Department of Environmental Protection; Tuscarora Nation; Onondaga Nation; Cayuga Nation
Region 7 (IA, KS, MO, NE) Nebraska City, NE	34	Carie Fox Jack Wofford	Dec. 2-4, 2003	FHWA Headquarters & all Division Offices; FTA; all State DOTs; USFWS; EPA; USACE; USCG; ACHP; NPS; Central Federal Lands; IA SHPO; MO Department of Conservation; NE Games & Parks Commission; IA Department of Natural Resources.
Region 4 East (FL, GA, NC, SC, Puerto Rico) Atlanta, GA	32	Jonathan Bartsch Louise Smart	Jan. 27-29, 2004	FHWA Headquarters & all Division Offices; FHWA Eastern Resource Center; all State DOTs; USFWS; USACE; EPA; NMFS; USCG; from FL & NC SHPO; GA Department of Natural Resources; Muscogee (Creek) Nation; Cherokee Nation; Mississippi Band of Choctaw
Region 3 (DC, DE, MD, PA, VA, WV) Baltimore, MD	38	Jonathan Bartsch Carie Fox	Feb. 10-12, 2004	FHWA Headquarters and Division Offices, FHWA Eastern Resource Center; FTA; all State DOTs; USACE; USFWS; EPA; DE, MD, VA SHPOs; NTHP; Eastern Federal Lands; PA Fish & Boat Commission; PA Department of Agriculture; Tonawanda Seneca; Haudenosaunee (Mohawk Nation); Delaware Nation of OK
Region 4 West (AL, KY, MS, TN) Nashville, TN	35	Jonathan Bartsch Jack Wofford	Mar. 2-4, 2004	FHWA Headquarters and all Division Offices; all State DOTs; Tennessee Valley Authority, USACE; USFWS; AL, KY & TN SHPOs; ACHP; EPA; USCG; USFS; MS Dept. of Environmental Quality; Eastern Federal Lands; Muscogee (Creek) Nation; Thlopthlocco Tribal Town in OK; Eastern Band of Cherokee

Workshop Activities and Dynamics

Participants were assigned seats the first morning and reassigned different seats each succeeding morning thus helping to establish new or strengthen existing relationships. The workshop format emphasized group discussions, both within each table and between tables, and interactive presentations to the group as a whole. Representative workshop topics included:

- Brainstorming what is working well in their jobs now and what needs improvement
- Understanding other agencies' missions and mandates, and discussing what may not be known or understood about how the various agencies function
- Identifying agencies' positions and interests in a case study format
- Understanding the "Triangle of Satisfaction" (i.e., the need to achieve substantive, process and psychological satisfaction), listening to understand, and reframing issues based on understanding
- Forming a joint problem statement
- Clarifying the responsibilities of lead and cooperating agencies
- Setting time frames for the project development and environmental review process
- Using dispute resolution tools and obtaining assistance from mediators and facilitators
- Discussing how the participants will use the information learned from the workshop



A block of time was set-aside in each workshop for breakout discussions, using collaborative problem-solving methods, focused on two to four specific topics that had been identified during the pre-workshop interviews or brought up during initial workshop discussions. These topics included:

- Indirect and cumulative impacts (discussed in all 11 workshops)
- Mitigation and compliance

-
- Land use and transportation planning
 - Environmental streamlining and stewardship, and how we measure achievement
 - Early coordination among agencies
 - Assurance of quality documents from consultants
 - Hidden agendas/loss of good faith
 - Limited resources and focusing on the resources available

Workshop Documentation

A video was made of the workshops to document the regional series and capture its purpose, nature, format, flavor and effectiveness. Scenes include selected segments from the Region 7 (Nebraska City) and Region 4 East (Atlanta) workshops, and interviews with key project spokespersons (Fred Skaer and Ruth Rentch from the FHWA; Dale Keyes from the U.S. Institute) and each of the four facilitators. Highlights included how the workshops were designed and delivered, example workshop discussions, comments from the participant evaluations and ideas for a future state-specific workshop series.¹



EFFECTIVENESS OF THE WORKSHOPS

Evaluation Background

The 11 regional workshops were evaluated using the U.S. Institute's Program Evaluation instruments. The participants were asked to complete a brief evaluation questionnaire on the last day of the workshop. The evaluation findings were used not only to facilitate real-time improvements in the workshop, but also to help the U.S. Institute and the FHWA understand how the participants benefited in achieving enduring changes in agency collaboration and to assess remaining challenges. Of the 367 participants who received questionnaires, 325 completed and returned them, an 89 percent response rate.

The summary of the respondents' assessment of each of the 11 workshops is expressed for the purpose of this report on a respondent-level.² Descriptive statistics (including the mean and standard deviation) were used to summarize the respondents' feedback. The results are expressed as the mean score on a 0-10 evaluation scale.

¹ The video is available free-of-charge on CD or VHS formats. To receive a copy, please contact Ruth Rentch at the FHWA (202-366-2034) or Dale Keyes at the U.S. Institute (520-670-5653).

² For a copy of the complete evaluation report, which includes workshop-level as well as respondent-level results, contact Dale Keyes at the U.S. Institute (520-670-5653).

Summary of Workshop Evaluations

Overall, the evaluation findings suggest positive assessments of the workshops by respondents. Participants evaluated the workshops in terms of the following categories:

- The benefits of participation
- The quality of workshop materials
- The level of facilitation and instruction
- The quality of the workshop facilities and services

Across all 11 workshops, the average respondent score for each of the evaluation categories was above the midpoint (5.00) on a 0-10 scale, where 0 is the lowest and 10 is the highest rating. The level of achievement is characterized as low (0-5.00), medium (5.01-7.50) and high (7.51-10.00). The overall ratings were medium for two categories (quality of materials and benefits of participation) and high for the other two (level of instruction/facilitation and quality of facilities). (See Table 3 below.)

Table 3. Summary of Responses

Measures of Achievement	Respondent Level Analysis			
	n	Mean	SD	Level of Achievement
Quality of instruction/facilitation	322	8.24	1.08	High
Quality of the workshop materials	322	7.50	1.72	Medium
Quality of the workshop facilities and services	323	7.65	1.50	High
Participants' assessments of the benefits of participation	321	6.68	1.61	Medium

(n=Number of Respondents; SD= Standard Deviation)

Evaluation Category 1: Quality of the Workshop Instruction/Facilitation

Overall, the respondents provided a very positive assessment of the workshop instruction/facilitation. Fourteen attributes were assessed (**Table 4**). The assessment was made based on a 0-10 rating scale where a "0" indicated "totally unacceptable" and a "10" indicated "best I have ever experienced." With the majority of scores above 8.00 on the 0-10 scale, the respondents reported that the quality of the facilitation was among the best they had ever experienced. Strikingly, there was a high degree of agreement among the respondents, that is, the standard deviations among rating scores were relatively low.

Table 4. Feedback on the Quality of Workshop Facilitation

Measures of Achievement	Respondent Level Analysis			
	n	Mean	SD	Level of Achievement
Knowledge of the topics	321	8.70	1.26	High
General communication skills	322	8.80	1.15	High
Way she or he handled questions	322	8.56	1.32	High
Level of participation achieved from participants	322	8.48	1.28	High
Everyone felt comfortable participating	319	8.28	1.55	High
Everyone had an opportunity to express their views	320	8.68	1.48	High
Level of instruction was appropriate for the audience	320	8.35	1.54	High
Good quality visuals	322	8.33	1.54	High
Good use of visuals	322	8.20	1.56	High
Used good examples from the "real world"	321	7.90	1.65	High
Used right amount of "hands-on" examples	318	7.73	1.69	High
Enough opportunities to practice what was learned	318	7.61	1.76	High
Discussion stayed on track	321	7.61	1.72	High
Material covered within the scheduled time	317	8.15	1.56	High



“The facilitators were excellent at remaining (or appearing to remain) totally unbiased.”

“Offered everyone a chance to participate to the degree they were comfortable.”

“...allowing group to arrive at destination by living and experiencing the techniques presented...”

“The facilitators worked very well together – complimentary energy and experiences.”

Evaluation Category 2: Quality of the Workshop Materials

In all 11 workshops, the average respondent scores were at the high level of achievement for four items (materials worked well, were easily understood, matched my needs, and added value) and medium for the other item (the materials will be an essential reference for future work).

"The notebook includes some excellent resources on streamlining and collaborative decision making,"

" I plan to share this notebook with others."

" If or when a problem manifests itself, I can go back to these materials and refresh my memories."

Evaluation Category 3: Quality of the Workshop Facilities and Services

The majority of respondents in all workshops rated the workshop facilities at the medium or high level of achievement. The workshop attributes evaluated included: workshop location, lodging arrangements, meeting and breakout rooms, accessibility for people with disabilities, registration, meals and refreshments, restrooms, security and parking. Notably, all respondents in all 11 workshops provided very positive feedback on the location of the workshop (i.e. the average rating was 8.44).

"Great location, food, great job! I thought this was well worth my time!"

". . . an excellent venue. I was very favorably impressed."

Evaluation Category 4: Workshop Benefits and Gains

In terms of benefits and gains that participants experienced as a result of attending the workshops, evaluation results indicate that the workshops were particularly successful in providing practical knowledge. In particular, the average rating among all respondents for the achievement measure "I will be able to apply this knowledge when I return to work" was 7.43 (medium), as shown in Table 5. In 45 percent of the workshops, the average rating among participants was above 7.50 (high).

Table 5. Feedback on Benefits of Workshops

Measures of Achievement	Respondent Level Analysis			
	n	Mean	SD	Level of Achievement
I made significant gains in my knowledge of conflict resolution.	321	6.29	2.12	Medium
I am now fully aware of the challenges in resolving environmental controversies.	320	6.71	1.91	Medium
I am now fully aware of the options for resolving environmental controversies	319	6.65	1.85	Medium
I will be able to apply this knowledge when I return to work	319	7.43	1.97	Medium
I made significant gains in my skills.	318	6.38	2.06	Medium

Following is a sampling of comments provided by participants, relating to the benefits and gains they received from the workshops.

Gains in Understanding Awareness



"I've gained a more intimate view of the operational cultures and mandates of our potential partners."

"Have a better understanding of the NEPA process and components that need to be considered, and how issues are raised."

"The workshop has made me much more aware of the responsibilities and concerns of different agencies."

"Workshop heightened my awareness for potential alternative solutions."

Gains in Skills

"Learned valuable new skills about understanding interests of others – expect to apply this in future interagency work; learned good approaches to building trust through open, honest communication"

"I will directly use the principles of collaborative problem solving in my participation on the interagency team for one of the nation's streamlining projects. I will also apply the skills in my efforts to build, enhance and solidify interagency relationships at the Federal, state and local level."

Improved Communications and Networking

"This workshop provided an excellent opportunity for networking and getting to know more resource agency staff."

"I have begun to envision potential strategies for interacting earlier on projects with FHWA and ..."

"...continued communication and partnering with participants to insure that the level of participations don't decline and that participants perceive that their issues are being heard and addressed."



Using the Workshop to Effect Change

"I am currently engaged in a number of projects [or will be] that involve a number of different agencies, the public and another state. I anticipate the information from this workshop to be integral in helping to resolve issues that may arise."

"Implement several ideas gathered from this workshop; pre-scoping meetings to flush-out ideas, enhance listening skills, set stronger priorities for agency reviews, and stronger direction to sponsoring agency to set reasonable project schedules."

"To improve our American Indian relationship and coordination."

Recommendations on Workshop Improvements

The respondents were asked to elaborate on ways that the workshops could be improved to help the FHWA and U.S. Institute make real-time changes during the workshop series, and to assess what challenges remained for participants after the workshops. One recurring theme expressed by several respondents was:

"This workshop is a great first step. The next step will be a series of continuing meetings with agencies. It may be beneficial for this workshop to help promote continuing coordination. It seems to me that we all need regularly scheduled coordination meetings."

Many respondents also identified the need for "more individualized, state-by-state sessions with all relevant agencies." One respondent recommended holding a workshop specifically for tribal governments while another respondent suggested holding "annual workshops for elected officials."

NEXT STEPS

The regional workshop series provided an excellent opportunity for NEPA practitioners to learn and practice principles and tips in the FHWA/U.S. Institute Guidance Document, engage in collaborative problem solving, and begin discussions on regionally relevant topics. But this is just the beginning if the promise of environmental streamlining and stewardship is to be realized. Following are suggestions for specific follow-up activities drawn from ideas that emerged in the workshops.

- Begin regular coordinating meetings among agencies. Develop the agendas collaboratively, focusing on key developments and providing opportunities to address particular issues that are troublesome.
- Utilize the networks of contacts that developed among agencies at each workshop. Draw on these contacts to explore issues, float ideas, troubleshoot and problem solve. Use the network to address issues both between and within agencies.
- Foster leadership within each agency. Assume a leadership role or encourage and support such a role by your supervisor. Work actively to establish a process for elevating disputes when they develop and cannot be resolved at the lowest levels. Keep management as actively involved as needed.
- Utilize the U.S. Institute resources to help develop, organize, plan, and implement project development and review processes (including provisions for elevating disputes), and to resolve disputes. Facilitators on the Institute's Transportation Roster are available to help agencies all along the process, from developing interagency partnering agreements to structuring the process to helping to run meetings.
- Engaging the U.S. Institute early in the process is particularly appropriate for new projects. Mediators are also available to help stakeholders resolve disputes. Under FHWA rules, project funds can be used to contract for facilitation and mediation services. Contact the Institute's Roster Manager or the Program Manager for the Transportation Sector (520-670-5299; www.ecr.gov).
- Use FHWA resources. Remember that FHWA is often the Lead Agency under NEPA, and is committed to assuming a leadership role in the project development and review processes. The FHWA website contains a wealth of useful information, including examples of successful projects www.environment.fhwa.dot.gov

STATE-LEVEL WORKSHOP PROGRAM

Building upon recommendations offered by workshop participants, the FHWA and U.S. Institute have developed a state-level workshop program. The two agencies will work collaboratively with one or more partner agency and/or tribal nation sponsors to design, plan and oversee the state-level workshop. The FHWA will fund a portion of the cost of each state workshop. These workshops could be an opportune way to continue the team-building activities of the regional workshops or to further the discussions by focusing on state-specific topics.



Agencies and/or tribal nations that would like to co-sponsor a workshop on a specific state topic or problematic issue in the project development and review context are invited to submit an application. Applicants will be considered on a first received basis and evaluated on the completeness of the information requested. Once an application is accepted and workshop parameters (size, location and duration) have been decided on, an interagency or intergovernmental agreement will be signed with the sponsoring entity or entities to govern the cost-sharing arrangement.

(For a more complete description of the state-level program, see **Appendix E.**)

APPENDICES

APPENDIX A

Workshop Agenda

AGENDA

Improving Transportation Project Development and Environmental Reviews through Collaborative Problem Solving

Day I - 8:00 AM to 6:30 PM
<ul style="list-style-type: none">• Welcome, Purpose, and Introductions
Break
<ul style="list-style-type: none">• Context Setting: NEPA – Environmental Streamlining and Stewardship• Sources of Conflict that Make Collaboration on Transportation/Environmental Decision Making Challenging
Break
<ul style="list-style-type: none">• Discussion Circle: What is working well that supports interagency (including Tribal Nation) coordination, and what needs to be worked on?• Instructions and preparation for agency presentations
Lunch
<ul style="list-style-type: none">• Managing Interagency (including Tribal Nation) Relationships: Building Understanding – Agency and Tribal Nation Presentations and Discussion
Break
<ul style="list-style-type: none">• Using Interest-Based Problem Solving to Enhance Effectiveness: Identifying Interests (Case Study)
Break
<ul style="list-style-type: none">• Using Interest-Based Problem Solving to Enhance Effectiveness: Triangle of Satisfaction, Identifying Interests and Development of Joint Problem Statements• Review, Five Things to Remember, Plans for the Networking Session, Assignment
Networking Session (5:30-6:30 PM)

Day II - 8:00 AM to 5:00 PM
<ul style="list-style-type: none">• Review of Day 1, Objectives for Day 2, Table Introductions• Listening for Interests, and Reframing to Refocus
Break
<ul style="list-style-type: none">• Identification of Interests and Formulation of Joint Problem Statement for the S.C. Case Study, Fish Bowl Negotiations
Break
<ul style="list-style-type: none">• The Steps of Collaborative Problem Solving and Collaborative Problem Solving Practice• Selection of Topic for Collaborative Problem Solving and Formation of sub-groups
Lunch

**Workshop Agenda
Continued**

Day II - 8:00 AM to 5:00 PM (Continued)	
	<ul style="list-style-type: none"> Applying the Collaborative Problem Solving Process to a Current Multi-Agency / Tribal Nation Issue, Followed by reporting back and whole-group discussion
	Break
	<ul style="list-style-type: none"> Structure and Dynamics of Multi-Agency and Tribal Nation Decision Making
	<ul style="list-style-type: none"> Lead Agency, Cooperating Agency, and Participating Agency Roles under NEPA (includes break)
	<ul style="list-style-type: none"> Review of day, Five Things to Remember, and Assignment

Day III - 8:00 AM to 12:00 Noon	
	<ul style="list-style-type: none"> Review, Objectives for Day 3, and Table Introductions
	<ul style="list-style-type: none"> Discussion: Setting Timeframes
	<ul style="list-style-type: none"> Using Facilitators/Mediators to Aid Collaborative Problem Solving: USIECR Transportation Sub-Roster
	Break and Written Evaluation
	<ul style="list-style-type: none"> Elevation: A Tool to Prevent/Break Impasse
	<ul style="list-style-type: none"> Leading from the Staff Level – Personal Leadership Strategies
	<ul style="list-style-type: none"> Closing Circle: How to carry forward the learning and work accomplished in the workshop

APPENDIX B

Table of Contents for Workshop Notebooks

APPENDIX C

Letter to FHWA Coordinators For
Participant List Development



400 Seventh St., S.W.
Washington, D.C. 20590

Refer to: HEPE

Dear Coordinator:

We appreciate your willingness to assist in organizing the facilitated workshop on collaborative problem solving for standard Federal Region 1. Planning for these workshops in each Federal region is moving ahead rapidly. As the design of the workshops nears completion, scheduling workshop dates and locations is underway. These tasks are being managed by the U.S. Institute for Environmental Conflict Resolution. Dale Keyes, a Senior Program Manager, and Mari Kemper, a Program Associate at the U.S. Institute, will soon be in touch with you about the workshop in your region.

As described in more detail in the attached concept paper, the workshops are designed to bring together, within each of the standard Federal regions, staff members from transportation, environmental resource and regulatory, and historic preservation agencies who work routinely on developing and reviewing transportation projects. At the Federal level, we are focusing on FHWA Division Offices, EPA, USFWS, NMFS, USACE, and the SHPOs (as agents of the ACHP). At the State level, we are focusing on DOTs and one or possibly two other agencies that are deeply involved in developing and/or reviewing transportation projects. We also seek the participation of Native American tribes in regions where tribes play partnership or review roles. Depending on the region, these agencies and groups may be numerous. We are hoping to involve 30-35 participants at each workshop and need your assistance in identifying the most appropriate personnel in each relevant Federal and State agency, and appropriate tribe.

The workshops will be held at a location convenient to the majority of participants. To encourage attendance, everyone who qualifies for government travel will be reimbursed for his or her expenses. A tentative schedule for all 10 regions is attached.

Executive Order (EO) 13274: Environmental Stewardship and Transportation Infrastructure Project Reviews, signed in September 2002, promotes common sense streamlining and responsible environmental stewardship in transportation projects. The regional facilitated workshops are a key strategy to achieving the objectives of the Executive Order. The Interagency Task Force was established by this EO to monitor and assist the streamlining processes of the selected high priority transportation projects. Task Force members will be asked to communicate the importance of these workshops to their agencies' field managers.

You will be asked to work with these managers in your region and with the U.S. Institute to identify who should be invited to the workshops, and to assist as much as possible to encourage and facilitate their attendance.

We appreciate your efforts to assure the success of the workshops. Please call me or Ruth Rentch (202-366-2034) in my office if you have questions about the program.

Sincerely yours,
Frederick Skaer, Director
NEPA Facilitation

APPENDIX D

Guide For Identifying Invitees Letter

110 S. Church Avenue, Suite. 3350 (520) 670-5299 Tel
Tucson, Arizona 85701 (520) 670-5530 Fax

Kirk Emerson, Ph.D.
INSTITUTE DIRECTOR

**Identifying Candidates to Participate in the FHWA Facilitated Workshops
"Improving Transportation Project Development and Environmental Reviews
Through Collaborative Problem Solving"**

Guidelines for FHWA Regional Coordinators

The initial round of workshops is aimed at a balanced representation of Federal agencies (FHWA, Federal Land Highway, Federal Transit Administration, Federal environmental review and permitting agencies, including SHPOs as representatives of ACHP state interests), of state DOTs and relevant state resource agencies, and of Native American tribes in relevant regions. One workshop will be held in each multi-state EPA region. In order to optimize the exchange of information and the value of the discussions, we are aiming for a per-workshop maximum of 35 participants.

These workshops are structured to reinforce working relationships and build greater understandings of the Federal agencies' roles and responsibilities, and the relationship among members of Federal-Tribal-State teams involved in the NEPA review process for transportation projects. Personnel at the practitioner level are the intended workshop attendees. The success of these workshops depends on full participation by the entire Federal-Tribal-State family. Improved transportation decision making and environmental reviews resulting in environmental streamlining and stewardship will only be achieved if the critical staff – *those who develop transportation plans and projects and those who conduct and manage the environmental reviews* – participate in these workshops. Specifically, appropriate participants are:

- agency staff involved in the early coordination meetings, and
- agency staff who review and provide comments on the environmental documents.

The workshops will be sponsored by the FHWA in partnership with the U.S. Institute for Environmental Conflict Resolution. We are asking the appointed FHWA Regional Coordinators to help identify candidate participants from each relevant agency.

Following are suggestions for organizing the search for candidate participants³:

1. FTA, FLH, and/or FHWA (as appropriate in specific regions)
 - One staff person from each division office (3-10)
2. EPA (2-3 from the regional office)
3. USACE
 - One staff person from each district office; large states may have more than one district office (3-5)
4. USFWS and/or NMFS (as appropriate in specific regions)⁴
 - One staff person from each regional office; regions are not co-terminus with EPA regions (2-3)
5. Tribes (as appropriate in specific regions)
 - One staff person for each relevant function, e.g., historic preservation, 404 permitting, ESA consultation; tribal lands are not co-terminus with EPA regions (0-3)
6. SHPOs (3-8, one from each state)
7. State DOTs (3-8, one from each state)
8. Other state agencies (3-10, zero to one from each state, possibly two from a couple states)
 - These are agencies that are routinely involved in environmental reviews of transportation projects either due to delegated authority from Federal agencies or to **(from)** state authorities (e.g., the state game and fish agency has statutory responsibility for wildlife)

Guidelines for narrowing the search or reducing the number of possible candidates:

1. Where an agency has multiple offices within an EPA region, and especially where state agencies have multiple sub-state regional offices (many if not all of which are active in transportation development or review activities), narrow the search to the participant target numbers by focusing on those candidates who have been involved in the largest, most complex and perhaps most controversial projects. This may be someone who has worked in more than one office. Remember, however, that one purpose of the workshops is to improve working relationships among those staff members who would work together routinely on transportation projects, not necessarily agency managers.

³ The numbers in parentheses are target ranges for the number of participants. Each range reflects the number of states in each region and the desire to maintain a balanced representation among agencies, also keeping in mind the maximum desired size of each workshop – 35.

⁴ For a list of regional and field offices for NMFS (and with links to the USFWS website), go to: www.noaa.gov/fisheries

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2. If the number of candidates is still too large, pass all the names on to the U.S. Institute project managers who will reduce the numbers based on availability and the need to maintain balance among agencies.
 3. Remember, we would like the name of an alternate for each candidate identified in case scheduling conflicts will not allow the first candidate to participate.

Information requested:

Please send the following information for the candidate and the alternate:

Agency	Name	Title	Address	Phone	Fax	E-mail
	Candidate 1					
	Alternate					
	Candidate 2					
	Alternate					

Send this information to:

Mari Kemper
 Project Associate
 U.S. Institute for Environmental Conflict Resolution
 130 South Scott Ave.
 Tucson, AZ 85701
 520-670-5299 / 520-670-5530 (phone/fax)
kemper@ecr.gov

APPENDIX E

Bio Sketches and Contact Information for
Workshop Facilitators

WORKSHOP FACILITATOR BIOS

JONATHAN BARTSCH
CDR Associates
100 Arapahoe Ave., Ste 12
Boulder, CO 80302
(303) 442-7367

Jonathan D. Bartsch, M.A., Program Manager at CDR Associates in Boulder, CO, is an experienced facilitator, mediator, trainer and researcher. His area of focus is on complex, multi-party environmental and organizational consensus-building processes. Applying collaborative processes to transportation and water related issues in a number of national and international cases is a particular area of attention. His cases include: transportation decisions, management of interstate water resources, management and use of state surface water and ground water, dam re-licensing, air quality issues and historic preservation. Mr. Bartsch is effective in bringing together governmental policy makers and regulators, industry and utility representatives, legal advisors, technical experts, environmental advocates, and the interested public to build consensus on environmental and public policy issues. He has facilitated meetings among transportation and environmental agencies in South Carolina and Colorado, both as part of the NEPA process on projects and as part of improving interagency working relationships. He has designed and delivered courses including *"Public Involvement in the Transportation Decision-Making Process"* sponsored by FHWA, *"Complex Environmental Negotiations"* for the USFWS, and *"Overview of Collaborative Decision-Making and ADR Approaches and Procedures,"* for the Bureau of Reclamation and the Department of Interior. Jonathon Bartsch is known for his ability to custom design and conduct public participation and decision-making processes in contentious situations.

CARIE FOX
Fox Mediation
3414 NE Clackamas
Portland, OR 97232
(503) 231-6557

Carie Fox, owner of Fox Mediation, in Portland, OR, has broad experience in complex, multi-party disputes, focusing on natural resource and land use issues. Workplace mediation, systems design, assessment and training form about 40 percent of her case load. Ms. Fox has a background in science (M.S. in Soil Science) and law (J.D.) helping her to bridge the legal and scientific issues that sometimes arise. The role she takes is primarily dictated by what the parties want—neutral project manager, facilitator, head-banger, Camp Counselor, decision scientist, exorcist or shuttle negotiator. Ms. Fox has played all these roles with often stellar results, reason being that she listens to what the parties tell her, and acts on it. Carie Fox believes the occasional good belly-laugh may also be a key to success. Finally, perhaps the best sign of success is that the groups she has helped to form or reform, function extremely well long after the conclusion of her intervention.

LOUISE SMART
CDR Associates
100 Arapahoe Ave., Ste 12
Boulder, CO 80302
(303) 442-7367

Louise Smart combines her background in planning with over 20 years of dispute resolution experience to make her an effective facilitator, mediator, and trainer in environmental and public policy decision-making and conflict resolution. Her cases have involved: transportation decisions, management of interstate water resources, wetlands avoidance and mitigation, cleanup of Superfund and other contaminated sites, sand and gravel mining, flood damage reduction, permitting processes, historic preservation and housing strategies. She is effective in bringing together governmental policy makers and regulators, industry representatives, legal advisors, technical experts, environmental advocates, and the interested public to build consensus on environmental and planning issues. She has facilitated meetings among transportation and environmental agencies both as part of the NEPA process on projects and as part of improving interagency working relationships in South Carolina, Virginia, Texas, Colorado and California. She has designed and delivered over 60 FHWA-sponsored courses on *“Practical Conflict Management Skills to Resolve Transportation/Environmental Issues,”* *“Public Involvement in the Transportation Decision-Making Process,”* and the *“Environmental Leadership Seminar.”* She is a partner in CDR Associates in Boulder, Colorado.

JOHN WOFFORD
13 Cottage St
Cambridge, MA 02139
(617) 661-3200

John G. Wofford is a mediator, facilitator and arbitrator with his own nationwide practice in dispute resolution based in Cambridge, Massachusetts. He is a lawyer who for many years has not represented any one side in a dispute; rather, he provides only impartial services in a wide range of subject areas. Over 30 years ago he began mediating and facilitating major transportation, environmental and land use disputes. He has been a partner in a Boston law firm, has held positions of responsibility in government at both the state (Associate Commissioner of Public Works for Massachusetts and Director, Central Transportation Planning Staff for the Boston Region) and Federal levels (Deputy General Counsel, US Department of Transportation). From 1999 to 2002, he was a Presidential appointee to the Federal Service Impasses Panel, which is charged with final decision authority in resolving disputes in negotiations between the Federal government and its unionized employees. He was a senior consultant with Endispute, Inc. for six years, and established his own practice in 1993. He is a graduate of Harvard College (BA), Harvard Law School (LLB) and of Oxford University (BA, MA), where he was a Rhodes Scholar. He is a member of the Bars of Massachusetts, New York and the District of Columbia (DC inactive).

APPENDIX F

State Workshop Overview Announcement

State-Level Interagency Workshops on Transportation Issues – Collaborative Problem Solving For Better Solutions

April 1, 2004

The Federal Highway Administration (FHWA)'s Office of Project Development and Environmental Review and the U.S. Institute for Environmental Conflict Resolution (U.S. Institute) announce a program for developing state-level workshops to collaboratively address issues related to transportation project development and environmental review. The workshop series is an outgrowth of region-wide workshops held recently in each of the 10 Federal regions on environmental streamlining and collaborative problem solving. The FHWA and the U.S. Institute will work collaboratively with partner agency and/or tribal nation sponsors to design, plan and oversee the workshops. The FHWA will fund up to 50% of the cost of each state-level workshop.

Context

The Transportation Efficiency Act for the 21st Century (TEA-21) identified slow, inefficient project review processes under NEPA as a major barrier to meeting our nation's transportation needs. Section 1309 – Environmental Streamlining – was included in TEA-21 to promote efficient and effective transportation project development that also protected and enhanced the environment. The FHWA responded with its Environmental Streamlining and Stewardship program. A focus of the program is strengthening interagency working relationships, specifically, improving collaboration and managing conflict in the project development and review processes.

The FHWA and the U.S. Institute have partnered to assist agencies in achieving more productive and effective working relationships through the development of:

- A Guidance Document (*Collaborative Problem Solving: Better and Streamlined Outcomes for All*) that provides a framework and specific suggestions for interagency coordination and conflict management within the FHWA/NEPA context.
- A Roster of Transportation Mediators and Facilitators (the Transportation Roster) that is available to help agencies develop general operating agreements, negotiate project timelines, facilitate meetings and resolve disputes.
- National procedures for elevating interagency disputes that are related to the transportation project development process but not otherwise resolved.
- Regional and state-level collaborative problem-solving workshops.

Both the regional and state-level workshop series are intended to help agencies apply the principles of interest-based negotiation, collaborative problem solving, and alternative dispute resolution presented in the Guidance Document to relevant, real-world challenges. These workshops also provide the opportunity to learn about resources for getting assistance and resolving disputes when they emerge.

The Workshop Development Process

Agencies and/or tribal nations that would like to co-sponsor a workshop on a specific state topic or problematic issue in the project development and review context should submit an application using the attached application form. Applications will be considered on a first received basis and evaluated on the completeness of the information requested. Once an application is accepted and workshop parameters (size, location and duration) have been decided, an interagency or intergovernmental agreement will be signed with the sponsoring agency or multiple agencies to govern the cost-sharing arrangement. Sponsoring entities must provide at least 50 percent of the project cost. A total of 10 workshops will be supported with the current program funding.

Each workshop will be developed through a collaborative team process. The planning team will include representatives from the sponsoring and participating agencies and/or tribal nations, FHWA, the U.S. Institute, and two facilitators – a lead facilitator (one of the experienced facilitators from the regional workshop series) and a second facilitator selected by the team members.

Working with the planning team, the U.S. Institute will manage, coordinate and oversee the following tasks:

- Refine the workshop purpose and expected outcomes
- Review the list of participating agencies and/or tribal nations and expand the planning team as appropriate
- Decide on workshop size, location and duration
- Prepare and sign an interagency agreement to fund the workshop
- Develop a project schedule
- Select a site, locate a workshop facility and negotiate a contract
- Select and contract with two facilitators
- Identify and invite agency and/or tribal nation participants
- Develop the workshop agenda
- Design workshop activities and materials
- Reproduce and distribute materials
- Deliver the workshop
- Evaluate the workshop
- Reimburse participants

The workshop design and materials will be modified from those used in the regional workshops.

Contacts

For more information about Environmental Streamlining and Stewardship or the workshop program, contact:

FHWA

Ruth Rentch,
Project Development Specialist
202-366-2034
Ruth.Rentch@fhwa.dot.gov

The U.S. Institute

Dale Keyes
Senior Program Manager
520-670-5653
keyes@ecr.gov

To discuss ideas your agency and/or tribal nation has for a workshop or the application process, contact:

The U.S. Institute

Mari Kemper
Program Associate
520-670-5299
kemper@ecr.gov

**State-Level Interagency Workshops on Transportation Issues
Collaborative Problem Solving For Better Solutions**

Application for FHWA Co-Funding

These workshops are intended to address key substantive and process issues that agencies face in developing and reviewing transportation projects by applying principles of collaborative problem solving and interest-based negotiation.

Please provide the following information:

Date:

Agency or Tribal Nation:

Address:

City:

State:

Zip:

Phone:

Fax:

Email:

Please list other participating agencies and/or tribal nations and indicate which ones have agreed to participate:

Agency/Tribal Nation	Contact	Email	Agreed (yes/not yet)

ABSTRACT

Title of proposed workshop:

What is the focus?

Why is it important?

What are the associated problems and challenges?

What are the desired workshop outcomes?

What are the potential long-term benefits?

Which agencies or tribal nations have agreed to contribute to the cost? (The 50% or more applicant share may range from \$30,000 to \$50,000 depending on several factors):

Please provide the following information and the U.S. Institute will estimate a budget to use as the basis of an interagency or intergovernmental agreement once the application is approved.

Number of participants and percent “on travel” (reside more than 50 miles from the workshop location and thus will need travel reimbursement):

Suggested location:

Estimated duration of workshop:

Describe any anticipated problems in delivering the workshop: