

Utility Relocation & Rail Fiscal Reviews and Auditing

Presented By:

External Audit Branch
Division of Audit Services
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Kentucky Transportation Cabinet



Introduction

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Welcome

- The External Audit Branch
 - Here to help
 - Will discuss audit concerns from past
 - Seek improvement in billing process
 - Ensure Utilities/Rails and their vendors are paid on a timely basis, that costs billed to projects are valid, comply with terms of the contract, and are eligible for State and Federal participation.

Overview

- Audit Process
 - Audit Authority
 - Federal & State Guidelines
 - Common Billing Issues & Audit Concerns
- Open Discussion

Goals of Our Session

- Promote Understanding
- Develop Teamwork
- Encourage Dialogue/Generate Feedback
- Answer Questions And Concerns
- **Improve The Process**

External Audit Branch

- Indirect Cost Rate Audits
- Post Audits
- Utility/Rail Audits
- Special Requests

Utility Rail Audits

- **Utility/Rail Audits** have three basic purposes:
 - Assess Contract Compliance
 - Determine Eligibility of Project Costs (under Federal & State Cost Regulations)
 - Audit (Verify) Project Costs Billed

State and Federal Regulations

- **600 KAR 3:030**

- Recognizes 23 CFR 645, 23 CFR 646, and 23 CFR 140 as the primary basis for determining the eligibility of costs billed to a utility relocation project or rail project.
- Requires utility and railroad companies to make available all records necessary for the audit.

State and Federal Regulations

- **23 CFR 645** are the cost standards that
 - Determine the eligibility of Federal (**and State**) funding on utility relocation projects; and,
 - Prescribes the policies, procedures, and reimbursement provisions for the adjustment and relocation of utility facilities.

State and Federal Regulations

- **23 CFR 645.107 (j) Eligibility**
 - Federal funds are eligible to participate in the costs of preliminary engineering and allied services for utilities, the acquisition of replacement right-of-way for utilities, and the physical construction work associated with utility relocations. Such costs must be incurred by or on behalf of a utility after the date the work is included in an approved program and after the FHWA has authorized the TD to proceed.

State and Federal Regulations

- **23 CFR 646 Subpart B**
 - Prescribes the policies and procedures for advancing projects involving railroad facilities.
- **23 CFR 140**
 - Prescribes the procedures for reimbursement of projects involving railroad facilities.

Program Guide

- Program Guide – Utility Relocation and Accommodation on Federal-Aid Highway Projects (Program Guide):
 - Was developed by the FHWA to assist individuals administering Federal-Aid highway programs that involve:
 - The use of Federal funds for the relocation and adjustment of utility facilities, and
 - The accommodation of utility facilities and private lines on Federal highway right-of-way.

Program Guide



- According to the Program Guide, pp. B-16 to B-17, utility relocation agreements include three parts:
 - Terms and Conditions
 - Plans and Drawings
 - Project Estimate

Project Guide

The **project estimate** should include the items of work to be performed broken down by the estimated costs of:

- Direct Labor
- Labor Surcharges
- Overhead & Indirect Construction Charges
- Materials & Supplies
- Handling Charges
- Transportation
- Equipment
- ROW
- Preliminary Engineering
- Construction Engineering
- Salvage & Betterment Credits
- Accrued Depreciation Credits

Audit Procedures



- During audits, we may perform the following procedures:
 - Review the contract and assess contract compliance.
 - Reconcile payments to estimate.
 - Verify that contractors are properly approved.
 - Verify progress payments.
 - Ensure that billings are properly prepared and supported.

Audit Procedures

- During audits, we may perform the following procedures (cont):
 - Evaluate project costs for eligibility under Federal (23 CFR 645, 23 CFR 646, 23 CFR 140) & State guidelines.

Audit Issues

- **Estimates**

- Lack detail - not itemized-reviewed thoroughly?
- Do not compare to final bill
- Some approved after work completed
- Unusually **high overhead and labor surcharges** (can also inflate estimates)

- **Incomplete Final Bills** (format does not permit comparison to estimate) and bills held out in Districts well past the date work was completed

- Keep-Cost agreements billed and paid as lump-sum

Audit Issues

- Likewise we're finding unapproved engineers.
- We're finding fewer projects in which "proceed" dates have been established.
- Time records have not been required of **all personnel**.

Audit Issues



- Unapproved contractors
 - No low-bids, continuing contracts or engineering service agreements.
 - Significant cost over-runs in low-bids, lump-sums and engineering service agreements.
 - Unit items not approved in continuing contract.
- Contractors subcontracting most (if not all) of the work to unauthorized contractors and then retaining an *administrative* fee for very little work.

Audit Issues

- **Change Orders**

- No change orders.
- Lack sufficient detail.
- Too much reliance on “balancing” change-orders with no detail.
- Incorrect participation rates.

- **Inspection & Progress Reports**

- Few reports / no reports.
- Incomplete (large gaps).
- Lack detail.
- Do not identify contractors on site.



Audit Issues

- **Labor Surcharges and Overheads**
 - FICA, Retirement, Vacation, Sick & Holiday, Health Insurance...
 - As a general rule, employee benefits shouldn't be more than 30% - 40% of force account labor (any estimate above that should be questioned).

Audit Issues

- **Signing off on Bill**

- Utility Supervisors should ensure all charges are accurate prior to signing off on the final bill.
- If there are problems that absolutely cannot be resolved, the Utility Supervisor should request audit prior to signing off on final bill.

Project Estimates

- The estimate should include sufficient detail to provide the Cabinet and the FHWA with a reasonable basis for analysis.
 - Utility's overhead should show what is included.
 - Materials should be itemized where they represent relatively major components.

Project Estimates

- Areas of Emphasis:
 - Look for Ineligible Costs
 - advertising
 - sales promotion
 - interest
 - bad debts, uncollectible accounts receivable
 - contributions, donations, entertainment, fines, penalties, lobbying
 - Be alert for high overheads and labor surcharges that can over-inflate estimates.
 - Correct participation rate.

Project Estimates

- Areas of Emphasis:
 - Overhead and indirect cost rates
 - Overhead rates above 30% of total project should be questioned.
 - High **Material Storage** Rates
 - Rates above 10% - 15% should be questioned.

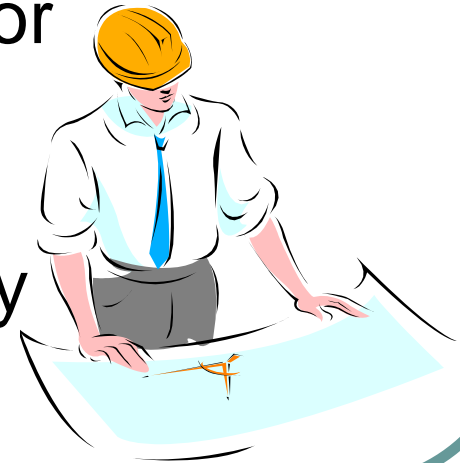
Preliminary Engineering

- **23 CFR 645.109 (a)** sets the guidelines for the use of preliminary engineering on relocation projects.



Preliminary Engineering

- **Preliminary engineering** may be done by:
 - Transportation Dept (TD) or Utility's engineering forces, or
 - Engineering consultant
 - Selected by the TD, in consultation with the Utility
 - Under contract to the TD, or
 - Engineering consultant
 - Selected by the Utility
 - Under contract to the Utility
 - Approved by the TD



Preliminary Engineering

- **23 CFR 645.109 (b):** When a Utility is not adequately staffed for preliminary engineering:
 - Federal funds may participate in consultant engineering and related services provided the contract is not based on a percentage of the cost of relocation; and,
 - The Utility and consultant shall agree in writing to the services to be provided and the fees for such services.

Preliminary Engineering

- In addition, federal funds may participate in consultant engineering under **written continuing contract** when it is demonstrated that such work is **performed regularly** for the Utility in its own work and that the **costs are reasonable**.

Construction

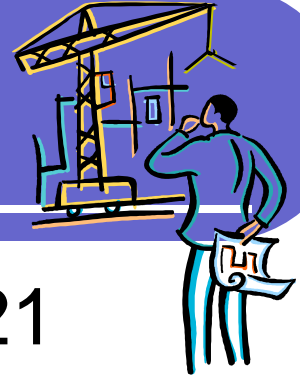
- **23 CFR 645.115** (a) states: When the Utility is not adequately staffed and equipped to perform (construction) with its own forces....such work may be done by:
 - **Low-bid** – awarded by the TD or Utility through appropriate solicitation to the **lowest qualified bidder**, or
 - As part of the TD's highway **construction contract** let by the TD, or
 - **Existing continuing contract.**

Change Orders

- **23 CFR 645.113 (e)**

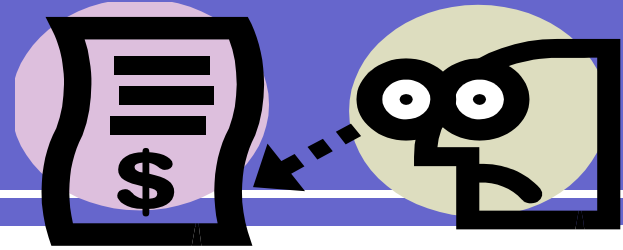
- In the event there are changes in the scope of work, extra work or major changes in the planned work covered by the approved agreement, plans, and estimates, Federal participation shall be limited to costs covered by a modification of the agreement, a written change, or extra work order approved by the TD and the FHWA.

Inspection



- Federal Aid Program Guide pg. B-21
 - It is essential that State inspectors verify all reimbursable utility work that has been accomplished.
 - Cabinet needs to have inspection records that can be used to verify billings for labor, materials and major items of equipment used by the Utility to complete the work.

Final Bills



- The Federal-Aid Billing Guide (pg. B-27) states:
 - The Utility's final billing statement should follow as closely as possible the items in the estimate and be provided in a format that allows comparisons to be made with the approved plans and estimates.
 - Also, it should be itemized to show totals for labor, overhead, travel expenses, transportation, equipment, materials & supplies, handling costs, etc.

Final Bills

- **Problem areas:**
 - Invoices held in District too long.
 - Utility/Rail companies not submitting invoices timely.
 - As a result, Utilities/Rails are disposing records. (CFR and contract require records for 3 years from the date of final payment)

Final Bills

- **Problem areas (cont.):**
 - **23 CFR 645 (i) 2:**
 - The Utility shall provide one final and complete billing of all costs incurred, or of the agreed-to lump-sum, within one year following completion of the utility relocation work, otherwise previous payments to the Utility may be considered final, except as agreed to between the TD and the Utility.

Invoice Examples



- The Good



- The Bad



- The Ugly



Railroads



Multi-State Audits

- An audit of a railroad's billing process performed by a team of auditors from different states or a CPA audit of a railroad's billing process which is then reviewed by a team of auditors for different states.
- Eliminates the need for participating states to perform a full audit of the railroads bills. An audit may be done of the parts of the bill not included in the multi-state audit.

Multi-State Audits

- Establishes an error rate which is to be used to adjust at least the final billing.
- States agree to use the error rate and to limit what parts of the bill is subject to a review.
- The following companies have a Multi-State Audit and should apply the error rate:
 - CSX
 - Norfolk Southern
 - AT&T

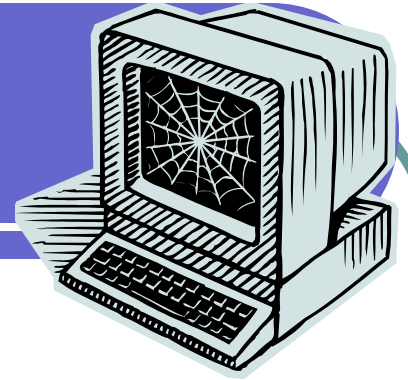
Railroads

- Labor Additives
 - Railroads may have audited additive rates which must be used for billing purposes.
 - The audited additive rate takes effect as of the date of the report and is in effect until the date of the next audit report.
 - CSX and Norfolk Southern have additive rates approved under multi-state audits.

Railroads

- Maintenance Contracts
 - Status of maintenance requests are unknown due to incomplete or lack of Inspection Reports and/or follow-up.

Websites



23 CFR 645 Utilities

http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&tpl=/ecfrbrowse/Title23/23cfr645_main_02.tpl

23 CFR 646 Railroads

<http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&SID=a8672a8c42f6effcd6790512b7d142af&rgn=div5&view=text&node=23:1.0.1.7.27&idno=23>

Websites

23 CFR 140 Railroads

<http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&SID=a8672a8c42f6effcd6790512b7d142af&rgn=div5&view=text&node=23:1.0.1.2.2&idno=23>

Program Guide – Utility Relocation and Accommodation on Federal-Aid Highway Projects

<http://www.fhwa.dot.gov/reports/utilguid/>

Recap

- Estimates
 - Should be itemized and show detail (units, rates, indirect rates).
 - Inquire about contractors.
 - Some padding is acceptable but don't rely too heavily on "contingencies."
 - Question high estimates or send to us for review.
 - Make your own estimate as a benchmark.

Recap

- **Final Bills**

- Should be itemized (if not - don't pay final).
- Should be in a format that allows comparison to the estimate.
- Remember correct participation rate.
- Don't hold in District (can cause records to be lost or disposed).

Recap



- Contractors
 - Remember to send out preliminary engineering letter.
 - Need to approve contractors prior to work.
 - Call Central Office for audited engineering rates.
 - Need to monitor payments to prevent cost overruns.
 - Look for unauthorized sub-contractors.
 - No verbal approvals.
 - Review change orders for reasonableness.
 - Keep copies of all correspondence/emails

Recap

- Change Orders
 - Avoid balancing change orders with no detail.
 - Don't approve change orders before you review the details.
 - Proper participation percentages.
 - In writing!

Recap

- Inspection Reports
 - Provide detail.
 - Look for unauthorized sub-contractors.
 - Report contractors on site.
 - Complete and timely
 - Don't just reproduce company bill - make a true report on construction activities.

Recap

- Labor Surcharges & Overheads
 - Question high rates (ask for more detail).
 - Labor Surcharges > 40%
 - Overheads > 30%
- Resolve all problems prior to signing final payment request.

Contact us!

- When you have concerns, feel free to contact any of us
- Remember if it isn't documented, it didn't happen (at least in auditor's eyes)
- Every Day Counts!
- We are excited about KURTS!

Q&A



Contact information

- Alice Wilson – 502-782-4041
- Lori Mann – 502-782-4079
- Mike Coffey – 502-782-4045
- Carly Cockley – 502-782-4046
- Jennifer McCleve
- Area Coordinators
- Global email