



**Transportation Legislative Review Committee
August 20, 2018**

**Post-Amerco Right of Way
Acquisition Process:**

**Recommendation from the CDOT
Efficiency and Accountability
Committee**



Amerco Case and Decision

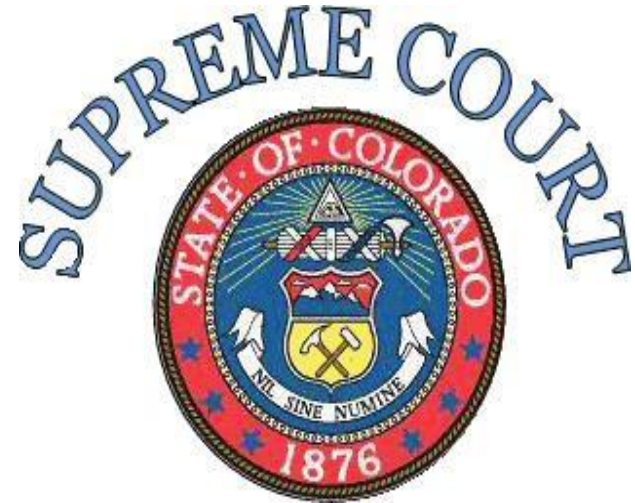


- In 2014, CDOT began acquiring 20 partial acquisitions between Highland and 10th for the US 6 & Wadsworth Interchange Project.
- One of these partial acquisition was owned by Amerco Real Estate Company and U-Haul Company of Colorado.
- When CDOT could not reach a voluntary settlement on possession and the value of the U-Haul partial acquisition, CDOT filed for condemnation.



Amerco Case and Decision

- ❖ The decision in *Department of Transportation v. Amerco Real Estate Company and U-Haul of Colorado*, centered on the powers and responsibilities of the Transportation Commission, saying:
 - ❖ Only the Transportation Commission by resolution has the authority to condemn.
 - ❖ CDOT may initiate condemnation proceedings after the Transportation Commission provides authorization for condemnation.



- ❖ CDOT's real property right-of-way acquisition process did not comply with Colorado law.
- ❖ Only the Transportation Commission can approve the amount of money CDOT pays for real property rights.



Statutory Conflicts

Amerco ROW Approval

CRS 43-1-208 (3) – add years
(1963)

Transportation Commission Authority

- States that the TC has the authority to approve right of way acquisitions
- Says that the public has a right to petition the TC if they disagree with the terms of the acquisition offer.

CRS 43-1-210 (2)
(1998)

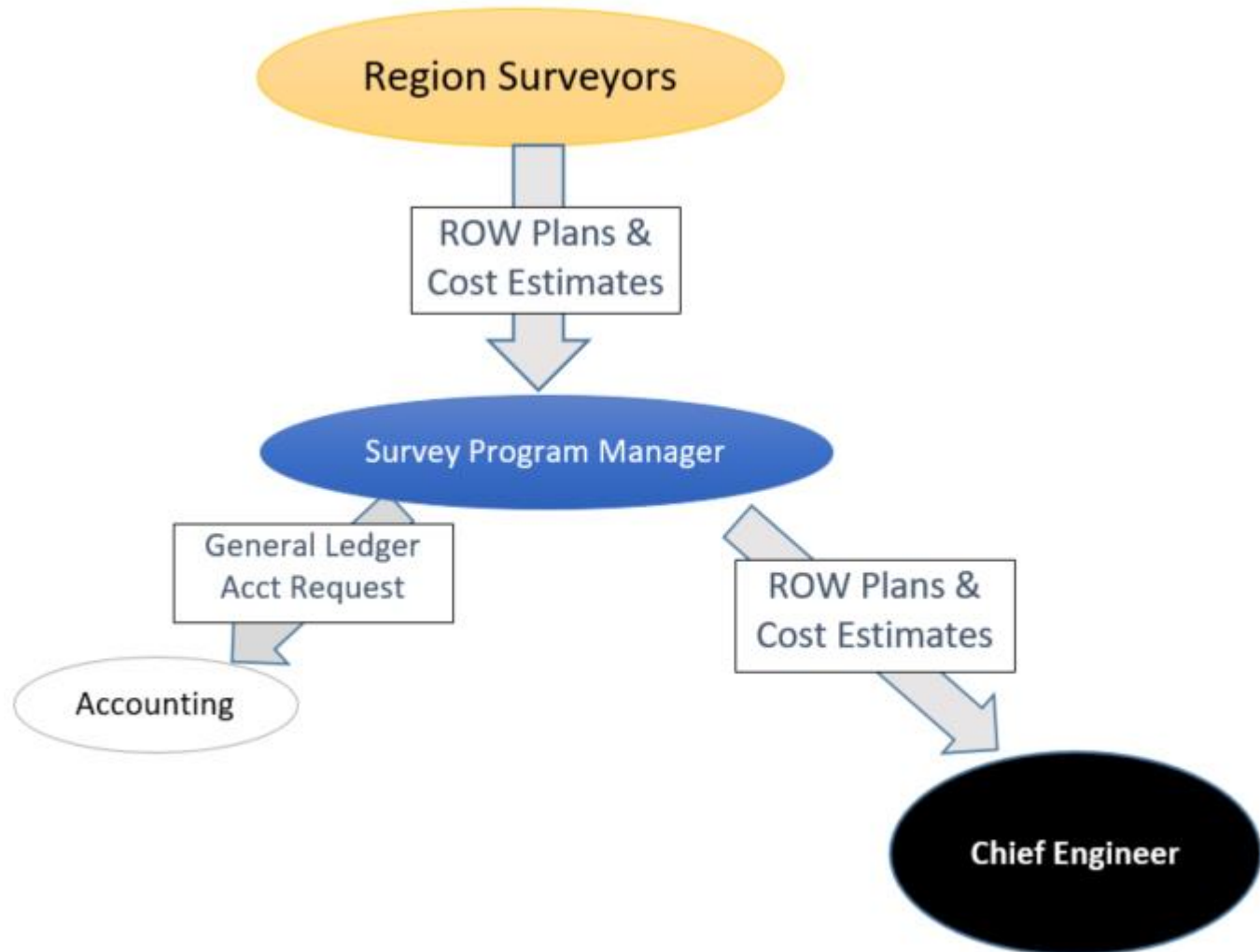
Chief Engineer Authority

- Says that the Chief Engineer may determine whether right of ways shall be acquired based off of the public interest, construction, maintenance, and supervision of the public highways.
- **CRS 38-1-202 refers to this statute, not CRS 43-1-208.**
- **A concurrence in the *Amerco* decision suggests these statutes conflict.**

CO Supreme Court said this statute takes priority, hence the desire to clarify statute and internal process

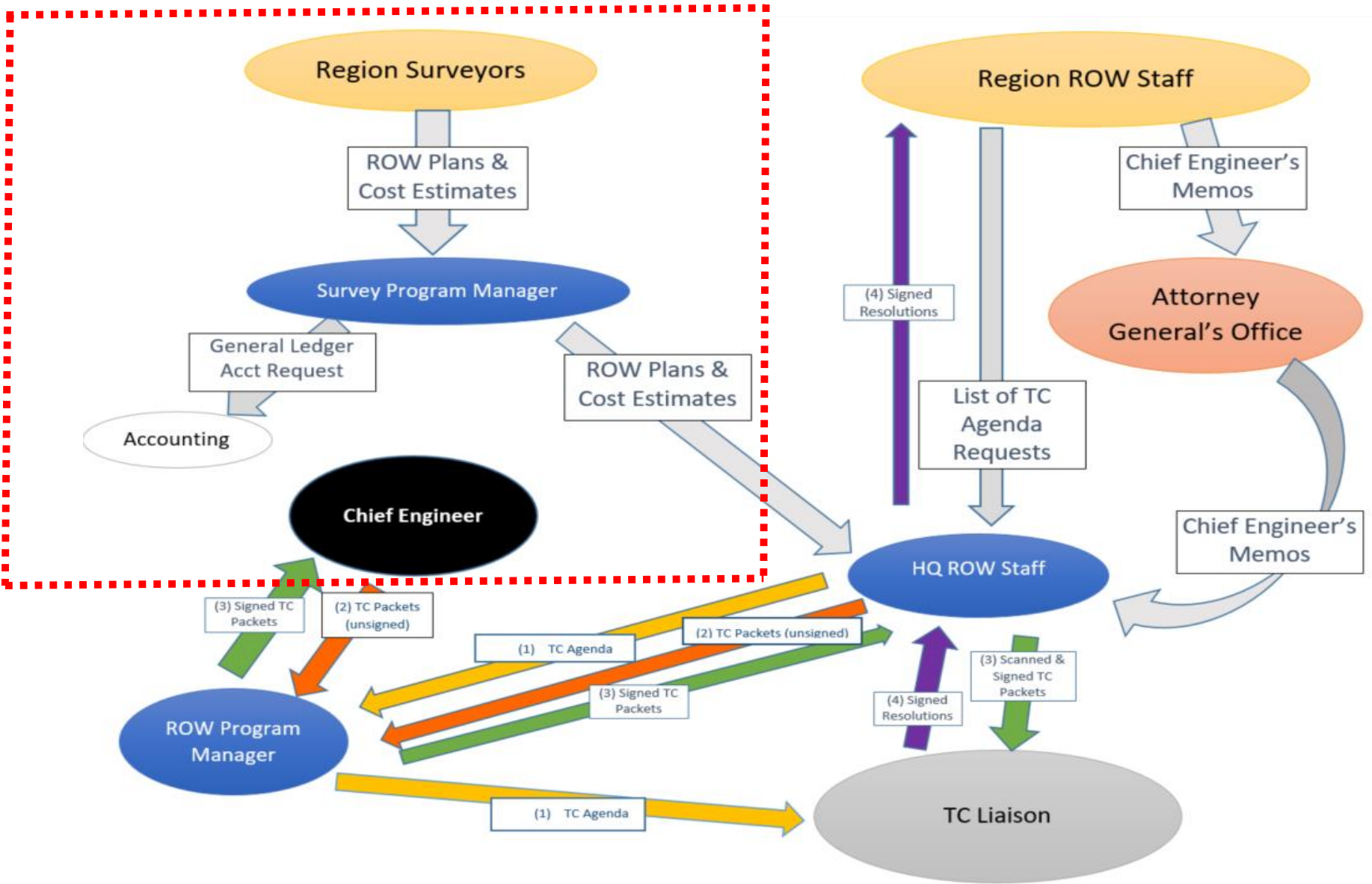


Pre-Amerco Process for ROW Authorization





Post-Amerco Process





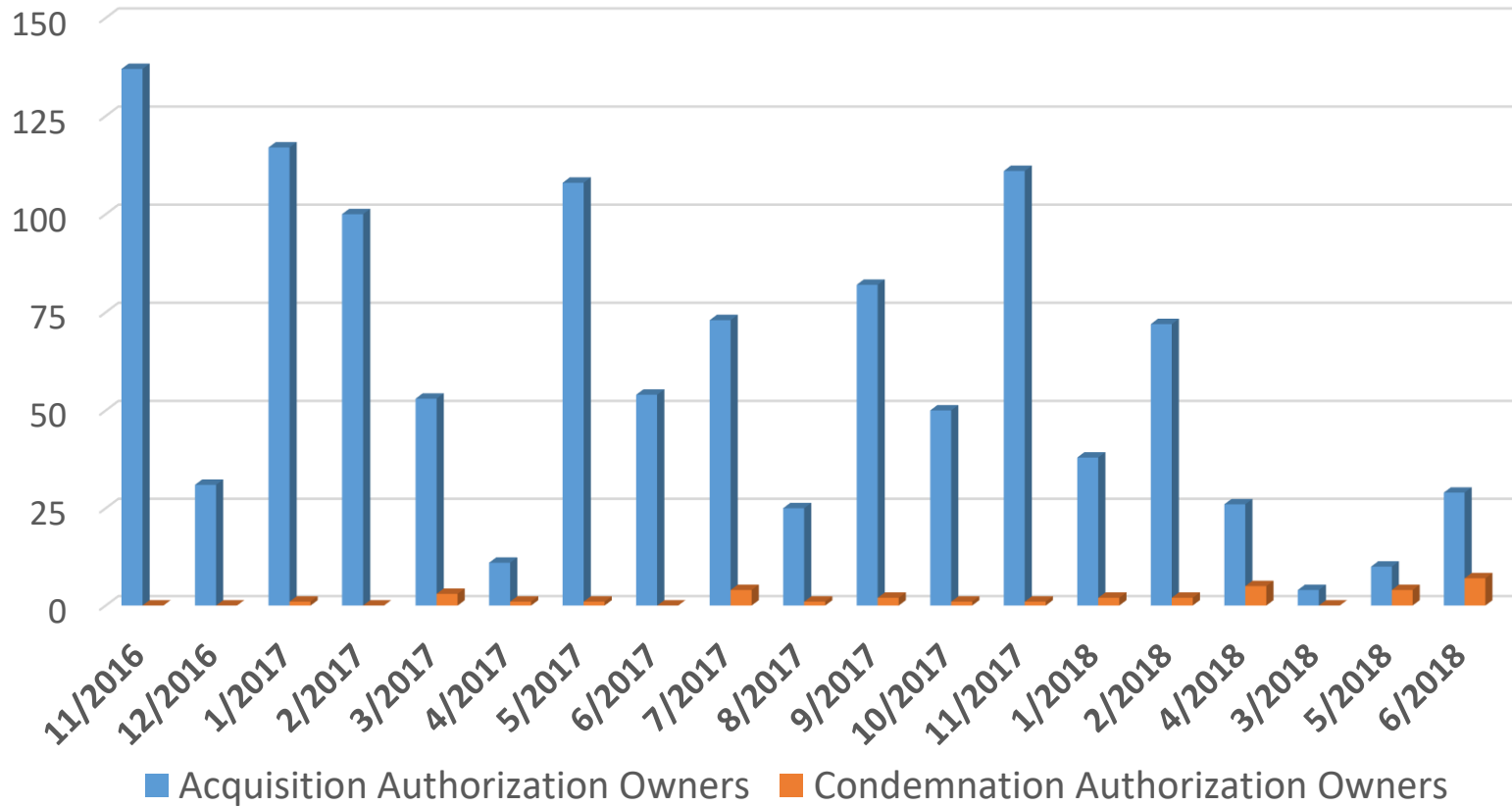
Options

The Efficiency and Accountability Committee Discussed Five Options to Address the Post-Amerco Process:

- 1) Remove TC Authorization for Temporary Parcels
- 2) Remove TC Authorization Below a Dollar Threshold
- 3) Require TC Authorization for only Condemnation
- 4) Do Nothing
- 5) Return to Pre-*Amerco* Process



TC Authorization for Condemnations





Questions?