

# 15.

## CLOSING PROJECTS

**23 CFR 710.201 (f)**  
**23 CFR 710.403**  
**23 CFR Part 140**  
**23 U.S.C. 156**

### REFERENCES

The final phase in the right-of-way project development process is the closing of the project by the State Transportation Department (STD). During this phase, all records, documentation, and final right-of-way maps for the project are retained and stored; any excess properties and/or right-of-way encroachments are cleared

from the project; and all financial claims are summarized and submitted for payment.

The initial step to this phase is generally prompted by the acquiring agency's submission of the Right-of-Way Certification (See chapter 13) for the project.

The acquiring agency's claims and records maybe subject to auditing by the agency's internal audit staff, FHWA audit, or the US DOT's Office of Inspection General.

### 15.1 CLOSING REGULATIONS

The regulations which prescribe record keeping and retention requirements for the Federal-aid highway program are found in 23 CFR 710.201 (f). These regulations define the types of records and the period of time these records are to be held for auditing and/or inspection.

The regulations which prescribe billing procedures to be followed in claiming reimbursable costs for the Federal-aid highway program are found in 23 CFR Part 140.

### 15.2 STEPS TO PROJECT CLOSING

#### Step 1

The initial step to closing a right-of-way project is the accumulation of all official project records. These records include all accounts, papers, maps, photographs, or other documentary materials

*Closing a project is more than just closing the book on it. There is much to be done to finalize a right-of-way project: record keeping, disposals, certificates, etc. must be dealt with. This Section discusses what is to be done when closing a Federal-aid project.*

### SUMMARY

regardless of physical form or characteristics, made or received by the agency, firm, or individuals in connection with a Federal-aid highway project. This also includes, but is not limited to, financial records, supporting documentation, statistical records, and other records pertinent to the Federal-aid right-of-way project. These records should be kept in a central location by the acquiring agency. Records pertaining to the project such as acquisition and relocation costs shall be retained for a minimum period of 3 years with some exceptions. The 3 year retention period starts when final claims are submitted for payment.

*! If any litigation, claim, or audits are started before the expiration of the 3 year period, the records shall be retained until all litigations claims, or audit findings involving the records have been resolved.*

*! Records of nonexpendable property acquired with Federal funds shall be retained for 3 years after the final disposition of the property.*

*! Records which have been transferred to the FHWA for retention.*

*! Toll facility records shall be retained for 3 years subsequent to the date when the facility became operable on a toll-free basis.*

**RECORD RETENTION EXCEPTIONS**

Step 2.

The next step in project closing is to review the project's final right-of-way plans. This step is necessary in order for the agency to identify any excess lands or uneconomic remnants not needed for the construction, operation, and maintenance of the highway facility.

*Uneconomic remnants acquired by the agency but not incorporated into the right-of-way may be disposed of without FHWA approval, but the Federal share of net income from the sale or lease of excess real property shall be used by the acquiring agency for activities eligible for funding under title 23 of the United States Code.*

**UNECONOMIC REMNANTS**

Excess properties identified during this review should be made a part of the agency's inventory of excess lands and submitted to the department responsible for the disposal and management of excess lands. Any excess property should be disposed of in accordance with the agency's disposal procedures. If property is disposed of for its fair market value, a credit to the FHWA is not

required when the Federal share of the net income is used by the acquiring agency for activities eligible for funding under title 23 of the United States Code.

Another reason to review the final right-of-way plans is to identify any encroachments within the project right-of-way. Any encroachments identified

during this review should be directed to persons responsible for maintaining the integrity of the highway facility. The encroachments should be cleared.

### Step 3

Any right-of-way claims for reimbursement must be supported by the records as described in step 1.

The claims can be reimbursed as part of a progress voucher or as part of the final payment. All right-of-way costs should have been incurred and accounted for before submitting the final cost document.

This may not be possible when there are outstanding condemnation cases or litigation which extends beyond the completion of the highway's construction. On those projects, the agency may consider alternative methods for closing its right-of-way projects. One alternative is to close the existing project and create "take-up" projects to accommodate the outstanding condemnations or other litigation issues.

*A "take-up" project is created to cover outstanding right-of-way costs. When all right-of-way costs on a project have been incurred except for the outstanding litigation cases, then the agency could request that the outstanding cases be made a part of the "take-up". After a final judgement, the final cost would be paid from the "take-up" project funds. This would allow the agency to close the normal right-of-way project in a timely manner and receive its final federal-aid reimbursement.*

#### **TAKE-UP PROJECT**

Closing projects assists in managing obligation authority, such that large amounts of unexpended obligated funds do not remain unused on dormant projects. When a regular project is closed, any unexpended funds should be transferred to a new or existing project involving the same class of funds. As an additional option, the closed project can be re-opened at a later date to cover any eligible costs not yet reimbursed, which the agency may later discover.