

A Handbook for Making Jurisdictional Transfers

Overview

In 1917 the state legislature designated 4,317 miles of mostly unpaved county roads as the state highway system. Today the state highway system is made up of about 7,500 miles of highways acquired by transfer from other jurisdictions or the Department of Transportation's acquisition of property interests. The process of transferring roads from one jurisdiction to another in order to match road ownership and road function continues today. The purpose of this handbook is to clarify the process and the issues involved.

The Oregon Department of Transportation (ODOT) makes proposals to transfer state highways to local governments in order to

- Concentrate state responsibility for the road system on highways with statewide or regional significance, and
- Increase the efficiency of operation and maintenance of the highway system.

Local governments sometimes want to transfer a road from their jurisdiction to the state because

- A road serves the same function as other state highways, and
- The state is better able to modernize, preserve and maintain it.

The trigger for a jurisdictional transfer may be a highway project or the desire of ODOT or a local government for a change. A transfer requires the agreement of the state and all affected local governments. Both the state and local governments want the transfer to be a "win-win" for the parties. There are many ways of achieving this, and each transfer is unique because of the ownership of the right of way, condition of the highway and related features, need for improvements, and possible compensation or trade issues. This handbook is a guidebook for considering the issues and the options.

The State Highway System

The state highway system provides for the safe and efficient movement of people and goods throughout the state and connections to neighboring states. The 1999 Oregon Highway Plan (OHP) places state highways into five categories, each with a different function and management objective. According to the Highway Plan (pages 41-42):

- **Interstate Highways** (National Highway System (NHS)) provide connections to major cities, regions of the state and other states. A secondary function in urban areas is to provide connections for regional trips within the metropolitan areas. Interstate Highways are major freight routes and their objective is to provide mobility. The management objective is to provide for safe and efficient high-speed continuous-flow operation in urban and rural areas. Interstates include I-5, I-84, I-205, and I-405.

- **Statewide Highways** (NHS) typically provide inter-urban and inter-regional mobility and provide connections to large urban areas, ports, and major recreation areas that are not directly served by Interstate Highways. A secondary function is to provide connections for intra-urban and intra-regional trips. The management objective is to provide safe and efficient, high-speed, continuous-flow operation. In constrained and urban areas, interruptions to flow should be minimal. Statewide Highways include US 20 (Newport-Corvallis, Sisters-Ontario), OR 126 (Florence-Eugene-Madras) and US 395 (Washington-California state lines). (OR 82 is the only Statewide Highway not on the NHS.)
- **Regional Highways** typically provide connections and links to regional centers, Statewide or Interstate Highways, or economic or activity centers of regional significance. The management objective is to provide safe and efficient, high-speed, continuous-flow operation in rural areas and moderate to high-speed operations in urban and urbanizing areas. A secondary function is to serve land uses in the vicinity of these highways. Regional Highways include OR 99W in the Willamette Valley, OR 138 (Roseburg-US 97) and US 197 (The Dalles – US 97).
- **District Highways** are facilities of countywide significance and function largely as county and city arterials or collectors. They provide connections and links between small urbanized areas, rural centers and urban hubs, and also serve local access and traffic. The management objective is to provide for safe and efficient, moderate to high-speed continuous-flow operation in rural areas reflecting the surrounding environment and moderate to low-speed operation in urban and urbanizing areas for traffic flow and for pedestrian and bicycle movements. District Highways include Canyon Road (Portland-Beaverton), OR 66 (Ashland-Klamath Falls), and OR 216 (Tygh Valley-Grass Valley).
- **Local Interest Roads** function as local streets or arterials and serve little or no purpose for through traffic mobility. Some are frontage roads; some are not eligible for federal funding. Currently, these roads are District Highways or unclassified. The management objective is to provide for safe and efficient, low to moderate speed traffic flow and pedestrian and bicycle movements. ODOT will seek opportunities to transfer these roads to local jurisdictions.

Expressways are a subset of the state highway classifications to provide for high speed, high volume travel between cities and connections to ports and major recreation areas with minimal interruptions. A secondary function is to provide for long distance intra-urban travel in metropolitan areas. The Transportation Commission has classified over 520 miles of Statewide and Regional Highways as Expressways. (See OHP Website for current list of Expressways at <http://www.odot.state.or.us/tdb/planning/highway/>).

Interstate, Statewide, and Regional Highways, including Expressways, carry out statewide purposes. District Highways often have more local purposes. At the same time, some local roads serve more-than-local purposes.

Why Transfer Roads

The major reason for transferring a state highway to a local jurisdiction is that the road serves primarily local interests and is not needed to serve state interests. The 1999 Oregon Highway Plan in Policy 2C says that the state should “consider, in cooperation with local jurisdictions, jurisdictional transfers that:

- “Rationalize and simplify the management responsibilities along a particular roadway segment or corridor;
- “Reflect the appropriate functional classification of a particular roadway segment or corridor; and/or
- “Lead to increased efficiencies in the operation and maintenance of a particular roadway segment or corridor.” (OHP, page 89)

There are a number of reasons why ODOT might want to transfer a highway segment to a local jurisdiction:

- On a District Highway the vehicle trips are mostly local in nature--for shopping, local business and recreation--and not an essential link needed to maintain continuity in the highway system.
- A new state highway bypasses a city, and the route through the city is no longer needed as part of the state system.
- A highway realignment leaves a portion of the old highway useful only for local access purposes.
- Having only one government making land use and access management decisions on a District Highway might result in greater efficiency and community responsiveness.
- The local government wants to make improvements, permit accesses or maintain the District Highway or Local Interest Road in a way that ODOT cannot do or is not willing to do. The local government may want to apply higher standards or apply a service level that ODOT would not address because the state places a low priority on that road.
- The trade will save ODOT money for signal power and maintenance, as well as plowing, sanding and other maintenance work, and it is more efficient for the local government to provide these services.
- The highway is not needed for statewide or regional system connectivity.

A transfer to a local government may allow the local jurisdiction to maintain the road more often and to use alternative funding options in order to do so; however, such a transfer may also burden the local budget.

There are also reasons why a local road or highway should be added to the state highway system:

- The road serves a statewide or regional function, such as an urban arterial that serves mainly through traffic and a rural route that has statewide economic importance.
- The road is an important connector between two Interstate or Statewide Highways.
- The road is within an Interchange Management Area on an Interstate or Expressway, and the state wants to protect access using state standards.

Candidates for Jurisdictional Transfers

Transfers to Local Jurisdictions

Roads that are good candidates for transfer to local governments generally are either (a) roads that are bypassed as a result of a major highway construction project or (b) Local Interest Roads.

Action 2C.1 of the 1999 Highway Plan identifies the types of roads and highways that might be transferred to local jurisdictions. To further identify such “Local Interest Roads,” the OHP Classification Committee added definition to the list in Highway Plan Policy 2C.1 (OHP, page 90) (The OHP list is in quotation marks and is followed by the comments of the OHP Classification Committee.):

1. “Urban arterials serving primarily local travel needs” – Urban streets that serve primarily intracity needs such as local shopping, business, or recreation. These are usually classified as District Highways.
2. “Urban streets that have remained state-owned after a parallel major improvement has been constructed” – These urban or rural highways may be under state jurisdiction after a parallel major improvement has been constructed bypassing the area. They may be Statewide, Regional or District Highways.
3. “Frontage roads” – Frontage roads may be used to control access to the highway, to function as a street serving adjoining property, and to maintain circulation of traffic on the side of the arterial. They are not classified in the OHP Highway Classification System.
4. “Farm-to-market roads” - County roads brought into the state highway system in the 1920s and 1930s were called farm-to-market roads. Currently, they are resource roads that serve forest, farm and other rural uses. They are usually District Highways.
5. “Other roads that function like county roads” – These serve local needs and travel within rural areas. They may be District Highways.
6. “Connector roadways between highways. (These facilities do not include continuous highway segments that extend through a local jurisdiction.)” – Connector roadways that are currently District Highways are in this category
7. Unclassified roads – These are state-owned but not in the State Highway Classification System; they are not Interstate, Statewide, Regional or District Highways. They include frontage roads, spurs (branches or extensions of existing state highways) and connections (ramps).

Transfers to the State System

Action 2C.1 of the 1999 Highway Plan also identifies the types of roads and highways that might be transferred from local jurisdictions or federal agencies to the state system. The OHP Classification Committee added definition to the list in Highway Plan Policy 2C (OHP, page 90) (The OHP list is in quotation marks and is followed by the additions of the OHP Classification Committee.):

1. “Urban arterials that serve mainly through traffic.” These usually would be principal arterials.
2. “Rural routes that have statewide economic importance.” These should be part of an integrated system of roads and should be
 - a. Principal arterials that are intermodal connectors on the National Highway System; or
 - b. Roads that provide a major cross-connection between existing state highways.
3. Routes that are important connectors; namely,
 - a. In urban areas, a principal arterial that is a connecting link between two state highways and serves regionally-oriented through traffic in urbanized areas with a population of 50,000 or greater.
 - b. In rural areas, an arterial or major collector between places exhibiting one or more of the following characteristics:
 - (i) A population center of about 1,000;
 - (ii) A major commercial-industrial facility or major regional institution or major recreational facility in a rural area with a population equivalency of 1,000 or greater.
4. Roads that are functionally part of an interchange.
5. Other locally- or federally-owned highways that meet the OHP definition of Regional or Statewide Highways.

Deciding Whether to Transfer a Highway

Initiating the Process

ODOT or a local government can initiate the process of a jurisdictional transfer as part of a construction or improvement project or unrelated to a project. The transfer may be a condition for a state-funded project. For example, if a bypass around a city is being proposed, ODOT may make transferring a highway through the city a condition of constructing the project. A project may also straighten a road alignment; then ODOT may transfer segments of the old alignment to the affected local government or abutting property owners.

Unrelated to a project, a local government and ODOT might see that the community and through traffic would be better served if the state highway through the community's downtown were moved to a city road that skirts the downtown. This might involve a straight exchange of roadway.

Issues in the Decision

To decide whether a highway segment should be transferred, ODOT and local governments should consider a number of issues:

1. **Goal of the transfer.** What is the goal in making the proposed transfer? Is the goal in line with Highway Plan policy? Is a transfer the best way to achieve the goal? Can the goal be achieved in another way, by an intergovernmental agreement for example?
2. **Trip character.** Are the trips on the segment mainly local, regional or statewide?
 - Does the road or highway serve primarily local travel needs, such as local shopping, schools, and recreation? If it does, the highway probably should become part of the local road system. However, if the highway is in an urban area with high volumes and high local traffic, it may be important to through traffic to have the highway on the state system.
 - Does the road or highway serve primarily statewide or regional travel needs? If so, the highway should be part of the state highway system.
 - Is the facility a regional connector? If the highway connects two Interstate, Statewide, and/or Regional Highways, connects to routes in another state, or is a bypass serving regional traffic, then perhaps the facility should be a state highway.
3. **Highway function.** How does the transfer of the highway affect the function of the state highway system?
 - Is the facility important to the functionality of the statewide highway system?
 - What are the impacts of the transfer on that functionality? Does the transfer of a segment affect the functionality of the whole highway? The loss of an urban

segment and its use of different access and mobility standards may cause additional delays for through traffic. If a highway is broken into segments owned by different jurisdictions, it may be more difficult to track and maintain.

- Is a highway or frontage road parallel to a major state facility needed on the state system to serve emergency purposes, provide local access, handle wide loads or relieve congestion?
 - Would changes in maintenance, highway mobility, access management or other standards resulting from a transfer to a local jurisdiction negatively impact the function of other nearby state facilities? The exchange of a highway intersecting an Interstate or Expressway may impact access management.
4. **Land use.** Does the regional or local comprehensive plan, transportation system plan or corridor plan treat the highway as a local road favoring accessibility, or as a statewide facility favoring mobility, as determined by highway classification and access management?
 5. **Highway mobility standards.** Would the transfer reduce acceptable and reliable levels of mobility on the state highway system?
 - Does the highway cross an Interstate or Expressway interchange or Statewide highway where state ownership of the highway is required to protect the **functionality** of the interchange, off-ramp or highway?
 6. **Access management.** How does a transfer affect the management of approach roads?
 - Does the highway cross an Interstate or Expressway interchange or Statewide highway where state ownership of the highway is required to protect the **access management** of the interchange, off-ramp or highway?
 - Is the frontage road being considered for transfer needed to support the limited access of an Interstate, Expressway, interchange or potential Expressway?
 - Instead of a transfer, can the access problems be solved by a local ordinance that supports the state highway function?
 7. **Future needs.** Does a planning study say that the highway will be needed on the state system to accommodate population growth or a change in the economy?
 8. **Local government desire for a different level of service for a road or highway that is currently within the state system.** Can ODOT accommodate the local government's desire for higher maintenance standards, different design standards or better facilities? Can the issue be resolved through an intergovernmental agreement whereby the local government pays ODOT to perform the work at a higher service level than the level ODOT would provide absent any local funding contribution?

9. **Scenic Byways.** If the highway is designated as a National or State Scenic Byway, how will the transfer affect the designation? The National Scenic Byway Program as well as the state designations require the control of outdoor advertising (see further discussion under Outdoor Advertising on page 19) per 23 USC 131(s). Highways currently falling under ORS 377.7 (Oregon Motorist Information Act) and OAR 734-080-0005 are considered as meeting that requirement. A number of these roads are currently designated State and National Scenic Byways. If the outdoor advertising restrictions cannot be transferred with the road and are not separately adopted by the applicable city/county/tribe, then that Scenic Byway designation would likely be no longer in compliance with the regulation and would be removed.
10. **Benefits and costs.** What are the potential benefits or cost-savings in transferring the facility? What planning, access management, preservation, operations, and/or maintenance costs would be saved in the transfer? What costs would be incurred in the transfer? Will any inducement funding be involved?

If the ODOT or local government representatives determine they need greater contributed assets from the other party before agreeing to the proposed jurisdictional trade, they may negotiate for contributions above and beyond those defined in the benefit/cost and break-even analyses. (See pages 22-25.)

11. **Funding the transfer.** Will the transfer require funding? If so, what is the funding source? What assets and responsibilities could be considered in trade? If ODOT's property assets are being considered for trade, the Right of Way Section's Property Management Unit must be contacted to see if this is possible. Any property transfer by ODOT must take into account the requirements of ORS 366.395 and, if the property was either purchased or improved even in part using state highway funds, Article IX, Section 3a of the Oregon Constitution. If state highway funds were used, ODOT must receive fair market value for the property. If the property will continue to be used for roadway purposes, then the transfer might be at little or no cost; but the transfer document must include a provision that if it ever ceases to be used for a roadway purpose it reverts to ODOT.

Making the Decision

In deciding whether to transfer a highway segment, the ODOT and local government decision-makers must weigh the above issues. The decision will likely involve tradeoffs. The decision may involve short-term costs, but there should be long-term benefits to the highway system and to the public.

Roles and Responsibilities for the Transfer within ODOT

The Region

At ODOT, usually the Region Manager, District Manager, Area Manager or Planning Manager is in charge of negotiating the jurisdictional transfer.

Those experienced in processing transfers say that it is important to have one person in the Region in charge of processing the transfer, including preparing and shepherding the agreement and making sure that the final jurisdictional transfer document is completed. The Region Jurisdictional Transfer Specialist, Agreements Specialist or Federal Aid Specialist, depending on Region staffing, usually investigates and prepares the agreement. The Specialist makes sure the Right of Way Section receives the paperwork and information necessary to prepare the needed documents that legally complete the terms of the transfer after the agreement has been approved and the terms and conditions of the agreement have been met.

One of the first tasks in preparing a complete agreement is preparing an exhibit map. The Region prepares the initial map that clearly defines the road segments to be transferred or retained. The Right of Way Section makes sure that a clear exhibit is used for the final Jurisdictional Transfer document (recorded legal document).

- **Region Traffic Section**

The Region Traffic Engineer is responsible for traffic signal timing and operations on the state highway system. When a highway is removed from the state highway system or added to it, technical aspects such as signing and truck route adjustments, signal timing changes and reassignment of maintenance and power cost responsibilities need to be addressed. Ownership of any traffic signals on the highway also need to be clarified in the documentation.

Financial Services

Financial Services staff members do the benefit/cost analysis in a jurisdictional transfer; they weigh the contributions of both parties and calculate the gap to achieve a break-even point.

Support Services - Construction Contracts and Agreements Section

The Construction Contracts and Agreements Section addresses form and sufficiency--reviews for clearness and completeness—coordinates to make sure the needed reviews take place, and makes sure the approval is correct and all the necessary signatures are included on the Jurisdictional Transfer Agreement.

Technical Services

- **Right of Way Section**

The Right of Way Section is in charge of ODOT's land assets and has the departmental authority to sign divestments of land assets, including surplus property if included as part of the jurisdictional transfer. The Right of Way Section determines ODOT's interest in the section of highway proposed for transfer, prepares the final exhibit map depicting the area to be transferred, and prepares the final recorded documents to complete the terms of the agreement.

- **Traffic Management Section**

The Traffic Management Section coordinates moving the location of numbered highway routes. The process includes requesting opinions from the affected state and local government about the proposed changes to US and Oregon routes (AASHTO is also involved in changes to US routes). The Traffic Management Section also is responsible for preparing an order to transfer the authority for speed zones to the local jurisdiction.

Transportation Development Division

- **Planning Section**

The Highway Plan Manager in the Planning Section is in charge of coordinating technical changes and amendments to the Oregon Highway Plan. When a highway is removed from the state highway system or added to it, changes need to be made to the map and list of state highways in the Highway Plan. After terms of the transfer agreement are met, the manager prepares the documentation for the corrections or minor amendments to the Highway Plan, provides for public notice and review, and sends the documentation to the Director or to the Transportation Commission, depending on the nature of the transfer. See Appendix A, Delegation of Authority.

- **Road Inventory and Classification Services**

Road Inventory and Classification Services is responsible for determining current milepoints and assigning new milepoints to the state highways system. Staff is also responsible for coordinating with the Region to determine new state highway names and numbers. After a transfer is complete, this unit updates ODOT's corporate mileage database (ITIS) to reflect the changes in jurisdiction. ITIS supplies base milepoint information to ODOT's management systems and is used to create the video log and straightline charts. State highway mileage from ITIS is reported to FHWA yearly and is used as part of the federal apportionment formula.

The Legal Process

Oregon Statutory Authority for Jurisdictional Transfers

Jurisdictional transfers are based on state statute and require Oregon Transportation Commission approval to complete the transfer. Oregon statutes give the Oregon Transportation Commission power to “select, establish, adopt, lay out, locate, alter, relocate, change and realign primary and secondary state highways.” (ORS 366.215, Creation of state highways.)

The statutes also give the ODOT the power to add or remove roads from the state highway system, as follows:

366.290 Adding to or removing roads from state highway system; responsibility for construction and maintenance.

- (1) The Department of Transportation may select, locate, establish, designate, improve and maintain out of the highway fund a system of state highways, and for that purpose may, by mutual agreement with several counties, select county roads or public roads. By an appropriate order entered in its records the department may designate and adopt such roads as state highways. Thereafter the construction, improvement, maintenance and repair of such roads shall be under the jurisdiction of the department.
- (2) In the selection of highways or roads to comprise the state highway system the department shall give consideration to and shall select such county roads or public roads as will contribute to and best promote the completion of an adequate system of state highways.
- (3) With the written consent of the county in which a particular highway or part thereof is located, the department may, when in its opinion the interests of the state will be best served, eliminate from the state highway system any road or highway or part thereof. Thereafter the road or highway or part thereof eliminated shall become a county road or highway, and the construction, repair, maintenance or improvement, and jurisdiction over such highway shall be exclusively under the county in which such highway or road is located.
- (4) The construction, maintenance and repair of state highways shall be carried on at the sole expense of the state or at the expense of the state and the county by mutual agreement between the department and the county in which any particular state highway is located.

Similar authority for transfers involving cities is in ORS 373.010. See Appendix C.

Ownership of the Highway System

The state highway system is comprised of thousands of parcels of land, with the ownership interests ranging from fee to easement. These parcels came into state ownership at different times and under different circumstances. For the most part, the earliest parcels were once county roads given to the state for use as a state highway by counties' passing resolutions conveying these parcels to the state. More recently, the state has obtained property interests by acquiring fee or easement interests from private owners. The property interests are acquired by deed or other conveyance document or through the exercise of eminent domain power. The Right of Way Section considers this history as part of the jurisdictional transfer process.

If some part or all of a highway section to be eliminated is needed for the service of persons living thereon or for a community served thereby, then those parts must be maintained as some type of public roadway. ODOT must work with the other public transportation agencies during the agreement process to determine who will have jurisdiction and maintain those portions. A reversionary clause must be included in any jurisdictional transfer from the state to a local agency. This reversionary clause ensures that the property rights transferred revert to the state if the road is not used for public roadway purposes in the future. Such property rights then become ODOT assets managed by ODOT's Right of Way Section, Property Management Unit.

Overview of the Formal Transfer Process

The formal process that legally transfers property between ODOT and a local jurisdiction is often referred to as the jurisdictional transfer process. This process ultimately results in a conveyance document that is recorded with the county, thereby legally completing the jurisdictional transfer. (See Appendix A for detailed process.)

Prior to re-evaluating this process and producing this handbook, ODOT referred to this process as Abandonment and Retention (A & R). The agreements were titled Abandonment and Retention, and various conveyance documents were used to complete the transfer, depending upon how title was originally acquired. Jurisdictional Transfer is the term now being adopted and will be used for the title of the agreements and the recorded conveyance document. This term accurately reflects what's actually happening.

Preparation of an Agreement

If the jurisdictional transfer involves one or more local governments, the Region and the affected local governments start preliminary negotiations regarding the highway segments to be transferred and/or retained. (See Issues in the Negotiation, page 16.)

Based on these negotiations, the Region prepares a draft agreement with the local agency, describing all of the necessary terms and conditions, along with a preliminary map of the highway segments involved. The draft agreement must clearly provide terms for the transfer of jurisdictional control and the maintenance of the transferred/retained sections.

(See ORS 366.300 in Appendix C.) The Region informally reviews the draft agreement with other ODOT offices and prepares a preliminary map (preferably electronic) and description. Right of Way finalizes the formal exhibit map and description. Next the Region asks for the formal required review through the Construction Contracts Section. This formal review of the draft agreement is sent to ODOT sections affected by the agreement and the Attorney General's office for further review. Based on the comments from the formal review, the Region amends the agreement until it is acceptable and otherwise finalizes the agreement.

The next steps depend on who has authority or delegated authority to sign the agreement. (See Appendix A for details.)

After the Jurisdictional Transfer Agreement has been approved, it is sent to the Region Manager, the local agency, the Right of Way Manager, appropriate Technical Services managers, and Legal Counsel for approval and signatures.

Several types of agreements besides the Jurisdictional Transfer Agreement may also include adequate provisions for transferring and/or retaining highway segments. These types of agreements include Construction Finance Agreements and Cooperative Improvement Agreements. These agreements may be utilized for the jurisdictional transfer only if they adequately describe the property to be transferred/retained, and include all of the necessary terms and conditions for the transfer/retention, along with an exhibit map of the highway segments involved. However, a stand-alone Jurisdictional Transfer Agreement is often preferable since, unlike other types of agreements, once the terms of a Jurisdictional Transfer Agreement are met and the follow-up documents are completed, the obligations of that agreement are completed. It is good practice to have separate Jurisdictional Transfer Agreements for each local jurisdiction involved in a transfer. (For example, both a county and a city could be involved in a jurisdictional transfer at an interchange.) These agreements are prepared and processed by the Region and reviewed in the same way as all other agreements. The Region must obtain Commission approval or delegated approval for all these agreements.

Completion of the Jurisdictional Transfer Conveyance Documents

Once the agreement is in place and the necessary terms and conditions of the agreement have been met, the formal resolutions and transfer documents finalizing the process can be prepared and recorded. The ODOT Right of Way Section, Acquisition Unit, prepares these documents, based on the terms of the agreement, and attaches the final exhibit map that clearly defines the highway segments to be retained and/or transferred. Once signed, the document transferring the right of way, with a reversionary clause, is recorded with the county, with the exhibit map attached.

Excess/Surplus Property Procedures

The Right of Way Section, Property Management Unit, is responsible for managing the property that ODOT owns which is not part of the public highway system, in a manner

which provides the maximum long range public benefit. If a property interest originally acquired by the Department (deed, donation, judgment, etc.) is not to be used for highway purposes in the future, it is excess property. A request to declare this property interest surplus to the Department must be initiated through the Property Management Unit. If declared surplus, Property Management will appraise, market, and sell this surplus property, returning the sale proceeds to the highway fund for future departmental uses. The Right of Way Manager has the delegated authority for ODOT to approve and execute the documents for the management, sale, lease, exchange or other potential disposal of surplus property. Committing ODOT to a trade or disposal of a surplus property can only be accomplished by first going through this process, which can take a lengthy amount of time.

There may be surplus property considerations as part of the Jurisdictional Transfer Agreement. This can occur when the property interest (parcel acquired by deed, donation, judgment, etc.) is not to be used for public highway purposes now or in the future. This typically can occur as part of a project where a new highway segment is built and portions of the old alignment are no longer needed. The property interest may be transferred to the local jurisdiction at little or no cost if it will continue to be used for roadway purposes, but with a reversionary clause providing that it goes back to ODOT if such use stops. If, however, the local jurisdiction will not use the property for roadway purposes or does not want the reversionary clause to be included, it must pay ODOT full fair market value for the property interest.

When initially considering trading property interests owned by ODOT as part of a Jurisdictional Transfer Agreement, ODOT Regions must rely on the Right of Way Section for the surplus property process and for the approval of this trade, prior to making commitments to the trade. If approved, fair market value compensation for ODOT's assets must be part of the trade.

Changes to the Oregon Highway Plan

The 1999 Oregon Highway Plan (OHP) is the highway element of the state transportation system plan required by TEA-21 and the state Transportation Planning Rule. It is a statement of state policy developed and adopted by the Transportation Commission and has legal status. The state highway system is part of the Oregon Highway Plan. A jurisdictional transfer involves a change to the highway system that is noted on the OHP highway map and the OHP list of state-owned highways, so the OHP must be formally changed accordingly.

The Transportation Commission must approve a Resolution Eliminating a Section of Highway from the State Highway System and Minor Amendment to the Oregon Highway Plan to eliminate a highway section or a Highway Designation Resolution to add a roadway to the state system. ODOT must give public notice of the proposed changes to the Highway Plan and provide the public an opportunity to review. The Commission has delegated authority to the Director to make minor corrections to the Highway Plan similar to the authority the Commission delegated for signing agreements. Minor

corrections include changes to the highway system that the Commission has approved through the STIP process or in the biennial budget. (See Appendix A.)

After this procedure, the Highway Plan Manager posts the changes in the Registry of Amendments to the Highway Plan on the ODOT Website and maintains an official record of the action in ODOT's General Files.

Issues in the Negotiation

Negotiators of a jurisdictional transfer should consider the following when developing an agreement for the transfer:

- Ownership of the right of way
- Access control
- Existing permits, encumbrances, and agreements
- Highway condition and maintenance agreements
- Highway improvements and design standards
- Outdoor advertising
- Rail crossings
- Route designation and signs
- Surplus property
- Traffic signals and illumination

As well as

- Cost/benefit and possible compensation (See pages 22-25.)
- Funding of the transfer

Ownership of the Right of Way

One of the first steps in preparing for transfer negotiations is to determine how the highway segment was conveyed to the state and how the highway segment will be used in the future. Jurisdictional Transfer Agreements say the state will relinquish or convey all right, title and interest it has in the right of way, but with a reversionary clause. This clause states that when the right of way is no longer used for public road purposes, all right, title and interest in the land will revert back to the state. (See Appendix A for more detail.) This encompasses any access control that may be attached, unless ODOT excepts access control.

Another important step is to research the federal functional classification of the route to determine whether it is part of a federal-aid highway. Federal-aid highways are those highways eligible for federal-aid assistance under Title 23 and include all roadways except those functionally classified as a local road or a rural minor collector. Federal-aid highways require clear agreement on maintenance responsibilities in a transfer. (See Highway Condition, page 18.) (The “federal-aid primary system” is used for the purposes of the federal outdoor advertising statutes. (See Outdoor Advertising, page 19.))

Access Controls

The state can transfer a highway in its entirety including access control, or it can transfer the highway but retain access control. Access control is a public asset and has value purchased by the taxpayers. On Statewide and Regional Highways, access control is more important to the functionality of the highway than on District Highways. Access control

at interchanges and intersections, especially those involving Interstates, Expressways and Statewide Highways, is important for maintaining the mobility of through traffic. If ODOT determines that it needs to retain access control, then control needs to be expressly retained in the documents.

On the Interstate system all access control changes require FHWA approval (including all adjacent ramps and roadways where access control was purchased with federal funds). On the non-Interstate portion of the National Highway System (NHS), FHWA approval is also required when access control was part of a highway section where federal funds were used.

- **In Transferring a State Highway to a Local Government**

ODOT should first determine whether the state is willing to give up access control. Access control around interchanges and intersections involving Interstates, Expressways and Statewide Highways is important to retain. If access control is retained, a property owner wanting a road approach has to go to ODOT for approval of a grant of access. If approved, the property owner has to purchase the access right from ODOT for fair market value and then obtain approval from the local government for an approach permit.

A jurisdictional transfer can contain language that says that access control cannot be removed or diluted by the receiving jurisdiction. If ODOT is willing to give up access control, the value of the access control should be included in any compensation exchange.

- **In Transferring a Local Road to the State System**

The transfer agreement should include a list of permitted and non-permitted roads and approaches including grandfathered approaches. If the access control is not satisfactory, ODOT should consider requiring the local government to control for sight distance or number of driveways or to enter into an access management plan before the transfer takes place.

Existing Permits, Encumbrances and Agreements

An agreement to transfer will usually be subject to existing permits, easements and agreements, and the accepting jurisdiction must be aware of the encumbrances on the property it is accepting.

One type of permit is for utilities. Utilities are usually in the street by permit unless they were constructed before the highway. In that case, they may have an easement.

Another type of permit involves motorist information signs that are included in the Manual of Uniform Traffic Control Devices and under the authority of the Oregon Travel Information Council. Such signs include logo signs, tourist-oriented directional signs,

museum signs, historical markers and Heritage Trees. Even under a jurisdictional transfer, the Travel Information Council retains authority over existing signs and will provide for all costs of maintenance and repair. If any business or attraction requests new sign installations on any roadway after a transfer, the Travel Information Council will request location approval from the governing jurisdiction.

Highway Condition and Maintenance

Another negotiating point is the condition of pavement, bridges, and other features as well as maintenance responsibilities. In assuming jurisdiction, ODOT or the local government should assess the roadway's standards and features. The assessment should include lane width, shoulder width, horizontal/vertical alignment, vertical clearances, safe sight distances, slopes/shoulders, culverts, available operating right of way, safety features including clear zones, sidewalks, bicycle facilities and ADA features. This assessment should become a part of any party's cost/benefit analysis.

The 1999 Highway Plan presented a strategy for maintaining pavement condition at 1997 levels, that is, 78 percent fair or better on a statewide average. ODOT also has a strategy for pavement preservation to make the most effective use of current funding levels. Since funding levels will change over time, the specific details of the pavement strategy may change. The analysis of benefits and costs of the transfers should consider ODOT's current pavement strategy and its funding levels.

Under ORS 366.300, if ODOT relocates or realigns a state highway and thereby eliminates a section of highway and the community needs to use the eliminated section, then ODOT or the county has to maintain the section. Transferring the section requires a maintenance agreement to address maintenance responsibilities.

Highways that have been constructed or improved using federal funds may still have federal requirements or conditions that require maintenance to a particular standard and for a particular period of time, usually the useful life of the facility. Therefore, any transfer agreement should clearly spell out maintenance responsibilities. If the highway is not properly maintained, FHWA will hold ODOT responsible for rectifying the situation, regardless of whether the state or a local government has jurisdiction over the roadway. (23 USC 116)

However, there is no obligation to maintain the road if it is removed from the federal aid system; that is, it is functionally classified as a local road or a rural minor collector.

Highway Improvements and Design Standards

If the highway is on the National Highway System whether it is under state or local jurisdiction, it must follow federally approved design standards.

- **In Transferring a State Highway to a Local Government**

Design standards for a construction project on a road that is being transferred depend on the timing of the transfer. ODOT should design an improvement on a state facility to state standards unless there is a signed Transfer Agreement that provides otherwise. The agreement should have clear provisions for the timing and circumstances for turning over the jurisdiction of the roadway, for example, at the completion of the construction project. If a local government wants to use its own design standards for a project, ODOT could contribute to the project funding and let the local government construct it.

- **In Transferring a Local Road to the State System**

Similarly, a road being transferred to the state system should meet state standards. How it meets the standards, who pays for any upgrading, and the timing of the construction should be part of the negotiations.

Outdoor Advertising

The set of Oregon Revised Statutes that regulate the placement of outdoor advertising signs, visible to state highways, is known as the Oregon Motorist Information Act (the OMIA). It includes ORS 377.700 to 377.840 and ORS 377.992. If the transfer involves a highway section that is on the National Highway System (NHS) or was a part of the federal aid primary system in existence on June 1, 1991, the agreement needs to address the continued control of outdoor advertising. According to FHWA, 23 USC 131 (b) requires a state to maintain effective control of outdoor advertising along the Interstate system and the primary system or be subject to a reduction in federal-aid highway funds. 23 USC 131 (t) defines the primary system as “the Federal-aid primary system in existence on June 1, 1991, and any highway which is not on such system but which is on the National Highway System.” The Federal-aid primary system tends to be highways on the state system including District Highways.

An August 26, 1974 agreement between FHWA and ODOT has provisions for carrying out control of outdoor advertising in areas adjacent to the Interstate system and the federal-aid primary system.

ORS 377.715 requires that a sign, visible to a state highway, must comply with the OMIA and with applicable federal requirements, regulations or contracts. Because of the state statute and the federal/state agreement, ODOT can not transfer responsibility for outdoor advertising control to a local jurisdiction along a federal-aid primary highway that was a federal-aid primary highway on June 1, 1991. If a Federal-aid primary system highway or NHS highway is transferred, ODOT must maintain responsibility for controlling outdoor advertising while the local jurisdiction maintains responsibility for the right of way according to the applicable federal law. If the highway was not a Federal-aid primary system highway on June 1, 1991, then responsibility for outdoor advertising control is transferred to the local jurisdiction when the highway is transferred.

ORS 377.700 and 23 USC 131(s) affect the Scenic Byway Program both on the state and national level. If the restrictions in 23 USC 131(s) which are frequently met by routes falling under ORS 377.700 cannot be transferred, then their equivalent would have to be adopted by the new jurisdiction. Failing this, all or part of the Scenic Byway designation would be subject to revocation.

Rail Crossings

Occasionally, a rail line crosses a road being transferred. Although the transfer does not affect the rail line itself, the jurisdiction whose roadway crosses the line is responsible for the crossing markings and the pavement up to the rail line. The railroad is responsible for the pavement between the rails and two feet on each side of the tracks and crossings with concrete pads. If the railroad's pavement needs upgrading, the ODOT Region or local jurisdiction should contact the railroad. If problems are not resolved, they should contact the ODOT Rail Division.

Once the transfer takes place, the new road authority or owner is responsible for adhering to all of the rail stipulations assigned to the former road authority. The new owners should request a copy of all crossing orders associated with the crossing from the Rail Division. An order is a formal legal document for an alteration of the crossing and is approved by the Oregon Transportation Commission.

Route Designation and Signs

As a result of the transfer, a highway route number may move. (See Consistency of Route Numbers and Signs, page 26) Unless action is taken currently with a jurisdictional transfer, a numbered highway route retains its existing description. The transfer agreement should state the location of the US or Oregon routes following transfer and assign responsibility for maintaining the route signs. When the highway route number moves from one state-owned road to another, ODOT has to move the route signs. If the highway segment is transferred to a local government and the route number remains on the same highway, then the local government has to agree to maintain the signs.

Surplus Property

If the transfer involves excess property which is not part of a public road system, ODOT's Right of Way Section, Property Management Unit needs to be contacted. These property assets must be managed to provide the best return for the public. Fair market value must be received in any exchange if the property is declared surplus to ODOT's needs and can then be marketed and sold. The Right of Way Manager has the delegated authority on behalf of ODOT to approve and sign the legal documents for these transactions.

Traffic Signals and Illumination

If the highway being transferred includes traffic signals and illumination, they need to be addressed in the transfer agreement.

- **In Transferring a State Highway to a Local Government**

If a local jurisdiction assumes responsibility for the highway, then ODOT should re-negotiate any existing intergovernmental agreements regarding power, operations and maintenance of the signals and illumination. There should also be a clearly established time and procedure for handing over any responsibilities. If ODOT is still going to maintain the signals for the local jurisdiction, a separate intergovernmental agreement should be prepared to address this and ODOT's costs should be included in the benefit/cost and break-even analyses.

ODOT Traffic Management's preference is an agreement that transfers all responsibilities for the timing, operations, maintenance, power costs and liability of signals and illumination to the local government. Traffic Management does not recommend a gradual change of responsibility since ODOT would have to keep track of the sliding scale of costs and may retain some liability.

If ODOT has a continuing interest in the operation of a signal after the transfer, either because it is interconnected to an ODOT signal or its operation influences a state highway to a strong degree, ODOT should retain some level of control. ODOT could continue timing the signal or require the local jurisdiction to obtain ODOT's review before adjusting the timing.

Whatever the arrangement, the agreement should define who has power, maintenance and signal timing responsibilities, who has cost responsibility, and how and when any change takes place.

- **In Transferring a Local Road to the State System**

When the state is acquiring a local road, ODOT should assess whether traffic signals, signs and other equipment meet state standards. Again, responsibilities for power, operations, maintenance and costs should be documented in the intergovernmental agreement, and ODOT's costs included in the benefit/cost and break-even analyses.

Considerations and Options for Compensation

A transfer often hinges on how the parties estimate the total value of a transfer so that the agreement is acceptable to the local jurisdiction as well as the Oregon Transportation Commission.

Both parties aim to negotiate a fair agreement. In order to determine the terms of a fair transfer, the first step is to estimate the value of the road and assets involved in the exchange. There are two distinct parts to the value of a road--the measurable economic value and the “other” difficult-to-measure value.

Economic value is fairly straightforward to estimate. This is done using cost/benefit analysis. The expected cost of items like future road improvements, bridge rehabilitation, the fair market value of contributed assets, and anticipated maintenance costs are put into a model. Then who pays for what is negotiated; and the net present value of expected expenditures (future inflated costs discounted to present day dollars) is calculated.

However, the total value of a road is not necessarily captured by cost/benefit analysis. There may be value beyond what is estimated in the model, but this form of value is challenging to place a dollar value on. This part of the estimated value is usually arrived at through the negotiation process when participants reveal their willingness to pay more or less than the amount required for a breakeven agreement.

For example, suppose a road segment under consideration for a transfer from state ownership to city ownership includes an 80-year-old bridge. This bridge requires major rehabilitation. The most cost-effective solution would be to replace the bridge. However, the bridge is of great value to the city in its original historic form. Cost/benefit analysis will not reflect the city’s historic value of the bridge, and replacing the bridge is not an acceptable solution for the city. Leaving the bridge in poor condition for the transfer will not be acceptable either. The state is unable to restore the bridge due to budget constraints. The result may be a negotiated compromise where the state agrees to upgrade the bridge by spending the amount planned for the bridge replacement, while the city contributes the extra money required to restore the bridge back to original condition. The city’s willingness to contribute the additional money needed to restore the bridge demonstrates the additional value placed on the bridge by the community, something not captured by economic cost estimations.

Economic Valuation: Use of the Cost/Benefit Analysis

The Cost Allocation and Analysis Unit, located within ODOT Financial Services, provides the cost/benefit analysis used for jurisdictional transfers. Their model is the standard tool for ODOT’s cost/benefit analyses.

However, since a standard cost/benefit analysis costs ODOT about \$2000, the Region should consider the cost of this analysis relative to the value of the proposed jurisdictional transfer. Transfers valued at over \$75,000 should be candidates for cost/benefit analysis. (All agreements over \$75,000 not included in the Statewide Transportation Improvement Program or not included in the biennial budget have to be approved by the Commission.)

The Financial Services model has been extensively tested, incorporates official ODOT values for financial assumptions, and can be used for a variety of sensitivity analyses. The following factors are included in the model:

- Annual average inflation rate
- Discount rate
- Years to breakeven point
- Cost of road and bridge improvements, current and future
- Cost of other road upgrades (traffic improvements, safety improvements, etc.)
- Annual maintenance costs for road and bridges, current and future
- Value of other assets included in exchange (land, equipment, etc.)

It is wise to clearly establish how the cost/benefit analysis will be used before the analysis is run. There is room for considerable flexibility in this model through sensitivity analysis. If there is disagreement regarding model assumptions, for example, the inflation rate or discount rate, the assumptions can be altered and the model run to see how the outcome is affected by such changes. This sensitivity analysis can then be used in the negotiation process.

In addition, the assumed cost of road, bridge, or other improvements can be quite different depending on whether state construction specifications or local jurisdiction specifications are used. Sensitivity analyses should include looking at whether any cost savings can be realized by exchanging money instead of upgrading a road before transfer.

The value of asset contributions for both parties is estimated side-by-side within the model. They are presented in present value terms, that is, future costs are translated into today's dollars. Results of the model are presented in a summary cost/benefit analysis write-up. The summary generally includes the following information:

- Brief description of road segment and reasoning behind transfer proceedings
- List of assumptions used for analysis, e.g., inflation, discount rate, etc.
- Sources of information used for analysis
- Statement of overpayment/underpayment indicated by model
- Interpretation of model results and requested sensitivity analysis

Imbalances highlighted by the cost/benefit analysis provide a good starting point for negotiation between the parties, so it is important to request the cost/benefit analysis at the beginning of the transfer process. The cost/benefit model can then be used to compare a variety of scenarios involving maintenance agreements, inclusion or exclusion of additional assets, and choices of road upgrades. The different scenarios can be compared and contrasted and presented in the summary write-up.

Cost/benefit analysis is a consistent way to compare alternative scenarios. As the terms of the potential agreement change, a new analysis should be done to assess the effect of the changes. It is important that cost/benefit analysis is used throughout the negotiation process, and there must be analysis of the final agreement as well as the major alternatives considered during the negotiation process.

Inclusion of cost/benefit analysis in the jurisdictional transfer process is becoming the generally accepted way of evaluating these proposals for the Oregon Transportation Commission. Commission members expect to see cost/benefit analysis in the exchange documentation and often request it before considering an exchange for approval.

There are no hard and fast rules as to how the cost/benefit analysis should come out. The role of this analysis is to support the terms of an agreement the Transportation Commission is being asked to approve. The cost/benefit analysis represents one piece of the overall picture.

“Other” Value: Cost and Benefits beyond Economic Measures

The contribution gap illustrated by the cost/benefit model provides a good starting point for negotiation. However, all aspects of “value” may not be accounted for in the cost/benefit model. This is where non-quantifiable factors come into play. There is no fixed framework to deal with these factors. Two-way communications between the Region and ODOT Central Services are important in the negotiations, but the non-quantifiable factors are something best handled by the ODOT Region and local jurisdiction. If a local jurisdiction contacts ODOT Central Services directly to negotiate a transfer, it is important that Central Services refer the issue to a Region representative. Compromise and creativity are key to a fair and acceptable agreement.

For example, suppose a particular road segment is a candidate for transfer. The county has approached ODOT because the level of maintenance is falling below the county’s desired goal for the road segment. ODOT is willing to transfer the road, but unwilling to upgrade the road before the transfer. The upgrade required by state design standards would cost more than ODOT is planning to spend on that road segment, given the current budget constraints and list of priorities. The road upgrade would not cost as much if county design standards were used, relative to state standards. As a result, the county could agree to upgrade the road to its standards with ODOT contributing part of the costs as part of the transfer.

Creativity

There should be an emphasis on creativity throughout the exchange process. There are a number of choices available to both parties to make these transfers work. These are some options to keep in mind during the negotiations process:

- Road improvements required before the exchange
- Maintenance clauses
- Transfer of assets such as land and equipment (this has to be done within restrictive guidelines; consult the Right of Way Section)
- New construction
- Exchange of services
- Sharing of costs
- Working to qualify for federal funds
- Trading road segments
- Trades among more than two parties, e.g., state, city and county swap

While money may be a possibility as part of the transfer, the key is to view all assets as potential items of trade. For example, one Region office provided office space to the county as part of a road transfer agreement. Another agreement involved ODOT's constructing an interchange with the assistance of federal funding. The city covered highway maintenance on the state highway while the construction was taking place. ODOT contributed money to signalize an intersection and partnered with the city to do some pavement work. Appendix D presents case studies of jurisdictional transfers providing greater detail on actual agreements.

Cost/benefit analysis is a useful tool, but not the "be-all and end-all" of decision making. There is error associated with projecting future spending patterns. At times, significant benefits or costs are not readily quantifiable. For example, cost/benefit models cannot measure political pressure or quality of life issues that may be significant factors in some exchanges.

ODOT's ultimate goal is to agree to jurisdictional transfers that represent good business decisions for Oregonians. Reaching an acceptable agreement comes down to matching the willingness of both parties to make the exchange happen and presenting a proposal that is acceptable to the Oregon Transportation Commission.

Completing the Process

Tracking the Changes

Once the terms and conditions of the agreement have been met and the Commission has approved the Resolution Eliminating a Section of Highway from the State Highway System and Minor Amendment to the Oregon Highway Plan, the Right of Way Manager has delegated authority to sign the Jurisdictional Transfer document that transfers the right of way, with a reversionary clause. The Right of Way Section sends the signed documents for the jurisdictional transfer to the appropriate county clerk for recording and notifies the local jurisdiction and the affected units in ODOT once this has been completed.

One of these units is the Road Inventory and Classification Services in the Transportation Development Division. This unit changes the ITIS database to reflect the transfer. The new ITIS data are then sent to the ODOT management systems and used to update the state highway video log, TransViewer internet reports, GIS base files and the straightline charts. Right of Way also notifies Traffic Management, which is responsible for preparing an order to transfer the authority for speed zones to the local jurisdiction.

Consistency of Route Numbers and Signs

When a state highway segment is transferred to a local jurisdiction, changes to the numbered highway route(s) must also be considered. Numbered US and Oregon highway routes are not part of the state highway system, but the nature of this relationship is often misunderstood. Numbered highway routes are formally designated by the Transportation Commission as a form of guidance for navigation and planning by travelers. Any appropriate roadway under any jurisdiction could be involved. Not all state highways also have a numbered highway route. Not all numbered routes are on state highways. More than one route may pass over a segment of highway. The designation of the numbered highway route by the Commission applies to all roadways included in the official description.

Unless direct action is taken concurrently with a jurisdictional transfer, a numbered highway route retains its existing description. The inter-agency agreement should state the location of the US or Oregon routes following transfer. Responsibility for maintenance of route signs must also be assigned.

The process of transferring routes begins when ODOT or other agencies want to move or modify the location of the numbered route. If a new highway is constructed, the expectation may be to move the location of the numbered route. ODOT Traffic Management coordinates this process and maintains a record of official route descriptions for distribution. When the numbered highway route is to remain in place, despite the jurisdictional transfer, that should be stated in the agreement to avoid confusion. If the US or Oregon route does remain at the old location, Commission action may still be

needed to modify the official description to conform with roadway names altered during the transfer.

Although some aspects of the process are relatively informal, the Transportation Commission must approve all Oregon route changes. If the highway is a US route, then an AASHTO committee also must approve the change. If a jurisdictional agreement does not go to the Commission for signature, then other steps outside the agreement are taken to submit changes or corrections directly to the Commission.

Traffic Management handles the requests to AASHTO regarding route changes and should be involved in the transfer process as early as possible to facilitate completion of the route transfer process. Traffic Management, in coordination with or through the Region Traffic offices, requests opinions from affected local governments about proposed changes to US and Oregon routes. This may involve more agencies than just those that are party to the transfer. AASHTO requires that other affected states be consulted when proposing changes to US routes in Oregon.

To place the proposal on the Commission's consent calendar, Traffic Management sends proposed changes to the Commission, along with pertinent correspondence from other agencies, maps, and the proposed new route description. The Commission may approve changes to route number descriptions at the same time that it approves the Resolution Eliminating a Section of Highway from the State Highway System and Minor Amendment to the Oregon Highway Plan for a Jurisdictional Transfer. Or changes can also be addressed at times independent of any agreements. After approval by the Commission, Traffic Management sends the revised route number descriptions to Road Inventory and Classification Services, Region Traffic units and other ODOT staff.

ODOT maintains signs for numbered highway routes where they exist on the state highway system. This includes moving numbered route signs to a new location on a state highway. If the highway segment is transferred to a local government and the route number remains on that same highway, agreement must be reached on maintenance of the signs. The reverse is less complicated. ODOT maintains signs on new additions to the state highway system for pre-existing Commission-designated numbered highway routes. It is important to avoid leading travelers into a gap in guide signs created by failure to clarify responsibility for supporting US and Oregon numbered routes.

Checklist for Transfers

The following is a checklist of the initial considerations and steps in the Region in an jurisdictional transfer. Usually, the Region Area Manager, District Manager or Planning Manager and the Agreements Coordinator or Federal Aid Specialist handle these steps. More complete details about the Jurisdictional Transfer process within ODOT and with the local agency are in Appendix A. A flow chart for the transfer process is on pages 30-32.

- ❑ Identify the goal of the transfer and the milepoints of the highway section being considered for transfer.
- ❑ Decide whether to transfer the section of highway. (See pages 6-8 for more detail.)

Consider the transfer in terms of:

- ❑ Trip characteristics
 - ❑ Highway functions, including Federal Functional Classification
 - ❑ Land uses
 - ❑ Highway mobility standards
 - ❑ Access management
 - ❑ Future needs
 - ❑ Scenic Byway status if designated Byway is involved.
- ❑ Assess benefits and costs, coordinating with Financial Services. (See pages 22-25.)
 - ❑ See whether the local jurisdiction is interested in a transfer.
 - ❑ Do a brief preliminary analysis (perhaps via email) involving as appropriate:
 - ❑ Right of way and access management with Right of Way Acquisition, Salem Headquarters Office
 - ❑ Existing permits, encumbrances and agreements with the District Office
 - ❑ Timing in relation to highway improvements and design standards with Preliminary Design
 - ❑ Bridge conditions, if bridges are involved, with Bridge Engineering
 - ❑ Traffic signals, signs and route designations with Traffic Management
 - ❑ Roadway geometrics and safety features with Preliminary Design
 - ❑ Outdoor advertising, if highway is on federal-aid primary system, with Traffic Management and Outdoor Advertising Program in Right of Way
 - ❑ Funding of transfer
 - ❑ Rail crossings, if involved, with Rail Division
(See pp. 16-21 for more details.)

- Negotiate the transfer agreement with the affected jurisdictions including:
 - Defining the right of way
 - Existing permits, encumbrances and agreements
 - Access control
 - Any highway improvements, including timing and design standards
 - Highway condition and maintenance
 - Traffic signals, signs and route designation
 - Outdoor advertising
 - Any compensation
 - Timing of the transfer

- Develop a “locate map” of the highway section involved.

- Develop a draft agreement for the jurisdictional transfer.

- Circulate the draft agreement for review by all Region-affected parties, including the Region Manager, Region Right of Way, Region Traffic, District Manager and Area Manager, as well as Financial Services .

- Send the revised draft agreement to the affected local jurisdictions. If changes are made in the agreement, send the agreement to Region units and the local jurisdictions until all agree on terms.

- Obtain the Region Manager’s approval of the draft agreement.

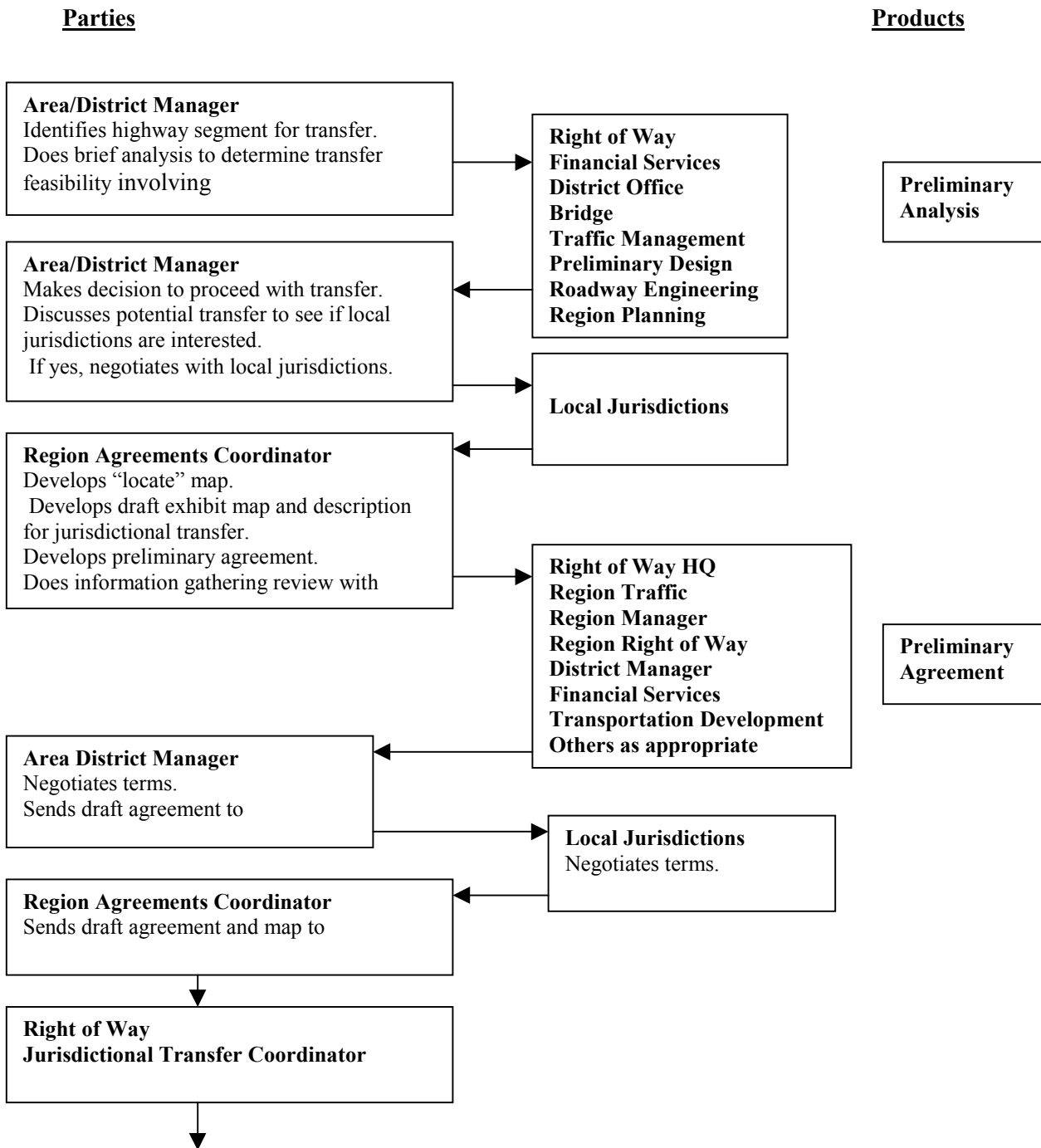
- Send the draft agreement to Right of Way. The Agreements Coordinator or Federal Aid Specialist usually does this.

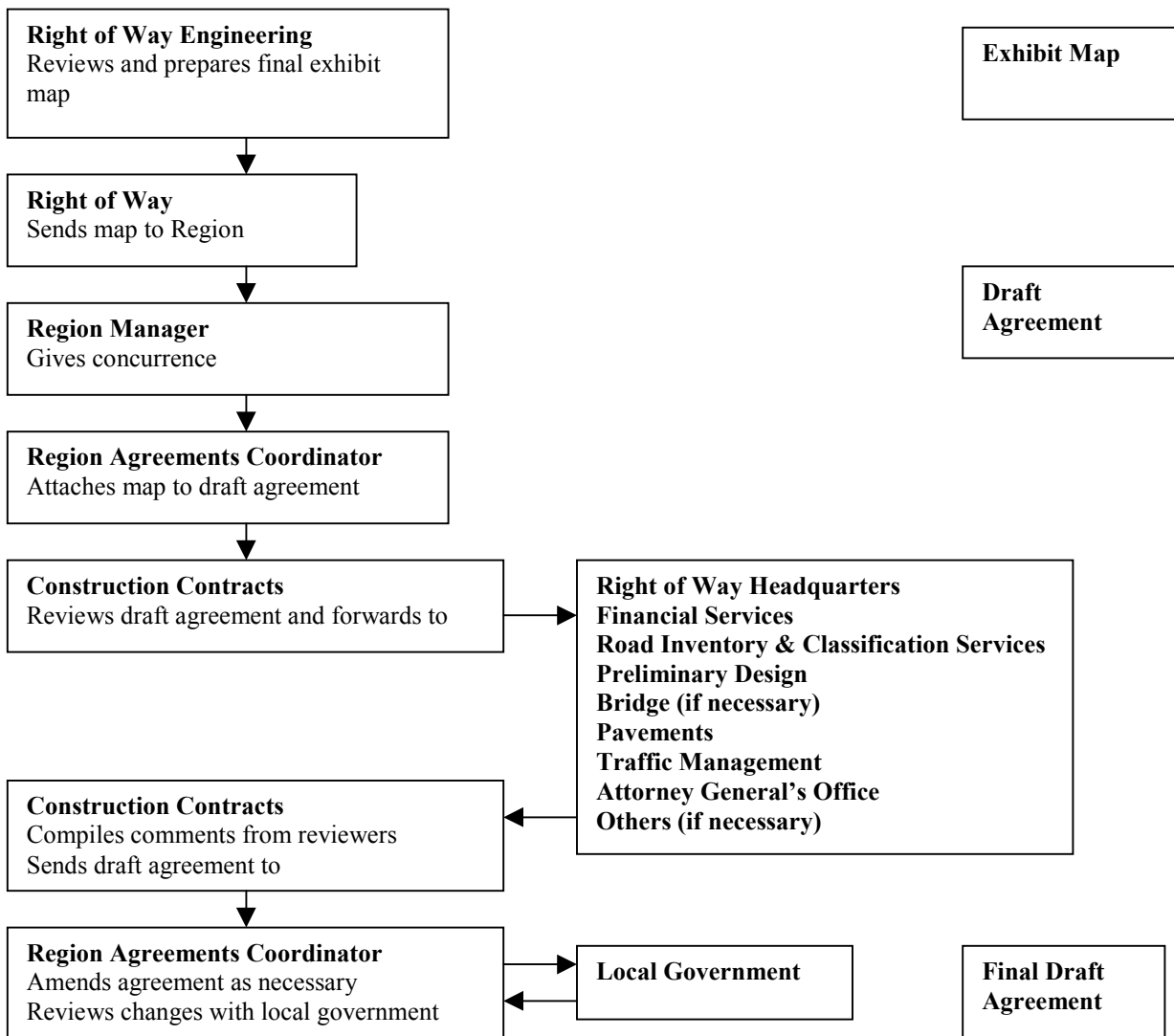
- Send the agreement to Construction Contracts for formal review, including appropriate Technical Services units and legal review. If problems with the agreement arise during the Central Office review, redraft the agreement and do any needed renegotiating with the local jurisdiction.

See Appendix A for the next processes.

Diagram for Transfer Process and Decision-Making

JURISDICTIONAL TRANSFER AGREEMENTS





*If OTC approval is needed, proceed to next steps.
If OTC approval is not needed, skip Commission action.*

