

# 3.

## PROJECT MANAGEMENT

All Federal-aid projects must meet the requirements of Title 23, United States Code and the FHWA must review and approve selected State actions on some Federal-aid projects. The project oversight agreement and the state manual will help to outline the types of actions which may require federal approval and could include actions related to transportation planning; preliminary engineering; engineering; environmental evaluations; public hearings; relocation assistance; right-of-way 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 staffs to handle the variety of tasks not directly related to the project. This administrative staff 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 Section covers the administrative part of developing a project. It discusses the programming and authorization of projects; project agreements between the FHWA and the State; what is required to be done to receive Federal 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. 23 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) 23 CFR 450.216 developed by each State. 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 "program" and includes support for the expenditure of Federal funds on the project. A project may encompass more than one phase of work (preliminary engineering, right-of-way, construction, etc.). The program must also identify the class of funds to be utilized (NHS, STP, etc.).

### 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 right-of-way may only commence after the necessary environmental clearances have been met.

*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. Except under the advance acquisition requirements as outlined in 23 CFR 710 Subpart E.*

**! 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 impact statement or analysis, public hearings, preliminary right-of-way 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 agreement, the State cannot request Federal reimbursement of expended State funds. The agreement for a project agreement are set forth in 23 CFR 630C.

### **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 Act". Titles II and Title III of the Act contain the requirements with which the acquiring agency must comply.

Title II discusses 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 but not to exceed the payment limits set forth in this Title provided all eligibility requirements are met by both the payment recipient and the acquiring agency.

Title III 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 these costs up to the Federal pro-rata share of the project as set forth in this Title provided all eligibility requirements are met by both the payment recipient and the acquiring agency. Sections 301 and 302 of this Title 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 this Act, uniform regulations were developed and printed in the "Federal Register" on March 2, 1989 by the Department of Transportation as required by the Surface Transportation and Relocation Assistance Amendments Act of 1987 (STURAA) which named the Department the lead agency in this effort.

The regulations contain specific requirements covering the acquiring agency and the individual agent in the administration of rights and benefits to affected property owners. For instance, no person may receive a payment which is determined to be duplicative of any other payment required by Federal, State, or local law. Another example is the requirement that prior to the initiation of any project where Federal funds are to be used, assurances are normally submitted on a one-time basis and 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 allowing the exception.

The FHWA will usually participate in any project related expenditure of a type which is normal to the operation of the State and incidental to the right-of-way operation. Normally, the real property acquired must be incorporated into the right-of-way, with some exceptions (uneconomic remnants, or untenable situations created by the project, e.g.).

There must be a separation of the functions for the determination of fair market value and relocation benefits or the approving of an administrative or legal settlement.

It is the FHWA's purpose to insure that each State secures the maximum amount of Federal funds to which they are entitled. If a question arises about the eligibility of an item for Federal-aid participation, the State is encouraged to consult with its FHWA Division Office for an early answer. Local Public Agencies should contact the State's local agency right-of-way coordinator.

The loss of Federal-aid participation can be caused by failure to secure authorization for particular work such as preliminary engineering, appraisals, negotiations, etc. Normally all costs necessitated by state law relating to acquisition may be reimbursed. Other examples of ways a State may lose Federal-aid participation is by inadequately supporting damages to remainders in 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 regulations may result in the loss of Federal reimbursement.

The method of reimbursement is based on the billing system of the State and the FHWA financial processes. 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 requires a State to have an agency with 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). The primary objective of the Federal-aid highway program is the reimbursement of 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) to ensure that all statutory and regulatory requirements are being met as well as all program and project goals. 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" may be defined as a management decision to assume the chance of loss for errors in an organization's functional operations in order to receive the greater benefit of a more efficient use of the organization's resources (finances and employees' time). The risks may be greater however in some functional areas than in others.

### **3.5.1. MONITORING**

The FHWA has a staff of professionals which functionally mirrors the States' staffs but whose purpose is to observe the States' actions. Occasionally, FHWA planners, engineers, finance staff, and auditors as well as right-of-way specialists conduct what are called "process reviews" of the State's actions in a particular phase to oversee compliance with Federal laws and regulations. These "reviews" are evaluations of the State's management of its highway program under State as well as Federal laws and regulations. FHWA also performs baseline assessments and develops best practice processes to share among states.

The FHWA also has the overall responsibility to monitor the States' process in completing a Federal-aid project as well as in some cases reviewing the project itself.

Each STD is required to have a right-of-way organization adequately staffed, equipped, qualified, and organized to discharge its right-of-way responsibilities. The STD 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 right-of-way for Federal-aid projects. The STD may also contract with a private right-of-way 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 STDs accepted procedures. Any such agency or firm should assure it will follow the STDs accepted procedures.

It is the responsibility of the STD to fully inform political subdivisions of their responsibilities in connection with Federally assisted highway projects. The STD is required to monitor real property acquisition activities conducted by political subdivisions to ascertain that the right-of-way is acquired in accordance with provisions of State and Federal Highway Administration directives. This includes internal quality control measures used by the STD to assure compliance not only with State law and regulations, but also Federal law and regulations. Quality control measures usually include reviews or audits of the activities of the STD, political subdivisions that acquire right-of-way for the STD, and any right-of-way contractors furnishing services to the STD or local acquiring agency for a Federally funded project.

### **3.5.2. RISK MANAGEMENT**

The risks in each of the right-of-way functional areas are determined by the factors which make up the functions themselves. Examples of these 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 malfeasance.

The acquiring agency should assess right-of-way functional areas and determine if the principles of "risk management" will provide an overall operational savings without a significant diminishment of the level of quality in the final product. Some of the primary criteria to consider in making its assessment should include the following:

1. **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 right-of-way occupies within the organization and the issue of independence or autonomy from political forces should be considered in this assessment.
2. **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.
3. **The agency's internal controls**  
Pinpoint the agency's control points, their limitations and their effectiveness. This also takes into consideration whether the agency has an internal unit that conducts a quality assurance review of its right-of-way operations.

An example of a risk assessment evaluation is included as an attachment at the end of this Section.

### **3.6. BILLING OF PROJECT COSTS**

Acquiring agencies are reimbursed the eligible costs incurred in a right-of-way 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 judgement and common sense are still a prerequisite for Federal participation, i.e., \$1,000 negotiation charge for a \$100 parcel without good cause for the disproportionate expenditure would not be reimbursed by the FHWA.*

**REASONABLE AND PRUDENT CHARGES**

Vouchers may be submitted at the completion of the project or periodically as costs are incurred; the latter is usually referred to as "current billing". Normally, States prefer periodic billing because it results in a more even flow of funds to the State over the life of the project. Note, however that even though billing may be periodic, the amount billed can only be for costs incurred. No

payments are made in advance of incurring a cost. Vouchers must be submitted promptly after a project is completed.

Detailed billing procedures may be found in 23 CFR 140. These regulations outline the process through which the State is reimbursed by FHWA for eligible project costs.

A progress voucher is used when claiming reimbursement for costs incurred during a specific period during the progress of a project. A recorded liability must exist or a cash disbursement must have been made before the voucher is submitted.

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 also includes a summary of project costs classified by work type. The acquiring agency may appeal any disallowed costs to the FHWA Division Administrator within a reasonable time, but not to exceed nine months after notice of disallowance. A final voucher closes out the project from a fiscal perspective.

### **3.7. RETENTION OF RECORDS**

Retention of records is a requirement of the Federal-aid program. As mentioned in Section 3.5, oversight is conducted by the FHWA. The oversight may consist of reviewing the acquiring agency's acquisition activities through various right-of-way 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. Department of Transportation (Office of the Inspector General) and the General Accounting Office. On LPA projects, reviews may be 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 such things as -

- ! project schedules
- ! financial ledgers
- ! parcel/case files
- ! statistical reports
- ! diaries

- ! logs
- ! maps
- ! photographs
- ! plans
- ! any other documentary materials.

Also, 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 Part 17. These regulations require the retaining of records for three years from the date of acceptance of the final voucher for the project 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 USC. 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 right-of-way 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 rights-of-way 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. {See 23 CFR § 17.5(d)}

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**

By Federal law, an acquiring agency which uses Federal funds in any phase of its project is required to have a record system which maintains the documentation concerned with the Federal-aid project. The record system must be in keeping with applicable Federal and State laws and regulations and must be a sound basis for auditing the records. Also, the records must 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 Impact Statement required certain mitigation measures, the planned mitigation(s) should be on file.

Additionally, the file should contain any project design changes.

### **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 right-of-way 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 responsibilities during the negotiation process also encompass record keeping 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 fair market value used in the offer to the property owner as well as the review appraiser' report and statement of just compensation or property owner's waiver of appraisal and other relevant market information.

**! Option/Agreement - 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 right-of-way 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. 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 statement that the offer is based on an appraisal or valuation estimate except where the appraisal is waived by the property owner.
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; from reviewing the appraisal report to meeting with the property owner; from information found about the parcel from outside sources to 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 under 23 CFR Part 17 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 must indicate that compliance would be an unreasonable burden and that the waiver would be in the public interest. Only the Federal Highway Administrator has the authority to grant the waiver.

### **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 required for those expenses incidental to transfer of title to the agency or certain litigation expenses as set forth under Section 303 and 304 of the Uniform Act **or a relocation payment required under the act** (See Section 2.1). 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 the person a copy. 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. are 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 "gear up" 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 right-of-way, the services to be rendered, and the number of people available to your agency.

#### **3.10.1. HUMAN RESOURCES**

The human 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. What is done depends upon what is available to work with. The agency's limitations will most likely govern the course of action selected. Such limitations are often financial, but they can also be legal. It is recommended that an estimate be developed of the human resources needed by the agency. This estimate may be made for a specific project or it may be on an annual basis for all anticipated projects to be initiated for the next year. The estimate should provide a breakdown of needed personnel based on classification (appraisers, negotiators, etc.), classification level (Appraiser I, Appraiser II, Negotiator IV, etc.), salaries, and any other information (work load per employee based on the number of expected parcels to be handled, etc.) which would support the estimate.

Past workload analyses are a good place to start. These can provide a good idea for approaching the estimate and what would likely be found successful in justifying a desired staffing level.

#### **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.

Another strategy is to divide the staff by tasks. This isolates the staff by assigning them individual tasks within the functions of appraisal, negotiations, relocation, property management, legal, finance, etc. Some may view this level of assignment as too detailed and a form of micro-management. Others feel this way of operating makes specialists of the staff with no sense of the "bigger picture". Some of these criticisms may be valid. Therefore careful consideration should be given to the effect this method of operation would have on the staff and the agency.

Another strategy, similar to functional assignment by project, is a generalist approach involving assigning staff by project but allow the staff to perform multiple functions. The danger in this strategy, which can be eliminated through adequate administrative procedures, is the possible assignment of the same staff member to conflicting functions on the same parcel. Generally a staff member that appraises a property cannot be the same person that negotiates for it (See 49 CFR 24.103(e)). 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 Section 4 for FHWA contracting requirements.

By using a contractor on a project, an agency would not have to keep a large permanent staff on hand until it is ready to use it. Instead, the contractor provides the services that the agency's own staff would have provided. The unit cost to the agency for contracting services is usually higher than maintaining its own staff for the project. However, in unit costs over the long term, it is usually more cost effective to hire a contractor only if the agency's needs are sporadic. Where an agency is constantly acquiring right-of-way for a multitude of projects, it would be better to have an in-house staff available to meet agency needs.

### **3.10.2. ORGANIZATIONAL REQUIREMENTS**

23 CFR 710.203(b) requires that each State Highway Department have a right-of-way organization which is adequately staffed, equipped, and organized to discharge its right-of-way responsibilities. 49 CFR 24.103(e) 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 Right-of-Way Officer.

### **3.10.3. PROGRAM REQUIREMENTS**

The Uniform Act prescribes certain program requirements which an acquiring agency must implement. Implied by these requirements are 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 Sections in this guide for what may be required 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.**

The difference between major and minor projects is obvious. However, the difficulty is in estimating the size of the staff needed to complete a project within a given amount of time. When considering the size of the staff needed for a project, it should be remembered that a large project may not be complex and therefore can be handled relatively efficiently by a small staff while a project with a handful of complicated parcels may require the involvement of a number of experts in specialized fields. The size of a project is a starting point, but its complexity should have a major impact on your staffing estimate.

**! Time available to complete project.**

"Lead time" is the technical term most often used to describe the time available to complete a project. Time is a critical factor in your estimate. After considering the number of parcels to be acquired (the size of the project) and the complexity involved in acquiring them, it should be easier to estimate the number of staff needed to complete the project within the allotted time. Always allow for the unexpected. A reserve of a certain number of staff members should be kept on hand should difficulties arise during the course of a project. The reserves could then be called in if time grows short. These reserves can be agency staff assigned to other projects, the staff of other agencies (interagency agreements are needed), or the staff of contractors.

**! Budget.**

Prime among the competing elements for adequate staffing is the amount of money available (administratively) to complete the project. The question is: How far will the available funding go? How many staff members can you afford given the amount of funding allocated to the project? Will you be able to pay overtime, if allowed? You should also allow for unexpected contingencies.

**! Relocation problems.**

If the project to be completed will result in the displacement of occupants, a relocation survey should have been completed during the early stages of the project's development. The survey should give an indication of both obvious and potential relocation problems. Based on the anticipated relocation problems to be encountered, your estimated staffing needs should include any technical experts you may need to successfully complete the expected relocations in due time. For example, if the project is expected to displace a major industrial plant, you may need to provide for a business move expert. If the plant is involved in hazardous material, you may want to provide for an expert in the handling of hazardous material.

You may also find that the relocation survey indicates that there is no comparable decent, safe, and sanitary housing available within the financial means of the displaced residential occupants. In this case you may need someone who has extensive experience in developing housing of last resort.

**! Property management.**

Although the property management function of an agency is often static, there are times when it becomes one of the paramount functions of the agency until the project is built. Especially on large projects, the acquired property inventory may grow to the point where additional staff may be needed to handle the property management duties of the agency. When acquisition occurs well in advance of project needs, the inventory of leasable properties will expand and you may find that the property management function will need to grow to the size of a small property management company that will operate for a number of years until the properties are needed for the project.

As can be seen, the amount of staff needed for a project depends on a number of factors, but these factors are not the only considerations when attempting to staff up for a project.

### **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.

These staff members help keep an agency on course during the progression of a project. Two of the most important duties these people have is to turn out

the various letters of offers, summaries, and notices, and recordkeeping. Whether an increase in the size of the administrative support staff is warranted depends upon the likelihood of a long-term increase in agency activity. The workload of the agency is usually the governing factor since the administrative staff is insulated from the complexities of a project. Much of the duties of the administrative staff are routine and do not require the services of specialists or experts to solve problems except for data processing.

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.