

Office of Real Estate Services - Project Development Guide

Chapter 3

Project Management

All Federal-aid projects must meet the requirements of Title 23, United States Code (U.S.C.). The Federal Highway Administration (FHWA) must review and approve state actions on selected Federal-aid projects. The project oversight agreement between the state Department of Transportation (DOT) and the FHWA division office, and the state DOT right-of-way (ROW) procedures manual will outline the actions that require Federal approval. These include actions related to transportation planning; preliminary engineering; engineering; environmental evaluations; public hearings; relocation assistance; ROW acquisition; plans, specifications, and estimates (PS&E); contract awards; construction; and final inspection. As a project advances through these stages, certain administrative details must be taken into account. Generally, acquiring agencies have administrative staff that handles a variety of tasks that are indirectly related to the project. These tasks may include clerical, financial, internal audit, contracting, planning, and policy development functions.

States generally initiate a Federal-aid project by identifying the need for a highway or road improvement through its planning process. The state then adds the proposed project to its transportation improvement program which is submitted to the FHWA for approval. Once a state's program is approved, a project may be authorized. A project agreement is usually entered into at the same time or shortly after the project authorization is issued. The project agreement allows the FHWA to reimburse costs of the project.

This chapter covers the administrative part of developing a project. It discusses programming and authorization of projects; project agreements between the FHWA and the state; what is required to receive Federal-aid reimbursement; the monitoring of the state by the FHWA; risk management; how project costs are billed to the FHWA; what records must be maintained and how they are to be maintained; appeals for denied reimbursement claims; how and when regulations may be waived; and staffing and/or contracting for services for the acquiring agency. See 23 Code of Federal Regulations (CFR) 710, Subpart C.

SUMMARY

3.1. PROGRAMMING

Programming generally establishes the need for Federal-aid financing of a project based on a statewide transportation improvement program (STIP) developed by each state DOT (23 CFR 450. 216). States initiate a Federal-aid project by identifying the need for a highway or road improvement through its planning process. The state DOT adds the proposed project to its program and includes support for the expenditure of Federal funds. A project may encompass more than one phase of work, e. g., preliminary engineering, ROW, or construction. It identifies the class of funds to be utilized.

3.2. AUTHORIZATIONS

Project authorization can only occur after the state's programming request has been approved. No Federal-aid participation in a project is allowed until formal project authorization is given by the FHWA. In urban areas, the transportation improvement plan (TIP) must also be made and approved.

Project authorization obligates the FHWA to reimburse the state for allowable project costs and requires that Federal funds be available for that reimbursement. However, acquisition of ROW may only commence **after** the necessary environmental decisions have been completed.

Formal project authorization must be given, in writing, by the FHWA before any costs incurred for the project can be eligible for Federal reimbursement. Project costs incurred prior to authorization cannot be reimbursed, unless the state DOT has applied to use the procedure outlined in 23 CFR 710, Subpart E. No state DOT has applied to use this procedure to date.

IMPORTANT

The project authorization date establishes the date which begins Federal-aid reimbursement and is usually shown on a document, mutually agreed upon by the state and the FHWA, which is used to transmit the project authorization to the state. Any part of a project may be authorized individually within its proper sequence according to procedures mutually agreed upon by the state and the FHWA. Parts of a project which sometimes require an individual authorization may be those activities necessary for the completion of the environmental document, public hearings, preliminary ROW activities up to but not including negotiations.

3.3. PROJECT AGREEMENTS

A critical document in the reimbursement process is the project agreement, which creates a contractual obligation and allows the FHWA to reimburse eligible project costs. Without the project agreement, the state DOT cannot request Federal reimbursement of expended funds. The requirements for a project agreement are set forth in 23 CFR 630.

3.4. FEDERAL REIMBURSEMENT REQUIREMENTS

In order for an acquiring agency to be reimbursed for eligible project costs by the FHWA, certain requirements must be met by the acquiring agency. Reimbursement for eligible project costs is based on the requirements set forth in the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act), Titles II and III; and 23 CFR 710. 203, Funding and Reimbursement.

The Uniform Act Title II sets out payments, payment limits, and services to displaced occupants of projects. An acquiring agency can be reimbursed for these costs up to the Federal pro rata share of the project, provided all eligibility requirements are met by both the payment recipient and the acquiring agency.

Title III of the Uniform Act deals with the acquisition of real property and the requirements which must be met for an acquiring agency to be reimbursed the costs of acquiring real property. As with Title II, an acquiring agency can be reimbursed for costs, up to the Federal pro rata share of the project provided all eligibility requirements are met by both the payment recipient and the acquiring agency. Sections 301

and 302 of Title III are mandatory to the extent permitted under state law; and Sections 303 and 304 are required in all situations when real property acquired will be used for Federal programs or projects.

To implement the Uniform Act, initial regulations were developed and printed in the Federal Register on March 2, 1989 by the U. S. Department of Transportation (DOT), as required by the Surface Transportation and Relocation Assistance Amendments Act of 1987 (STURAA), which named the DOT the lead agency in this effort. The FHWA was named lead agency within the DOT. The FHWA revised the implementing regulations, 49 CFR Part 24, as published in the Federal Register on January 4, 2005. The regulations contain specific requirements for the acquiring agency with regard to the rights and benefits to affected property owners.

Prior to the initiation of any project where Federal funds are to be used, Uniform Act assurances are normally submitted on a one-time basis. These may be used for all projects subsequent to approval of the assurances. Any exceptions to the policies under Sections 301 and 302 must have a specific reference to state law that allows the exception. The FHWA will usually participate in a project related expenditure of a type which is normal to the operation of the state and incidental to the ROW operation. Normally, the real property acquired must be incorporated into the ROW, with some exceptions such as uneconomic remnants, or other untenable situations created by the project. If there is any doubt, please confer with the FHWA division office realty staff.

There must be a separation of the functions when it comes to determining the fair market value (FMV), the just compensation offer, relocation benefits, or approval of administrative and legal settlements. This separation of functions is done to assure there is no conflict of interest on the part of agency personnel, to decrease the risk of fraud and collusion, and to assure that the property owner's rights are protected.

The FHWA wishes to ensure that each state DOT secures the maximum amount of Federal funds to which it is entitled. If a question arises regarding eligibility for Federal-aid participation, the state DOT is encouraged to consult with its FHWA Division Office for an early answer. Local public agencies (LPA) should contact the state DOT local agency ROW coordinator for assistance.

The loss of Federal-aid participation can be caused by failure to secure authorization for a work phase, such as preliminary engineering, appraisal, acquisition, or relocation. Normally all costs necessitated by state law relating to the acquisition may be reimbursed. Two examples of how a state might jeopardize Federal-aid participation are by inadequately supporting damages to remainder properties during the appraisal process, or by not informing a property owner of the right to accompany the appraiser during inspection of the property. Any non-compliance with governing Federal law and regulation may result in the loss of Federal-aid reimbursement. Non-compliance with the state's approved ROW procedure manual can result in loss of participation as well.

The method of reimbursement is based on the billing system of the state and the FHWA. Primary control rests with the state in its policies and procedures, as approved by the FHWA, and the existence of a state's internal audit group.

Title 23 U.S.C. requires a state DOT to have adequate powers, and be suitably equipped and organized, to discharge the duties required of it in order to avail itself of the benefits of Federal-aid participation.

See 23 CFR Part 1. However, it is a primary objective of the FHWA and the Federal-aid highway program to work with the state DOT and LPA in order to assure reimbursement of all eligible project costs.

3.5. MONITORING AND RISK MANAGEMENT

Monitoring of projects and programs is an integral part of Federal funding requirements. The FHWA monitors the recipient of Federal funds (usually the state DOT) to ensure that all statutory and regulatory requirements are being met as well as all program and project goals. The state DOT, in turn, assures that these same requirements are met by LPAs in order to receive Federal funding. Some states employ internal auditing policies and procedures to maintain a higher level of quality control than they would have without them. This ensures that the state receives its share of project costs as determined through auditing techniques and principles.

The term **Risk Management** is defined as a management decision to assume the chance (risk) of loss of funding due to errors that may arise in an organization's functional operations, in order to receive the greater benefit of efficient use of the organization's resources (usually financial resources and employee work effort or time). The risks are greater, however, in some functional areas than others. The decisions regarding operations should be contained in the approved ROW procedures manual.

3.5.1. MONITORING

The FHWA has a Division Office staff that functionally mirrors the state DOT staff, but whose purpose is to observe and monitor state DOT actions in order to assure Federal-aid funding. Often the FHWA planners, engineers, realty and finance staff conduct reviews of state DOT actions and processes to assure compliance with Federal law and regulation. These process reviews are evaluations of the state DOT management of its highway program under state, as well as Federal laws and regulations. The FHWA also performs baseline assessments and develops best practices to share with other DOTs.

The FHWA has responsibility to monitor the process the state DOT uses to complete a Federal-aid project, and in some cases, will review individual project and parcel actions.

Each state DOT is required to have a ROW organization adequately staffed, equipped, qualified, and organized to discharge its ROW responsibilities. The state DOT may, by means of a written agreement, use the services of land acquisition organizations of counties, municipalities, or other state or local governmental agencies for acquiring ROW for Federal-aid projects. The state DOT may contract with a private ROW contractor for these services. Any organization may be used if it is adequately staffed, equipped, and organized to provide such service and if its practices and procedures can be adapted to the state DOT accepted procedures. Any such agency or firm hired or used should assure that it will follow the state DOT accepted procedures.

It is the responsibility of the state DOT to fully inform political subdivisions of their responsibilities in connection with federally assisted highway projects. The state DOT is required to monitor real property acquisition activities conducted by political subdivisions to ascertain that the ROW is acquired in accordance with provisions of state and Federal laws and regulations. This includes internal quality control measures used by the state DOT. Quality control measures usually include reviews and/or audits

of the activities of political subdivisions that acquire ROW for the state DOT, and any ROW contractors furnishing services to the state DOT or local acquiring agency for a federally funded project.

3.5.2. RISK MANAGEMENT

The risks in each of the ROW functional areas are determined by the factors which make up the functions themselves. Examples of risk factors are (a) the amount of expenditures involved, (b) the complexity of the task, (c) the governing Federal and state regulations, (d) public visibility, and (e) susceptibility of the function to fraud or abuse.

The acquiring agency should assess ROW functional areas and determine if the principles of risk management will provide an overall operational savings without significantly diminishing the quality of the final product. Some of the criteria to consider in making an assessment include:

- a. **The agency's organizational mode**
Consider its structure, whether centralized or decentralized, and its degree and scope of the delegation of authority. In addition, the position ROW occupies within the organization and the issue of independence or autonomy from political forces should be considered in this assessment.
- b. **The agency's staffing**
Examine the adequacy of the size, experience levels and competency of the staff in relation to project and parcel workloads. The stability of the staff and the use of consultants should also be a part of this consideration.
- c. **The agency's internal controls**
Pinpoint the agency's control points, their limitations and their effectiveness. This will take into consideration whether the agency has an internal unit that conducts a quality assurance review of its ROW operations.

3.6. BILLING OF PROJECT COSTS

Acquiring agencies are reimbursed the eligible costs incurred in a ROW project by submitting a request for payment. The payment is drawn against funds allocated to the project. Claims are usually in the form of a voucher which must be certified and accompanied by required supporting data.

Reasonable and prudent charges will be reimbursed. Good judgment and common sense are still a prerequisite for Federal participation, i. e., \$1,000 charge to acquire a \$100 parcel, without good cause for such a disproportionate expenditure, may not be reimbursed by the FHWA.

REASONABLE AND PRUDENT CHARGES

Vouchers may be submitted at the completion of a project or periodically as costs are incurred; the latter is referred to as current billing. Normally, state DOTs prefer periodic billing because it results in an even flow of funds to the state DOT over the life of the project. Even though the billing may be periodic, the amount billed can only be for cost incurred. No payments are made in advance of incurring the cost. **Final vouchers must be submitted promptly after a project is completed. A key goal of the Financial Integrity Review and Evaluation (FIRE) program is to release unexpended balances**

and close projects. See 23 CFR 630.106 for authorization to proceed and project monitoring.

Detailed billing procedures can be found in 23 CFR 140. These regulations outline the process through which the state is reimbursed by FHWA for eligible project costs. A final voucher represents a final claim for reimbursement for a single project in which all project costs incurred and the amount of Federal reimbursements paid are summarized. A final voucher includes a summary of project costs classified by work type. The acquiring agency may appeal disallowed costs to the FHWA Division Administrator within a reasonable time. **While a final voucher closes out the project from a fiscal perspective, it can be re-opened if later court decisions revise the cost upward. Income received through sale of excess land can also be applied to a project by re-opening the project. Or a project can remain open, provided the unexpended balance is reduced to zero. This eliminates large dollar balances from remaining on the books while waiting for a final determination on the remaining parcels.**

3.7. RETENTION OF RECORDS

Per 23 CFR 710.201(f), retention of records is a requirement of the Federal-aid program. Oversight conducted by the FHWA may consist of reviewing the acquiring agency's acquisition activities through various ROW functional project or process reviews, file audits, and financial audits. In addition to FHWA oversight, reviews of records can be by others from the U.S. DOT (Office of the Inspector General) and the General Accountability Office. On LPA projects, reviews may be made by other state agencies, depending upon the structure of the state's government. It is in this vein that records become extremely important.

When an agency acquires property for a federally funded project, records of the agency's activities are created. These records could include:

- project schedules
- financial ledgers
- parcel/case files
- statistical reports
- diaries
- logs
- maps
- photographs
- plans
- other documentary materials

Records may take any physical form or characteristic (tapes, disks, photos, papers, models, etc.) which provide documentation of the acquisition activities and project costs. Documentation becomes a record when it is made or received by the agency, firm, or individual in connection with the transaction of Federal-aid highway business. Therefore, any information recorded or received, or data generated by the agency or its agents in connection with the project become official records of that project and are subject to the records retention requirements as described in 23 CFR 710.201(f). These regulations require the **retaining of records for at least three years** from the date of acceptance of the final voucher for the parcel but may generally follow the requirements of the state, municipal, or private

entities if a longer retention period is chosen or required. This requirement is proper where the project is participating but does not necessarily apply to records for compliance with the Uniform Act where reimbursement was not requested under 23 U.S.C. The three year record retention period begins when the applicable final voucher is accepted. This time may be substantially later than three years after the ROW project was finished.

There may be times when the agency is required to keep records beyond the three years after the date of acceptance of the final voucher. For example, if any litigation, claim, or audit is started before the end of the three year retention period, the records must be retained until all litigations, claims, or audit findings involving the records have been resolved. If a toll facility acquired ROW for a federally funded project, it must keep its records for three years after the date when the facility became operable on a toll-free basis.

Although unlikely, the FHWA may need to have the acquiring agency's records transferred to its own records retention facility. In this instance, the FHWA may have determined that these records possess long-term retention value. The acquiring agency would then be relieved from its obligation to keep the records for the three year retention period. However, the FHWA Division Administrator may make arrangements to allow the state or local government to retain any records with long-term retention value which are continuously needed for use by both agencies.

The start of the three year period varies for state agencies and third parties as well as for types of records. As stated above, the three year period for the state generally begins when the final voucher is accepted by the FHWA. However, for cost accounting and fiscal records (such as those that may include revolving funds) which usually relate to more than one project or are not project oriented, such as administrative files, the three year retention period starts at the end of the state's fiscal year in which an entry is made. For third parties, the record retention period starts when the third party receives final payment.

3.7.1. RECORDKEEPING REQUIREMENTS

An acquiring agency which uses Federal funds in any phase of its project is required to have a record system which maintains the documentation that shows compliance with Federal requirements for the Federal-aid project. Records should be maintained consistent with generally accepted records management and accounting practices.

3.7.2. PROJECT RECORDS

Records that may be a part of the project file are:

- **Video Tape**
Video tape presentations of the agency's acquisition process; and possibly a presentation of acquired properties and the situation after acquisition to illustrate the results of the agency's acquisition process.
- **Illustrations**
Drawings, photographs, or slides which would give an illustration of what typical construction features look like after construction.

- **Market Information**
Market sales information for comparison with the agency's acquisition program.
- **Project Schedules**
Schedules for preliminary engineering, commencement of appraisals, initiation of negotiations, advertising, and construction.
- **Mitigation of Impacts**
Where the environmental document required certain mitigation measures, the planned mitigation(s) should be on file.
- **Design Changes**
Any deviation from the original project design must be on file.

3.7.3. PARCEL RECORDS

A separate parcel file for each acquisition of real property and each unit displaced should be maintained. Parcel records are important in that they contain the record of acquisition and/or relocation activity on the parcel. These records are usually referred to during reviews and audits by state quality controllers and the FHWA. Occasionally, these records become the sole basis upon which a determination for reimbursement to the state for project costs incurred is made. Parcel records must be comprehensive enough to demonstrate that there was compliance with applicable laws and regulations relative to the acquisition of the property and the relocation of any occupants.

It is desirable for each parcel file to contain the appraised values reported for those parcels adjoining the subject property or appropriate value information where the appraisal is waived as well as the features of the subject parcel. A copy of the ROW and construction plans that show the parcel and its immediate surrounding vicinity should be included as well as the title certificate for the parcel. The file should contain the appraisal report and the review appraiser's value determination. The file should contain the comparable sales used in the valuation, if not kept in the project file. The file should contain the value conclusion and any determination that the acquisition would result in the owner being left with an uneconomic remnant. If an uneconomic remnant may result from a partial acquisition of the parcel, the file should indicate the reason for acquiring the remnant.

The acquisition agent's responsibility during the negotiation process encompasses recordkeeping activities. The agent must maintain timely and adequate records of negotiations on a parcel basis. The records must be written in permanent form and completed within a reasonable time after each contact with a property owner. Where appropriate, each record must be dated and signed by the agent. Upon completion of negotiations, the parcel file must be properly documented with information relative to the negotiation process. Each file should contain certain acquisition documents that are required to be kept as part of the parcel file:

- **Title Information**
The property's title history, current ownership, and how the current title is held.
- **Valuation Information**
The appraisal report which gives the estimated FMV used in the offer to the property owner as well as the review appraiser's report and statement of just compensation or property owner's

waiver of appraisal and other relevant market information.

- **Option, Agreements, Easement or Deed**

The parcel file should contain a copy of the necessary conveyance documents which should always be consistent with the appraisal report with respect to the legal description and extent of the property being acquired. If the agency has included an uneconomic remnant in the acquisition, two sets of documents may have to be on file: one for the acquisition of the ROW and one for the acquisition of the uneconomic remnant.

- **Written Offer**

The agency's acquisition offer and a summary thereof must be on file. Most agencies have developed a standard form letter or format for written offers. Per, 49 CFR 24.102(e), the written offer/summary statement must include:

1. The offered amount.
2. A description of the interest and real property to be acquired.
3. A summary statement that provides the basis of the offer of just compensation.
4. The identification of all improvements and fixtures considered to be part of the real estate to be acquired.
5. Any damages to remaining property.

- **Notices**

The file should contain all notices which were issued during the negotiation process.

- **Conveyance Documents**

Copies of all conveyance documents.

- **Negotiation Records**

All negotiation records and/or agent logs.

There may be other records the agent is required by the agency to be maintained. In all cases, recordkeeping is an important function on which the agency relies for reimbursement purposes on Federal-aid projects, as well as documentation for preparation for condemnation cases.

The file should contain any contacts, offers, explanations, and assistance the owner received from property management and relocation assistance. Similarly, the file should contain all pertinent information relative to property management and relocation assistance which was conveyed to the property owner during the negotiation process.

Additionally, the file should contain any project design changes in the vicinity of the subject property which might have affected the subject parcel and/or the agency's estimate of just compensation.

Activity records or logs should be maintained by the agent and kept in the parcel file. This type of record is important documentation of the activities conducted by the agent during the negotiation process. Such records should indicate all activities by the agent. This includes reviewing the appraisal report to meeting with the property owner, information found about the parcel from outside sources, and the property owner's comments. The agent may consider this type of record as a diary of all relevant

activities on the parcel. All pertinent details should be included in the entries made. The contents of these records could prove valuable if the case must go to court.

In order to be fully apprised of the overall acquisition schedule, and to provide for an orderly and timely negotiation phase, the acquisition agent should maintain a progress status report. The progress status report serves as an informational document for the agency in situations where the agent is suddenly unable to complete the assignment. It also could help another agent to pick up where the first left off.

The progress status report should be arranged to show the normal acquisition tasks to be performed with spaces available to record the dates the tasks were completed. Typical of the tasks which could be shown are contacts with owners, notices issued, date of offer, negotiation documents provided and other acquisition tasks where it is important to show these tasks completed.

Any revised offers and accompanying summary statements explaining the basis of the offers must be on file.

3.7.4. AVAILABILITY OF RETAINED RECORDS

All records required to be retained per 23 CFR 710.201(f) must be available for inspection at reasonable times by authorized representatives of FHWA and other authorized Federal representatives. In practice, records are reviewed by such representatives during normal business hours. The records should be easily located and accessible.

3.7.5. MICROFILM RECORDS

Written data may be microfilmed and used in lieu of original records. Such microfilm records must be legible and contain all the significant record detail shown on the originals. When storing microfilm records, the storage system must facilitate ease of access, identification, and indexing so that any individual document or component of the record can be located easily.

3.7.6. WAIVER OF RECORDS RETENTION REQUIREMENTS

If, under unusual circumstances, a state or local agency, or a third party cannot retain records as required by Federal regulations, then a waiver from these requirements may be requested. The request for a waiver must be in writing which demonstrates the unusual circumstances justifying the waiver. The request, which must be submitted to the FHWA for approval, must indicate that compliance would be an unreasonable burden and that the waiver would be in the public interest.

3.8. APPEALS

A person may file a written appeal with the acquiring agency in any case in which the person believes that the agency has failed to properly determine the person's eligibility for, or the amount of, a payment set forth in 49 CFR 24.106 or 24.107. All written appeals, regardless of form, shall be considered by the acquiring agency.

The agency is required to provide an opportunity for the prompt review of appeals in accordance with

applicable laws and regulations.

A reasonable time limit should be established for a person to file an appeal. The time limit shall not be less than 60 days after the person receives written notification of the agency's determination on the person's claim.

A person filing an appeal has a right to be represented by legal counsel or other representative in connection with the appeal, but solely at the person's own expense. The person making the appeal shall be permitted to inspect and copy all materials pertinent to the appeal, except materials which are classified as confidential by the agency. Reasonable conditions may be imposed upon the person's right to inspect, consistent with applicable laws.

In deciding an appeal, the agency shall consider all pertinent justification and other material submitted by the person, and all other information that is needed to ensure a fair and full review of the appeal.

Promptly after receipt of the information submitted by a person in support of an appeal, the agency shall make a written determination on the appeal, including an explanation of the basis on which the decision was made, and furnish a copy to the person who filed the appeal. If the full relief requested is not granted, the agency shall advise the person of his or her legal right to seek judicial review.

The agency official conducting the review of the appeal shall be either the head of the agency or his or her authorized designee. However, the official shall not have been directly involved in the action being appealed.

3.9. WAIVER OF REGULATIONS

The FHWA may waive any requirement of the regulations that is not required by law. The waiver may be granted when the FHWA determines that the waiver reduces hardship on an owner or remedies an inequity due to circumstances beyond the control of the property owner. However, such waivers are not routinely granted. Any request for a waiver must be justified on a case-by-case basis.

A request for a waiver of the regulations is usually made in writing. The correspondence, addressed to the Division Administrator, should detail the circumstances justifying the waiver, and should include all pertinent documentation. Letters, legal documents, maps, etc., may be a good basis for such requests.

3.10. STAFFING/CONTRACTING FOR SERVICES

The management of a project also includes the human resources needed to complete the project. The services required by law to be rendered by an agency must be effectively and efficiently delivered by agency representatives, whether they are agency employees or contractors. In order to accomplish a high level of quality service, the agency must prepare for the project or projects to be built.

Among the items to be prepared for a project is the mobilization of an adequate number of people to successfully complete the project. The desirability to have a specific number of people available for the project is dictated by the operating budget, the size of the project, the amount of time available to clear the ROW, the services to be rendered, and the number of people available to your agency.

3.10.1. HUMAN RESOURCES

The resources needed to successfully complete a project range from skilled professionals to unskilled workers. For direct project activities people will be needed to appraise properties, negotiate with owners, relocate occupants, maintain properties, and sell properties. For project support, clerks, typists, secretaries, and, depending on the size of your agency, maintenance specialists, project trackers, billing clerks, auditors, and a number of supervisors will be necessary.

The ability to assign staff to a project will be limited by many factors. However, the goal in managing a project is to put human resources to their most effective use. This can be accomplished either through the hiring of new staff, personnel assignments/reassignments, or contracting for services, or a combination of any of these options.

3.10.1.1. AGENCY STAFF

Because agencies vary widely in size, organizational set-up, and funding availability, an agency may not have staff dedicated to specific functions or tasks. In order to meet an agency's staffing obligations under the law, employees may have to assume multiple functional duties, except as limited by Federal and state laws and regulations, and perform multiple tasks. The employees used to complete the project may be reassigned from other projects, and may be used for different functions and tasks from project to project.

A number of strategies exist which enable an agency to efficiently utilize its limited staff to the fullest of its capacity. One strategy is to assign staff members functionally by project, e.g., an appraiser on all projects or a negotiator on all projects. This method of operation insulates the employee from the possibility of conflicting functions on the same project or parcel.

Generally a staff member that appraises a property cannot be the same person that negotiates for it. See 49 CFR 24.102(n). It is advisable to have similar restrictions for staff members who make relocation payment determinations and those who deliver such payments.

3.10.1.2. CONTRACTORS

Another staffing option is to enter into a contract with a company that can provide the services needed by your agency. The use of contractors has become widespread in recent years since tight fiscal and hiring policies have become the norm for many agencies. Contracting for services allows your agency to fill specific needs at specific times while reducing total agency staffing costs. However, contracting for services introduces other complexities into the management of a project. See Chapter 4 for the FHWA contracting requirements.

3.10.2. ORGANIZATIONAL REQUIREMENTS

23 CFR 710.201 requires that each state DOT shall have a ROW organization which is adequately staffed, equipped, and organized to discharge its ROW responsibilities. 49 CFR 24.102 prohibits conflict of interest in appraisals. These two regulations essentially require the separation of functions within an agency. As with many other governmental restrictions, the use of common sense will go a

long way. Specific questions can be referred to the FHWA division realty staff.

3.10.3. PROGRAM REQUIREMENTS

The Uniform Act prescribes certain program requirements which an acquiring agency must implement. This requires an agency staff capable of administering the state's acquisition program. To accomplish this, the agency must be capable of appraising the real property to be acquired, reviewing the appraisal of the real property, negotiating for the real property, acquiring it, closing on it, relocating the occupants from it, and managing it. If the agency is incapable of fulfilling any of these duties, it may enter into a contract with another agency or a private firm which is capable of completing any of the functions the agency cannot handle. See pertinent chapters in this PDG for requirements in the areas of appraisals, acquisitions, relocation, settlements, and property management.

3.10.4. PROJECT REQUIREMENTS

The requirements of any project will be determined by its scope. When determining your staffing/contracting needs for a project, consideration must be given to the following:

- Size of the project
- Time available to complete project
- Budget
- Relocation problems
- Property management

3.10.5. ADMINISTRATIVE SUPPORT

In addition to the professionals, specialists, and technical experts an agency may mobilize for a project, the support staff fulfills an important mission. The support staff usually consists of clerks, typists, project trackers, data processors, etc., and anyone not directly involved in the appraisal, acquisition, relocation, or property management functions. Many offices now use project management and relational database software to aid in their administrative support.

In summary, allocating human resources to a project is usually based on budget, time, and people. Budget constraints are usually the governing factor in limiting the size of staff available for the project. The amount of time available to complete a project is typically used to justify a larger staff. The people needed to complete a project may include professionals, specialists, technical experts, and administrative staff.

