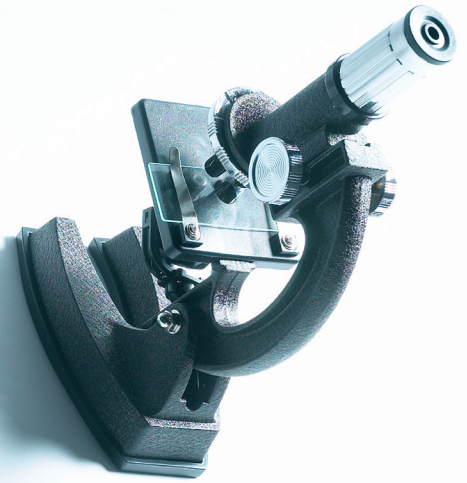


Under the Microscope

Part 2: Preparing for an Audit



BY DARRYL ROOT, R/W-RAC, JD

This is the second article on how consultants and public agencies can prepare for an audit of relocation files on federally-funded projects. The first article dealt with basic audit philosophies, but it is also vital to ensure that specific best practices are employed to implement these philosophies.

USE A CHECKLIST

Because of the many moving parts in any relocation, a well-crafted checklist is essential to keep track of important documents. Checklists should be tailored to the particular agency's specific regulations. As noted in Part 1 of this article (November/December 2013 issue of Right of Way Magazine), federal funding agencies differ on the implementation of various relocation requirements and what works for one agency may not work for another. Therefore, it is essential that the checklist reflects the policies of the project's funding agency. At a minimum, the checklist should detail the important file documents and the order in which they should appear.

PRESENT THE MATERIAL LOGICALLY

A good checklist is only the beginning in preparing a file for audit. The material and documents in the file (claims, payment records, interviews, etc.) should be placed in a logical sequence. The reviewer should be able to easily follow the file through every step of the relocation process. If the material is presented in a disjointed way, it is difficult for the reviewer to put together the pieces to ensure compliance with the applicable regulations. Using appropriately tabbed files can help break down the relocation material in a way that the auditor can easily follow.

PREPARE CLEAR AND SPECIFIC CLAIM MEMORANDUMS

A claim memorandum should support every relocation claim with an explanation as to why the particular displacee is eligible for the type of claim submitted and how the amount of the claim was determined.

It should not be assumed that the reviewer automatically understands why the displacee is eligible. Presenting the applicable eligibility facts requires the relocation agent to review the pertinent regulatory requirements. Take a closer look at factual details that may affect eligibility. The accuracy of the amount of relocation claims is essential. The displacee should not receive one penny more or less than they are entitled to. The claim memo should succinctly summarize the math, formulas and logic used to calculate the claim amount. Spelling out exactly how the amount was derived gives the agent another opportunity to check for simple math errors.

PREPARE THE RELOCATION DIARY NOTES CAREFULLY

This step is essential. The contact notes tell the relocation story, and without well-written notes, the story is incomplete and may not justify the benefits received by the displacee. Notes that are written contemporaneously as the events and conversations with the displacees unfold are generally the most accurate. These notes help the auditor make the logical connections between the procedures followed and the benefits provided to the displacee. Well-written notes also help to protect the agency and the relocation agent if the displacee files an appeal or lawsuit.

The relocation agent should list every document provided to the displacee and the date it was presented. It should not be presumed that the auditor will know which documents were given to the displacee or that the displacee was allowed the opportunity to ask questions about claim forms, brochures and notices. Questions asked by the displacee and the answers given to those questions should be spelled out clearly in the notes. This practice will help to avoid possible allegations of misunderstanding later.

In addition, the notes should explain any unusual circumstances encountered in the fact pattern of the relocation. Such unusual circumstances can lead to deviations from standard agency policies and should be explained in detail. Citations to specific agency relocation manuals and federal regulations are also helpful in explaining the procedures followed and why and how they were implemented.

PERIODIC INTERNAL REVIEW OF FILES

Don't wait until an audit is announced (if it is announced at all) to review files for challenges and issues. A good audit preparation program will employ periodic internal file reviews throughout the project to ensure compliance. Random, unannounced internal file reviews are a good way to determine if files are being updated properly and regulations are being followed.

These are but a few of the many best practices that can be used to ensure a successful audit. Regardless of which audit preparation practices are used, the importance of a "clean" audit should not be minimized. Uniform Relocation Act 23 CFR 1.9 (a) states, "Federal-aid funds shall not participate in any cost which is not incurred in conformity with applicable Federal and State law, the regulations in this title, and policies and procedures prescribed by the Administrator (FHWA)." Furthermore, 23 CFR 1.36 states, "If the Administrator (FHWA) determines that a State has violated or failed to comply with the Federal laws or the regulations in this part with respect to a project, he may withhold payment to the State of Federal funds on account of such project, withhold approval of further projects in the State, and take such other action that he deems appropriate under the circumstances, until compliance or remedial action has been accomplished..." (Clarifications added.)

Everyone benefits from consistent and timely audit preparation, as it is a significant component in the success of any federally-funded project.



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