

## Procedures for Utility Relocation/Reimbursement for Federally Funded Local Public Agency Projects

The following outlines the basic requirements governing the relocation and reimbursement procedures and practices to be used by a Local Public Agency (LPA) on federally funded local projects.

These guidelines were produced by the Project Administration Group, Right of Way Unit, Oregon Department of Transportation. These procedures are intended to be used as general guidelines by LPA's in the execution of their projects. For situations not covered, or for other related questions, please contact:

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## INTRODUCTION

ODOT is the designated state agency to implement Oregon's federal aid highway program. Because of this, the Federal Highway Administration also places overall responsibility for county and city federal aid road projects with ODOT. Utility relocation and reimbursement policy requirements for local agencies and ODOT are defined in the Code of Federal Regulations (CFR), Title 23, Part 645A. The Local Public Agency (LPA) is bound by these regulations on projects receiving federal aid.

In most transportation improvement projects, utilities are involved in some fashion. Depending on the project, utility involvement could be relatively minor, such as requiring utilities to mark their facility locations that are in the project area. Alternatively, utilities might be required to relocate their facilities due to conflicts with the project.

Relocation of utilities could be reimbursable. Typically, if the utility has a compensable property interest in its present location, it would be entitled to reimbursement. If the utility is located on public right of way by permit or franchise agreement, the relocation would generally be non-reimbursable, although the permit or franchise agreement should explicitly define the parameters.

For reimbursable utility relocations on LPA projects that are receiving federal funds, the work will be accomplished by the utility in accordance with the utility's plans and schedule approved by the LPA, so as to occasion the least possible interference with the progress of the LPA project. **The following guidelines should be used by the LPAs in development of the utility relocation requirements associated with their project prior to bid let date and the actual relocation of the utility facilities.**

## NOTIFICATION TO UTILITIES

The LPA develops a utility list identifying the utilities within the project. The list should also include a contact person and the phone number and address of the utility. Using the list, the LPA should send the project's preliminary plans to each of the affected utilities for their review. After the utility has reviewed the plans, the LPA (if not done already), should establish a dialogue with the utility's contact person to mutually determine possible conflicts with the proposed project.

## UTILITY CONFLICT LETTER AND LIST

The LPA prepares and sends to each affected utility, an itemized conflict list of known possible conflicts. The purpose of the conflict letter is to provide to the utility, formal notification of an upcoming transportation improvement project. The list of potential utility conflicts should be the best assessment at the time, based on a review of the preliminary plans, discussions with the utility and an inspection of actual field conditions. Along with the conflict letter and list, the LPA should attach a blank estimating form for use by the Utility. The LPA should also send an electronic copy of the conflict letter and list to the Region Utility Specialist (RUS)\* and to the ODOT Right of Way Section's Utility Engineer (355 Capitol St. NE, Room 408, Salem, OR 97301-3871). A sample conflict letter, conflict list and estimating form are provided below under attachment 2.

## UTILITY RELOCATION PLANS, SCHEDULE AND COST ESTIMATE

After receiving the conflict letter, the utility is required to review the conflict list and submit their schedule and relocation plans, to the LPA. Relocation plans and schedule are required if the utility's facilities are to be adjusted, relocated and/or replaced. Also, if the work is reimbursable, the utility is also required to submit to the LPA, a cost estimate for their relocation.

1. **Utility Schedule.** After receiving the utility's schedule for relocation, the LPA should confirm this in writing by sending the utility a summary of the timing requirements for their relocation. This is known as the "Timing Requirements Letter". This letter should be sent to the affected utility for reimbursable and non-reimbursable relocations. It formalizes the utility's schedule so both parties clearly understand the timing of the relocation.
2. **Relocation Plans.** The plans can be submitted to the LPA on copies of the preliminary plan sheets or on the utility's own drawings. The LPA's designer should try to work with the utility as much as possible to minimize conflicts.
3. **Cost Estimate.** When the relocation work is reimbursable, a cost estimate is required. For uniformity purposes, the completion of the estimating form provided in attachment 2 is recommended. At this point in the relocation process, it is recognized that a detailed estimate might be difficult to accurately assemble. Therefore, in compiling the estimate using this estimating form, the utility as a minimum, is required to complete page 3 of the estimating form. Page 3 asks for information such as who will be doing the engineering and construction, type of reimbursement, lump sum or actual cost, and what betterments are included in the relocation. For the first two pages (1 & 2), the utility should at this point in the process, furnish at least a scoping estimate of the utility relocation.
4. **Submittal Requirements for Relocation Plans, Schedule and Cost Estimate.** The LPA should provide a copy of the relocation plans, schedule and the cost estimate for all utility relocations involved with the project to the RUS\* . They should be submitted by the LPA prior to the project let date. The RUS\* will send the estimate, relocation plans and schedule to the ODOT Right of Way Section Utility Engineer for review and approval. The Utility Engineer will review and approve the reimbursable relocation work. Once approved, the Utility Engineer will provide written authorization to the utility to proceed with the actual relocation.

## UTILITY TIMING AND STATUS REPORT

At some time during this process, but no later than 2 weeks prior to contract advertising date, a Utility Timing and Status Report (UTSR) is required for each utility whether in conflict or not. It is prepared by the LPA and submitted to the RUS\* with a copy to the ODOT Right of Way Section Utility Engineer.

The UTSR is an important record in the utility relocation program. It provides ODOT a summary of the utilities involved in the project. It also documents the timing requirements for their relocation and advises ODOT of the utility reimbursement requirements. It often serves as the basis for programming funds for utility reimbursement, since the submission of the supporting documentation, i.e., detailed estimate, relocation plan, etc., could take much longer depending on the relocation scope and complexity. The following information is required in the UTSR:

- A brief description of the utility facilities in conflict and their general location
- Location of utility and whether the utility is on private or public property

- Reimbursement criteria: is the utility relocation reimbursable or not, the estimated amount and under what criteria is the reimbursement authorized
- Date of notification to the utility of the conflicts and acknowledgment by the utility that they agreed to relocate
- Estimated date of completion of the utility relocation work or time period required for relocation. This portion will become part of the contract's special provisions and should be the same wording that was recorded in the Timing Requirements letter.
- Information on anticipated delays to the construction project due to utility relocation
- Any information regarding the utility's relocation work that would affect the construction project; e.g., request for opening in structure, special timing or staging requirements, etc.

Attachment 3 provides a sample format for the UTSR.

## **ELIGIBILITY FOR REIMBURSEMENT**

Utilities entitled to relocation reimbursement are required to submit legal documents for their utility facilities located on private property, such as easements, deeds, estoppel or prescriptive affidavits. These should be provided to the LPA by the utility prior to bid let date. The LPA will in turn, prepare the appropriate certification verifying eligibility status (see attachment 4) and then send them to the RUS\*. Please note, there are 4 different certification forms, as well as 2 affidavit forms (easement by prescription, easement by estoppel) that the utility (if required) fills out. Each applies to a different set of conditions. Use the one which is most appropriate for the situation.

After review, the RUS\* will forward the certification forms to the Utility Engineer. The Utility Engineer will retain the certifications and copies of the utility's legal documents. These documents and the LPA's certifications must be submitted and approved, prior to any payments being made to the utility for reimbursement.

## **CONSTRUCTION REQUIREMENTS**

Generally, utility relocation can be accomplished by the utility with its own forces or using a contract that is awarded and administered by the utility. Prior to starting their work, the utility must receive authorization from ODOT. ODOT is not responsible for reimbursement of any work started before a formal notice to proceed is issued. In extreme cases, verbal authorizations can be granted for rush work, provided the estimate has been submitted and appears to be in order.

A formal notice to proceed will be issued to the utility by the Utility Engineer when funds have been programmed, and the supporting documentation has been submitted and approved. Upon its issuance, the utility may proceed with the work. If they have the capability to perform the relocation work with their own forces, they may do so. Otherwise, the most widely used alternative is to accomplish the relocation work using a contractor selected by the utility. If a contractor is used, it must be selected through a competitive process that complies with 23 CFR 645A.

When the utility relocation work is completed, the utility should send their invoices to the LPA for review and approval. The LPA will forward the bill to the RUS\* who, in-turn, will submit the approved invoice to the Utility Engineer for payment. All billings must be made in conformance with 23 CFR 645A.

## SUMMARY OF REQUIREMENTS

1. Preliminary Plans sent to the Utility by LPA.
2. Utility returns plans to the LPA.
3. Conflict letter sent by the LPA, with conflict list and estimating form. Copy of letter to RUS and ODOT Right of Way Section (R/W).
4. Utility prepares relocation plans, estimate and schedule of relocation. Submitted to LPA->RUS->ODOT R/W.
5. LPA sends to the utility a Timing Requirements Letter, confirming relocation schedule requirements.
6. LPA prepares UTSR (2 weeks prior to bid ad date). Copy to RUS and ODOT R/W.
7. ODOT R/W issues Notice to Proceed to Utility for relocation.
8. Utility provides ownership documents to LPA prior to bid let date.
9. LPA certifies compensable rights and forwards to RUS. Submitted to RUS->ODOT R/W.
10. Utility submits invoice for reimbursement to LPA->RUS->ODOT R/W.

Note: The "->" symbol indicates flow of the documentation.

## ATTACHMENT 2

### Notice of Utility Conflict Letter

(Date)  
(Utility Point of Contact)  
(Utility Address)

#### NOTICE OF UTILITY CONFLICT

(Highway Section)  
(Highway Name)  
(County)  
(Preliminary Engineering EA)  
(Key Number)

Dear Mr./Ms. (Utility Point of Contact (POC)):

Bids will be received by the Oregon Transportation Commission for the above-titled project tentatively on (Bid Let Date). **This is a (Name of City or County) project.** (Type of Utility Facilities) owned by (Name of Utility) conflict with the construction requirements of the subject project and must be adjusted or relocated as the case may be.

Description of Conflicts: See Attached list and plan sheets that highlight and comment as to action required.

The conflicting facilities are located on public (or private property) right of way, therefore, adjustment is non-reimbursable (or could be reimbursable depending on situation) under the provisions of 23 CFR 645A (Code of Federal Regulations).

Will you please submit a sketch map, drawn on our preliminary plan sheets, of your proposed adjustments to me for my review and approval prior to the start of any relocation work. A time schedule for accomplishing your work and estimated date of completion should accompany the relocation sketch maps. Your sketch maps should be referenced to this letter by date and subject.

Upon approval of your relocation plan, application shall be made through (County or City Authority POC for Granting Access, i.e., the Permit Grantor) for an appropriate permit to cover any part of your relocation work to be made on public right of way.

You are directed to contact (City or County Authority POC for Construction), telephone, (telephone number) before entering any newly acquired right of way to commence your relocation work. He (She) can advise you as to any property on which the (City or County Authority) does not yet have legal right of entry.

Further information concerning construction details may be secured from (City or County Authority POC for Construction). All inquiries relating to general policy and procedure requirements pertaining to the adjustment and relocation of utilities, as may be required by highway construction and relocation, should be addressed to me. I can be reached at (telephone number).

Cordially,

(Signature and Printed Title of City or County Authority or Their Consultant Engineer)

Enclosure: Conflict list and plan sheets

cc: ODOT Region Utility Specialist





County:

Project No: Key No:

A.	Preliminary Engineering Costs		Unit	Quantity	Unit Cost	Cost	Total	
	1.	In-House Labor ( <i>Itemize in detail</i> ):						
		In-house Payroll Additives:						
		Consultant Labor ( <i>Itemize in detail</i> ):						
		Consultant Payroll Additives:						
	2.	Overhead ( <i>identify method used to determine the rate</i> ):						
	3.	Other ( <i>Itemize in detail</i> ):						
		<b>Subtotal Section A</b>				\$		
B.	Construction Costs		Unit	Quantity	Unit Cost	Cost	Total	
	1.	In-House Labor ( <i>Itemize in detail</i> ):						
		In-house Payroll Additives:						
		Consultant Labor ( <i>Itemize in detail</i> ):						
B.	Construction Costs Continued		Unit	Quantity	Unit Cost	Cost	Total	
		Consultant Payroll						

		Additives:					
	2.	Materials ( <i>Itemize in detail</i> ):					
	3.	Overhead ( <i>identify method used to determine the rate</i> ):					
	4.	Equipment ( <i>method used to determine the rate and itemize</i> )					
	5.	Other ( <i>Itemize in detail</i> ):					
		<b>Subtotal Section B</b>				\$	
<b>C.</b>	<b>Removal Costs</b>	<b>Unit</b>	<b>Quantity</b>	<b>Unit Cost</b>	<b>Cost</b>	<b>Total</b>	
	1.	In-House Labor ( <i>Itemize in detail</i> ):					
		In-house Payroll Additives:					
	2.	Equipment ( <i>method used to determine the rate and itemize</i> )					
	3.	Salvage Value ( <i>identify method used to determine the rate and itemize</i> ):					
		<b>Subtotal Section C</b>				\$	
<b>D.</b>	<b>Total Costs</b>					<b>Total</b>	
	Total from Section A, B, and C				\$		
	Non-Reimbursable from Section A, B, and C				\$		
	Reimbursable from Section A, B, and C				\$		

## Additional Information Required to Accompany Estimate

### 1. Engineering will be done by:

Company Forces (Include Name, Contact Person, Address, and Phone Number)

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Consultant (Include Name, Contact Person, Address, and Phone Number)

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*Consulting engineering services must be approved by the State. Consulting Engineer's fee based on a percentage of the total cost will not be eligible.*

### 2. Construction will be done by:

Company Forces (Include Forman's Name, Address, and Phone Number)

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Contract (Include Name, Contact Person, Address, and Phone Number)

ODOT's contract - information not available at this time

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*Work done by contract must comply with 23 CFR 645A. This requires that the work be let to the lowest qualified bidder. If the contract is let without bid, it must be shown that the interests of the state are being served. .*

### 3. Betterments:

This work (will \_\_\_) (will not \_\_\_) result in a betterment to the company's system. Betterments are upgrades or increases in functional capacity not attributable to the highway construction. If a betterment will result, explain below:

Amount of Betterments \$ \_\_\_\_\_

### 4. Expired Service Life:

This work (does \_\_\_) (does not \_\_\_) affect a complete and independent unit of our system, such as a building, plant, station, etc. To calculate the Expired Service Life use the following equation.

Expired Service Life of Replaced Facility x Original Cost = Amount of Credit

Estimated Service Life of Replaced Facility

Expired Service Life \$ \_\_\_\_\_

**5. Record Management:**

All costs which are reimbursable must be kept in separate work order files. All such records must be retained by the utility for a period of not less than three (3) years.

**6. Lump Sum:**

If the total cost of the reimbursable portion is less than \$100,000, the utility may submit a request for Lump Sum payment. However the detailed estimate is still required. Once the estimate is approved, payment will be made in the approved amount upon completion of the project and submission of a statement of costs showing beginning and completion dates of the work. This method requires no supporting records, no itemized billing, and no audit. It is recommended for small jobs and where keeping records is a problem.

**7. Actual Cost:**

If the total cost of the reimbursable portion is greater than \$100,000, the relocation must be billed on an actual cost basis. Once the estimate is approved, payment will be made in the approved amount upon completion of the project and submission of a statement of costs showing beginning and completion dates of the work. This method requires supporting records, itemized billing, a copy of all invoices, and may be audited.

**8. Billing will be based on:**

Actual Cost \$ \_\_\_\_\_ in accordance with 23 CFR 645A.

Lump Sum \$ \_\_\_\_\_ in accordance with Paragraph 8F SEL. 645.113, 23CFR 645A.

9. This format covers only the basic costs. For any additional information, please refer to 23CFR 645 A, or contact the Region Utility Specialist.

Authorized Company Representative:

\_\_\_\_\_  
\_\_\_\_\_

*(Please Print Name and Phone Number)* Signature of Authorized Company Representative

## ATTACHMENT 3

### UTILITY TIMING AND STATUS REPORT

TO: REGION UTILITY SPECIALIST DATE:

PROJECT:

UTILITY:

1. Description of the utility conflicts and their general location
2. Conflicting utility facility located on public road right of way or private property?
3. Is utility entitled to reimbursement for the relocation of their facilities? Cost:
4. Date utility was notified in writing or verbally of the conflicting facilities and whether or not they agreed to relocate (Written notification required on all federal aid projects);
5. Estimated completion date for the utility relocation work:
6. Is any delay anticipated due to the utility's relocation work?
7. Specific information regarding the utility's relocation work that would affect the State's highway construction project. (e.g., request for opening in the structure, utility relocation work to be done as part of the State's contract; any special timing or staging required to accomplish the utility relocation work):

Signature of Authorized Official

cc: ODOT Right of Way Utility Engineer

**ATTACHMENT 4**

**Certification of Reimbursement**

DATE:

SECTION:

HIGHWAY:

COUNTY:

KEY NO.:

I, \_\_\_\_\_, am the \_\_\_\_\_, for the \_\_\_\_\_.  
(Name) (Title) (Local Agency)

I have field inspected the utility facilities to be relocated or adjusted on the above captioned section of the

highway. From this inspection I have determined to the best of my ability that such utility facilities owned by

\_\_\_\_\_  
(Utility Company)

to be relocated or adjusted for which we are requesting reimbursement, are located as follows:

\_\_\_\_\_ % on private property

\_\_\_\_\_ % on City Street right-of-way

\_\_\_\_\_ % on County Road right-of-way

**Reimbursement is requested on the following basis:**

Private property by right of (Include documents):

easement

prescription

estoppel

City utility facility located on City Street right of way.

(signature)

### Estoppel Form

DATE:

SECTION:

STATE of OREGON HIGHWAY:

COUNTY:

KEY NO.:

I, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_  
(name) (title) (company)

, being first sworn on oath, depose and say the attached list of utility facilities must be relocated or adjusted for the above mentioned project. These facilities were placed on private property \_\_\_\_\_ with the permission of the fee owner of the property.

(Date)

The said facilities have been observable by, or, if not observable, all subsequent owners of said private property have made no objection. The facilities were installed and have subsequently been operated and maintained as more fully explained in Exhibit "A", attached hereto and by reference made a part hereto. (See attached explanation of information needed.)

Because of the monies expended on the installation of the facilities, the permission of the fee owner at the time of installation, the owner's subsequent consent thereto, and the above facts, my company, claims an estoppel easement of said facilities.

(company)

Utility Representative Signature

Position with Utility

Sworn to and subscribed before me this day of , 20\_\_ .

Notary's Signature

Notary Public for the State of Oregon

My commission expires:

## Exhibit "A"

UTILITY:  
DATE:  
SECTION:  
HIGHWAY:  
COUNTY:

Type of Facility covered by exhibit:

Provide facts and circumstances surrounding the initial installation. Include size, type and quantity of facilities. Use additional paper if needed.

why was no written easement acquired or required at the time of installation?

How long have the facilities been there?

Does property owner know of the facility's existence and location?

Did original property owner see the installation?

Do facilities show above ground and are they readily observable on land?

Provide any other facts you may have pertaining to the installation and maintenance of the facilities.

# Prescription Form

DATE:  
SECTION:  
STATE of OREGON HIGHWAY:  
COUNTY:  
KEY NO.:

I, \_\_\_\_\_,  
(name) (title) (company)

, being first sworn on oath, depose and say the attached list of utility facilities must be relocated or adjusted for the above mentioned project. These facilities are located on private property and a search of the records of \_\_\_\_\_ does not  
(Name or source of records)

disclose any recorded or unrecorded easement for said facilities.

I further depose and say that said facilities are in existence and are located on private property outside of public right-of-way. The said facilities were installed on said private property on \_\_\_\_\_.  
(date)

The facilities were installed and have been continuously operated and maintained on the said private property openly and adversely to the rights of the fee owner. The facilities were installed and have subsequently been operated and maintained as more fully explained in Exhibit "A", attached hereto and by reference made a part hereto. (See attached explanation of information needed.)

having continuously operated and maintained said facilities on \_\_\_\_\_  
(company)

said private property openly and adversely to the rights of the fee owner for more than 10 years, claims an easement by prescription for the continued operation and maintenance of said facilities as they are now located.

Utility Representative Signature

Position with Utility

Sworn to and subscribed before me this day of , 20\_\_.

Notary's Signature

Notary Public for the State of Oregon

My commission expires:

## Exhibit "A"

UTILITY:

DATE:

SECTION:

HIGHWAY:

COUNTY:

Type of Facility covered by exhibit:

Provide facts and circumstances surrounding the initial installation. Include size, type and quantity of facilities. Use additional paper if needed.

Why was no written easement acquired or required at the time of installation?

How long have the facilities been there?

Does property owner know of the facility's existence and location?

Did original property owner see the installation?

Do facilities show above ground and are they readily observable on land?

Provide any other facts you may have pertaining to the installation and maintenance of the facilities.