



Memorandum

U.S. Department
of Transportation

Federal Highway
Administration

Subject: **INFORMATION:** Clarification of June 12, 1995
"Highway Traffic Noise Policy and Guidance"
Document - Federal Non-participation in Noise
Damage Payments

Date: SEP 23 1997

From: Chief, Program Services Division
Office of Real Estate Services
Washington, D.C.

Reply to HRE-20
Attn of:

To: Regional Administrators

On page 16 of the guidance document there are two paragraphs that discuss the use of Federal-aid highway funds to address the impact of traffic noise.

The first relevant paragraph states "*Federal-aid highway funds may not be used as payment or compensation for a traffic noise impact through purchase of a noise easement from a property owner.*" Federal-aid funds may only be used to reduce traffic noise impacts and provide noise abatement, and monetary compensation accomplishes neither.

In the next paragraph, there is a discussion on how noise, air quality, access, visual quality, etc. are frequently considered jointly in determining right-of-way compensation to property owners when a partial taking of property is required.

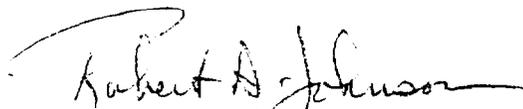
Some people have taken this to mean that we now accept singling out these elements for compensation in appraisal and acquisition. This is not the case. Our policy has not changed.

The "before and after" technique, as modified and interpreted by State law, remains the standard. For a partial acquisition, the value of the property immediately after the taking is subtracted from the value of the property immediately before the taking. To the extent that the cited elements may inherently impact the after value, they are "considered," but not expressly identified, in the appraisal process. However, if the appraiser were to separately and individually identify and value each element of the after value damage, identified items such as traffic noise would be non-compensable for Federal-aid purposes.

This policy does not conflict with 49 CFR 24.103(a)(6) which requires the appraiser to provide a statement of the value of the real property to be acquired and, for a partial acquisition, a statement of the value of the damages and benefits, if any, to the remaining real property.

This statement of damages is an overall figure which includes all damages and does not identify possible individual elements of damage.

The second paragraph of the guidance document discussed above should not be construed to indicate a change in our right-of-way reimbursement policies. Our purpose with this Memorandum is to reaffirm FHWA's policy of non-compensability of noise damages in right-of-way acquisition. We hope this clarifies any confusion there may have been with the language in the guidance document.



Robert A. Johnson