

Minimizing Conflicts of Interest

How to successfully work with general contractors during relocation

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“Trust me, I’m a general contractor.”

Increasingly, relocation professionals are hearing these words from general contractors who work with owners of complex business operations being relocated by federally funded projects. However, experience has shown that although the use of general contractors in the relocation process can be beneficial if managed properly, it can also be detrimental to the relocation if not monitored closely.

A general contractor is “the primary person or firm solely accountable to perform a contract. This primary typically supervises activities and coordinates the use of subcontractors.” On large, long lead business relocations, it may be best to have one entity responsible for coordinating the move and the activities of a number of specialized contractors. Complex relocations may involve a variety of these specialized contractors to handle electrical, plumbing, computer and communication tasks.

General contractors offer their services to displaced business owners as either move planners or to perform the actual construction. Regardless of the services offered, the relocation professional should first confirm the general contractor’s qualifications and past performance on similar projects. If the general contractor has not worked with similar businesses in the past, they may not be qualified.

Other factors to consider are:

- Is the general contractor properly licensed?
- Are they properly bonded and insured?
- Does the complexity of the relocation justify the use of a general contractor or could it be easily handled by a few independent contractors?
- Are the contractor’s rates, fees and scopes of work reasonable?



If the contractor has had a poor working relationship with other displacing agencies, they may represent an unnecessary risk to both the displacing agency and the business owner. This is especially true if payment of the general contractor’s invoices have generated audit exceptions on other federally funded projects.

As stated, general contractors commonly offer their services as move planners. If these services are for planning and coordinating the movement and placement of personal property, these expenses can be reimbursed under §24.301(g)(12).

Benefits of a General Contractor

A good general contractor can help coordinate the many moving parts that must be carefully timed to meet project schedules, especially in fast paced design-build projects. Their knowledge of construction and utilities can help both the displacee and the relocation professional understand how the replacement site will be set up to ensure successful operation. General

contractors can take on the daunting task of coordinating the activities of sub-contractors for the connection, disconnection and placement of equipment and personal property at the replacement site. These services can facilitate the relocation and reduce the hardship on the displacee.

Besides offering to plan the move and placement of the displacee’s personal property, general contractors may also want to be involved in hiring and supervising sub-contractors and actually performing the reestablishment work to accommodate the business. This may include erecting new exterior signage, altering the replacement site to meet the business’s needs, and other eligible, reasonable, actual and necessary tasks.

General contractors may assert that they offer the most expedient way to perform tasks of both move planner and builder. To determine whether this is the best approach, you will want to address some important questions. For example, can the general contractor separate their duty to plan the move most efficiently without

being influenced by their potential profits associated with construction activities? Will the possibility of doing the construction work lead to unnecessary activities added into the move plan? The viability of this dual role should be vigorously reviewed and discussed with the project's funding source prior to being approved.

Once the role of the general contractor is defined, it is not necessary that they have knowledge of relocation under the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA). Instead, it is most important that the general contractor be willing to work with the relocation professional to plan and schedule the move. A free flow of communication between displacee, relocation professional and contractor is essential.

It is also vital that the general contractor understand which services are reimbursable. Therefore, it is essential that any bid from a general contractor be broken down into its individual parts and reviewed carefully. The individual bids that make up the expenses listed in a general contractor's estimate should each be carefully examined line by line. There should be at least two bids associated with each specific, reimbursable task and the lower of the two bids should be approved if reasonable.

Even if the general contractor's staff prepared one of the two bids in-house, the bid should be based upon reasonable criteria and specific information. If the general contractor does not provide this information, the relocation professional should seek other independent bids.

Avoiding Complications

Problems may arise if the general contractor interjects themselves into the role of the relocation professional by advising the displacee as to which expenses are reimbursable. When this interjection occurs, unrealistic promises can be made that only confuse and frustrate the displacee, no matter

how well-intentioned. It must be made clear to both the general contractor and displacee which expenses are eligible, why the expenses are eligible (or not) and the amount of the expenses determined to be reasonable. If the displacee does not agree with determinations made as to eligibility or the approved amounts, they can appeal. The URA does not allow the relocation professional and the displacing agency to give up their roles as the determiners of the application of the URA provisions to a general contractor or displacee.

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Problems may also arise if a general contractor views their tasks through a private business lens. A private transaction between a general contractor and a business owner not affected by a federally-funded project can take on many different forms and be subject to a myriad of conditions. This is not so when the eligible tasks are being funded by federal dollars under the URA.

For example, difficulties often arise when a general contractor requests a large amount up front to perform all of the eligible relocation tasks. Contractors have argued that this upfront method of payment streamlines the relocation process by avoiding numerous smaller claims. However, this type of arrangement is fraught with potential problems, especially if important documentation is missing. Agreeing to a total upfront draw-

down figure that is not substantiated puts the displacing agency at risk, as the advanced funds may be used for ineligible items or for unreasonable amounts. If all or some of the funds are not used for eligible items, the displacee will have to reimburse the displacing agency. Obtaining reimbursement from the displacee only complicates and lengthens the relocation process. This draw-down scenario closely resembles a global settlement of relocation benefits, which would preclude the displacing agency from receiving federal reimbursement.

Actual, Reasonable and Necessary

The heart of any Relocation Assistance Program is based upon reimbursing eligible costs that are actual, reasonable and necessary. Relocation Assistance under the URA is not an entitlement program. However for the displacee who may not have the funds to complete necessary, eligible relocation tasks, the URA provides a potential solution to avoid hardships. This solution involves reasonably sized advance payments based on eligible, documented expenses. Use of the advance funds should be closely monitored to avoid excessive or ineligible expenditures.

While general contractors can help the relocation professional coordinate eligible move activities and provide necessary planning services, their role in the relocation process must be in compliance. By building constructive, long-term relationships with knowledgeable contractors, relocation professionals can minimize the hardships to displacees. ★



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