

Chapter 13. Utility and Railroad Programs

This chapter provides information related to utility relocation and railroad crossings in federal-aid project delivery for LPAs. In the sequence of project development, utility and railroad issues should be addressed early in the process, generally beginning at approximately the 30% design stage or sooner if possible.

A. OVERVIEW

A.1. Utilities

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

These facilities consist of, but are not limited to, poles, power lines, telephone landlines, and cable television lines; buried water, sewer, gas and telecommunication lines. For a definition of what constitutes a “utility facility”, refer to OAR 734-055-0010 (26). To avoid construction delays, these facilities must be identified and the owners contacted as early in the design process as possible. The LPA’s utility coordinator should consult ODOT’s Utility Relocation Program Resources website and the Oregon Utility Relocation Manual to comply with state and federal requirements.

Resources:

- [Utility Relocation Program Resources](#)
- [Rail Safety Programs](#)
- [23 CFR 645A](#)
- [OAR 734-055-0010](#)

A.2. Railroads

When a project overlaps with a railroad corridor, the LPA must coordinate with the railroad for safety and project approval. This may be true even when the project does not directly cross the railroad. Early engagement is highly recommended as coordination with railroads can be a lengthy (year-plus) process.

There are four possible components to railroad coordination, each detailed below: 1) the need for a crossing order, 2) railroad engineering approval of the project work, 3) easement acquisition and 4) flagging.

The State Rail Liaison in the ODOT Statewide Project Delivery Branch acts as a single point of contact with the railroads for ODOT. This person is responsible for acquiring permanent easements and other property rights from the railroads and is a good source of information when coordinating with the railroads and road authorities in Oregon.

B. UTILITY PROGRAM

B.1. Relocation Policy

Utility relocations, adjustments and reimbursement policy requirements are defined in the Code of Federal Regulations 23 CFR 645A and OAR 734-055. The LPA shall follow these regulations on projects receiving federal-aid or state funding.

ODOT's Utility Relocation Manual outlines the basic requirements governing the relocation and reimbursement procedures and practices that an LPA must use on federally funded local projects.

B.2. Coordination

As design work begins, the LPA should consider the following:

- Project scope
- Utility relocation timelines
- Existing utility facilities in the right of way
- Options to eliminate or reduce utility relocations
- Available right of way for tree and brush clearing
- Utility company concerns

Early consideration of utility issues will give all parties time to work out the details of avoidance, relocation, protection or upgrading as a project is being designed. The earlier the utilities are contacted to start the process, the more likely it is the utility coordination work will go smoothly and the schedule of a project will be met.

For more particular information and guidance on required utility notifications, please refer to Section 3 of the ODOT Utility Relocation Manual.

B.3. Relocation

Relocation of affected utilities are either non-reimbursable or 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. The LPA's utility permit or franchise agreement should explicitly define these parameters.

- For reimbursable utility relocations on LPA projects that are receiving state or federal funds, the relocation will be accomplished by the utility in accordance with the ODOT Utility Relocation Manual and the approved utility's relocation plan and schedule. This should result in the least possible interference with the progress of the LPA's project.

“Buy America” requirements (23 CFR 635.410) apply to all compensable utility work that is accomplished as a result of a federally funded transportation project.

- LPAs have been granted the authority to contract directly with a reimbursable utility for the cost of relocation work and issuance of notice to proceed (i.e. preliminary engineering, construction, materials, etc.) for any FHWA reimbursable work performed by the Utility Owner. The ODOT Utility webpage has a Checklist for CLPA Utility Agreements to provide guidance on what the LPA is required to include in the agreement to be eligible for federal reimbursement. After the agreement is executed, the LPA shall issue a separate notice to proceed for each phase of authorized relocation work. The LPA must confirm that the funding is authorized through ODOT before issuing each notice to proceed. See Section 3.7 of the ODOT Utility Relocation Manual for additional information and requirements.
- Regardless of the utility’s reimbursement status, the following documents are required to be submitted to the State Utility Liaison prior to PS&E and as the documents are generated. See ODOT’s Utility Relocation Program webpage to access required utility forms and other resources.
 - Copies of all Project Notification Letters (when no conflicts are found)
 - Copies of all Conflict Letters
 - Copies of all Time Requirement Letters
 - Utility Certification Form and
 - A draft of Special Provision Section 00150.50 that includes the name of each utility within the project limits, the utility’s contact information, the type of work, completion date and any special considerations.

Resources:
- [Utility Relocation Program](#)

For situations not covered here, or for other related questions, contact the ODOT State Utility Liaison.

Note: The State Utility Liaison is the only one with authority to co-sign the Utility Certification.

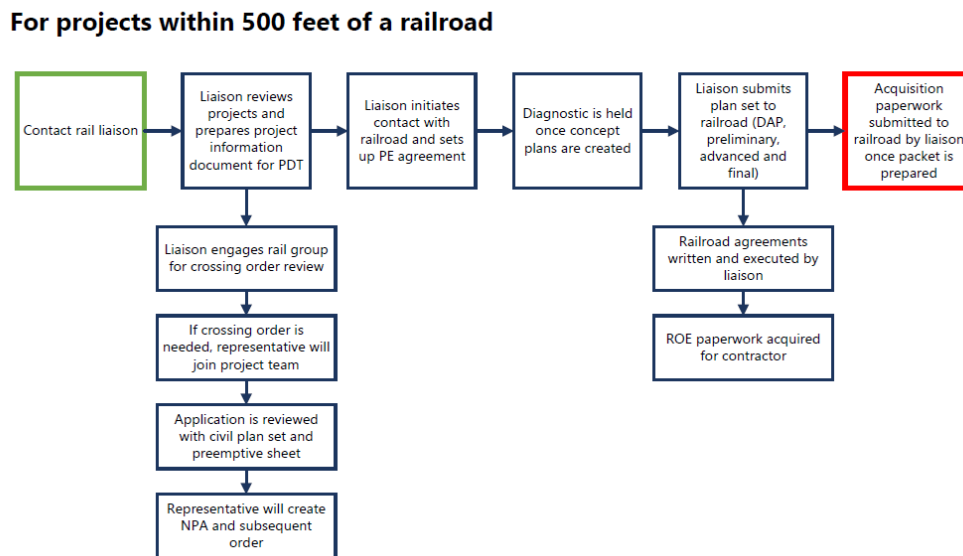
C. RAILROAD PROGRAM

C.1. Coordination with Railroads

A general rule to follow is to review each project that comes within 500 feet of a railroad in any direction, including parallel to, perpendicular to, above and below.

If an LPA needs to enter railroad property, they must first contact the railroad for access. Each railroad has a process for access to railroad property, which includes a Right of Entry. The State Rail Liaison can assist in guiding the LPA to the right location for information and permission, but the LPA will secure its own access.

The below graphic shows a basic flow chart for rail coordination. For LPA projects, the rail “liaison” is whomever the LPA assigns this position to on the project team.



There are four types of coordination with the railroad that may be needed.

a. Rail Crossing Order

A rail crossing order is required for any alterations made within the jurisdiction of the ODOT Rail Crossing Unit as explained in subsection C.4 below. To initiate this process, the LPA should contact the ODOT Commerce and Compliance Division for a representative to work with the project team. The representative will work the LPA through the necessary steps. An application, civil drawings and preemptive sheets will be necessary.

b. Railroad Engineering Approval

Any work within an easement from the railroad needs the approval of the railroad. This process includes sending each plan set to the railroad to allow feedback and comments. The final approval will only be given with a final stamped plan set.

c. Easement Acquisition

Obtaining property from the railroad requires the purchase of an easement. This cannot happen until the project engineering is approved by the railroad. Survey exhibits and descriptions will be needed for the property and a Construction and Maintenance Agreement will be executed to detail the new responsibilities of the easement. Each railroad has its own process to follow for acquisitions.

d. Flagging

Any work within 25 feet of railroad tracks requires a railroad flagger. It is essential that traffic control near a railroad is reviewed to ensure that queuing will not affect a crossing. If queuing will be impacted, a flagger is recommended for safety even if the work zone is outside the 25 foot zone.

C.2. Railroad Assurance Form

Similar to providing a utility certification, a Railroad Assurance Form is required as part of the PS&E package. This document informs FHWA that all coordination with the railroad has taken place. Unlike the utility certification, ODOT does not need to co-sign. Before signing the Railroad Assurance form, be sure one or more of the following have taken place:

- The project has been reviewed and guaranteed that no railroad involvement was necessary.
- All agreements are executed for work to be done by the railroad.
- Crossing orders have been issued.
- Permission has been granted by the railroad when work will be within railroad property (right of entry and flagger approval).
- The correct boilerplate specification has been included in the bid documents indicating the contractor requirements.
- License agreements have been secured when a utility (such as an IT line) or culvert will affect railroad property.

C.3. Railroad Agreements

In order to advance projects involving railroad facilities, the LPA must coordinate project development with each affected railroad. Most railroads will require a PE agreement (NTP) which promises payment for their review and oversight ahead of any involvement. This work may be contracted out to a third party by the railroad. A sample PE agreement is linked in Section D of this manual.

In addition, any work that impacts rail property requires an agreement. Any agreement required by the affected railroad is necessary to set forth the essential terms and conditions to be adhered to in the modification or relocation of railroad facilities or encroachments into railroad right of way. Negotiations with railroads can be lengthy and intricate so it is important to begin discussions with railroads at an early stage of project development. ODOT can assist with the agreement process, but the LPA is the road authority and therefore is the party to the agreement. Each railroad may have a template to use as a starting point. If ODOT is a party to the agreement, ODOT's template must be used.

Two types of agreements can be executed as part of an LPA project. A Construction and Maintenance (C&M) Agreement is necessary when changes of responsibility have taken place at that location. A Rail Services Agreement is necessary to pay the railroad for work it is doing as part of the project, but no changes to the existing C&M will occur.

C.4. Highway Grade Crossing Safety Program

The ODOT Rail Crossing Unit will assist with crossing order needs within their jurisdiction. The Rail Crossing Unit's jurisdiction extends a distance equal to the safe stopping distance, for the posted or statutory speed, measured back from the location of the stop clearance lines. Rail Crossing Unit's jurisdiction for grade-separated crossings will be at the crossing only. Per ORS 824.202, the unit has authority over all rail crossings to include but not limited to safety, placement of warning devices, geometry of the road approaches and any other appurtenances to a crossing.

If a highway or related project is within the state's jurisdiction, the LPA must notify the Regional Local Agency Liaison and coordinate with the Rail Crossing Unit to discuss any changes included in the project. Contact these parties as early as possible in the project scoping phase.

All LPAs and railroads needing to work within this jurisdiction, which may include an alteration, closure or addition of a crossing, must contact the ODOT Rail Crossing Unit prior to any work. This unit will work through the process to issue a Crossing Order for the changes.

For details regarding the Rail Crossing program, see the ODOT Rail Safety Program webpage.

C.5. Additional Resources

Information on rail crossings, ODOT contacts, crossing applications and law can be found at ODOT Commerce and Compliance Division Rail Safety Programs website.

23 CFR 646 governs the development of highway projects involving railroads, including the requirements of an agreement.

ODOT's relocation procedures, state law, and federal regulations can be found on the ODOT Railroad Relocation Program webpage. Examples of railroad agreements and boiler plate contract specifications are available under Part 00000-Documents and Forms on the ODOT Boilerplate Special Provisions webpage.

For situations not covered here, or for other related questions, contact the ODOT Regional Local Agency Liaison and State Rail Liaison.

Resources:

- [Rail Safety Programs](#)
- [23 CFR 646](#)
- [Railroad Relocation Program](#)