

Utility Relocation Manual

Delivery & Operations Division | Right of Way Section
July 2023

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REVISION HISTORY

Table 1: Major Updates

Summary of Update	Revision Date
Added 2 nd notice requirement of a project notification letter if 1 st notice was a conflict letter and conflicts are resolved/no timing requirement letter required. Edited QC Section to follow updated Statewide Quality Plan Template.	July 2023
Added Utility Quality Management Section 10	February 2023
Updated Sections 3-2-1, 3-6-2, 3-6-3, 4-1 and 4-1	July 2022
<p>Manual removed from Right of Way Manual and established as a standalone document. Updates include:</p> <ul style="list-style-type: none"> • Text edits. • Section restructuring. • Formatting. <p>Approved by RWLT – Aug. 14, 2018 Approved by FHWA – 2018</p>	August 2018

For questions about updates to this manual, please contact the Utility Relocation Program via email at UtilityandRailProgra@odot.state.or.us.

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SECTION 1 – INTRODUCTION AND PURPOSE

The Oregon Department of Transportation (ODOT) Utility Relocation Program establishes and implements a uniform standard and process for relocating utility facilities that complies with federal, state, and local laws and rules. Utility facility relocations can be either non-reimbursable or reimbursable based on the property rights associated with their physical location.

If you are reading this manual online then the text underlined and colored in blue denotes links to websites containing additional or full text of material represented.

1-1 – Establishment of the Utility Program

The Utility Relocation Program is guided by established federal and state laws. Related rules, statutes, laws and regulations noted in this manual include links to the full language for reference.

Under the Fifth Amendment of the Constitution of the United States and Article 1 of the Oregon Constitution's Bill of Rights, no person shall be deprived of life, liberty, or property without due process of law; nor shall private property be taken for public use without just compensation.

Public Law 91-646, Title III of the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, further defines the duties of the public agency to apply those basic rights during property acquisition and relocation activities.

Except within cities, under Oregon Revised Statute (ORS) [758.010](#) utility owners are given the right to construct, maintain, and operate their facilities within the right of way (ROW) of public roads. Utility owners have certain rights and protections when their facilities are required to be relocated due to a roadway project. Because these rights are covered under the Federal Uniform Relocation Act, federal regulations, and state laws and rules, it is the responsibility of the Utility Program to provide assistance and direction throughout the relocation process.

1-2 – Utility Program Laws

The Utility Relocation Program policies for reimbursable and non-reimbursable relocations are derived from the Oregon Constitution, Oregon Revised Statutes (ORS), Oregon Administrative Rules (OAR), and the Code of Federal Regulations (CFR).

[OAR 734-055](#) provides the authority for permitting and the manner in which the utility facility is allowed in the ROW. Federal Regulation [23 CFR 645](#) provides direction as to when and which costs of relocation are eligible for reimbursement, and the relationship between rules and regulations administered by a state transportation department and those administered by the Federal Highway Administration (FHWA).

The utility relocation process chart, figure 1, depicts the relocation steps involved in utility facility relocation. The typical project timeline, as shown on this chart, starts with project conception and follows through to the completion of construction. See Appendix D for detail

about the roles and responsibilities of the state utility liaison (SUL) and the utility coordinator (ODOT staff, certified local public agency (LPA) staff or contracted personnel).

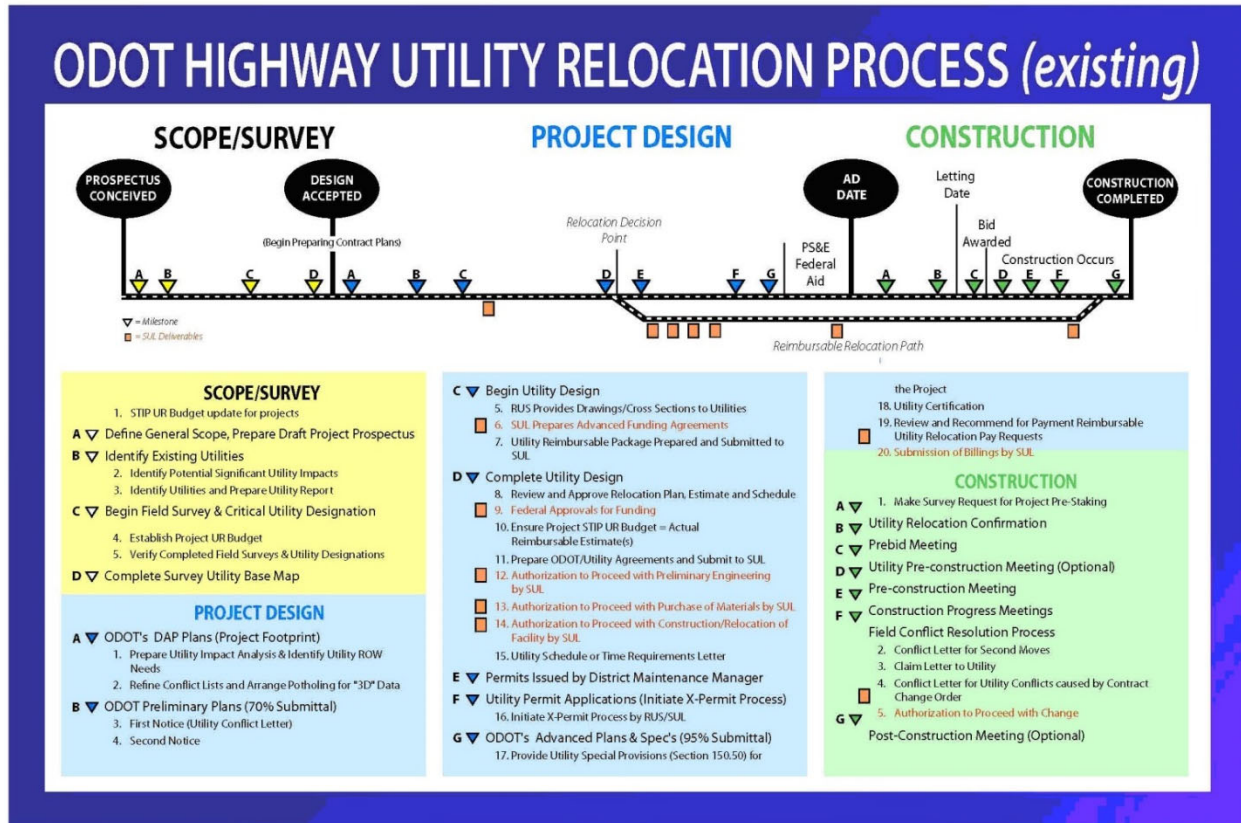


Figure 1: Utility Relocation Process Infographic

1-3 – FHWA Stewardship for Local Public Agency Projects

FHWA, through a stewardship and oversight agreement, has delegated certain authorities and responsibilities to ODOT for the oversight of federal-aid transportation projects delivered by or on behalf of an LPA. Those responsibilities are carried out by ODOT's Local Agency Program, which consists of the central Statewide Programs Unit and the Certification Program Office with regional and local program units that serve each of the five ODOT regions.

ODOT's regional local agency liaisons (LAL) work directly with the LPAs during the development and construction of projects when state or federal funds are involved. The LAL assists LPAs through all phases of project development and delivery to ensure all applicable program requirements and procedures are met.

LPAs are categorized as either certified or non-certified. Certified LPAs are granted greater approval authority and control at the local level. These LPAs have been certified by ODOT in federal-aid transportation project delivery processes and may deliver federal-aid transportation

projects. Non-certified LPAs must use an alternative method to deliver federally-funded projects such as:

- Contracting with a certified LPA to deliver the project.
- Exchanging federal funds for state funds and delivering its own projects.
- Contracting with ODOT to deliver the project.

Regardless of certification status, when federal funds are utilized for a project, the requirements and procedures described in this manual apply. See Section 3.7 below for an exception regarding local ownership of reimbursable utility agreements and related processes.

The Local Agency Guidelines (LAG) Manual is available online:

<https://www.oregon.gov/ODOT/LocalGov/Pages/LAG-Manual.aspx>.

SECTION 2 – PROJECT DEVELOPMENT, GENERAL GUIDELINES, AND UTILITIES OVERVIEW

The Utility Relocation Program operates within the overall project development segments of the project delivery process. The project delivery process information within this section is derived from the Project Delivery Unit's Project Delivery Guide, available online:

<https://www.oregon.gov/ODOT/ProjectDel/Pages/Project-Delivery-Guide.aspx>.

FHWA's [Federal Utility Program Guide](#) assists individuals who administer federal-aid highway programs that involve:

- Use of federal-aid highway funds for the relocation and adjustment of utility facilities.
- Accommodation of utility facilities and private lines on federal-aid highway ROW.

The forms referenced in this section are available online:

<https://www.oregon.gov/ODOT/ROW/Pages/Utility-Forms.aspx>.

Project development process, as it relates to utility facility relocation, begins with scope, survey, and design. Completion of the utility certification is the final step of the utility relocation process, prior to plans, specifications and estimates (PS&E).

The utility relocation program is an important component of the project development process. Any element of construction can impact utility facilities. By law, utility owners are required to relocate, remove, adjust, or otherwise protect their facilities when they are in conflict with roadway construction.

Identification and resolution of utility facility conflicts throughout the development process minimizes costs to utility owners and to the construction project.

2-1 – Subsurface Utility Engineering

Subsurface Utility Engineering (SUE) is the engineering processes that accurately and comprehensively identify, characterize, and map underground utility facilities. It includes the three major activities of designating, locating and data management. These activities, when combined with traditional records research, coordination with utility owners, and site surveys, provide high quality information for use during project development and design.

SUE relies on the professional collection and evaluation of utility data, assessing its quality and reliability. Once analyzed, utility data is assigned a quality level – A, B, C or D – based on standards developed by [American Society of Civil Engineers \(ASCE\)](#).

See Appendix F – Subsurface Utility Engineering Workflow Process and Decision Guide.

2-2 – Scope and Survey

Scoping, mapping, and design development are the beginnings of a project. During these stages the project is defined and options evaluated leading to a single design option. Communication

with utility owners is initiated and facility information is exchanged in order for design options to be weighed against impacts and costs.

2-2-1 – Utility Relocation Budget Development

The discipline specialists review the proposed project scope, schedule, and budget and begin the task of analyzing the options to finalize the project scope.

Facility maps and permits are used to identify potential reimbursable relocations. The initial scoping report, created by the project leader (PL), is revised to reflect the additional information and a more accurate budget for reimbursable relocations is developed.

2-2-2 – Identifying Existing Utility Facilities

In order to evaluate design alternatives and impacts, a base map is created with the roadway, slope, ROW, and utility facility information. A survey crew gathers electronic coordinate data within the project site and develops a three-dimensional map with all the elements.

Utility Facility Locates and Notification Process

The law requires underground utility facilities be marked before excavation work begins. Utility owners or their representative shall mark facility locations with type and owner information, per OAR 952-001. This information is subsequently captured by an ODOT or certified LPA survey crew.

Ten business days prior to the survey of the project area, an ODOT or certified LPA representative calls the Oregon Utility Notification Council (OUNC) requesting underground utility facilities be marked. OUNC generates a numbered ticket. Once obtained, the survey crew provides the ticket number to the utility coordinator.

The ticket contains the following information relayed during the filing:

- Company name.
- Contact information.
- Location.
- Type of work to be performed.

2-2-3 – Verification of Utility Facility Mapping

Upon completion of the base map, the surveyor transmits the electronic file to the designer. The surveyor or designer provides a copy for the utility coordinator to review. The base map is compared to the facility maps that have been collected from the utility owners. An onsite review may be required if there are concerns or discrepancies.

In those cases where the utility owner cannot release their facility maps, a copy of the project base map is provided to the utility owner. The utility owner returns the base map with corrections corresponding to their facilities.

2-2-4 – Utility Report

The utility report is used as a tool when there are several utilities within the project limits. Each project team can decide if a utility report is needed as it is optional. The utility coordinator refines the initial utility report as the project team works toward a final design. The utility coordinator evaluates the impacts of the different alternatives and works with the project team to help select a final project design that minimizes impact to utility owners and costs to the project.

2-3 – Project Design

After a design is selected and the designers begin adding details to the selected alternative, the designers develop an initial utility facility conflict list. The designers evaluate utility facility conflicts against design elements to see if the impacts to the utility facility can be avoided or minimized without compromising the cost to ODOT.

The utility coordinator meets with the designer to evaluate the initial conflict list and discuss options for both ODOT/certified LPA and the utility owner. The utility coordinator should encourage avoidance of utility facilities whenever possible. Design modifications may be offered to the utility owner as an alternate to relocation with the utility owner paying for the differential costs. As a design changes, utility conflicts should be evaluated again so as to not be discovered in construction.

Existing structures usually have utility facilities attached or running through the structure. It should be anticipated that utility companies will want to attach their facilities to new structures. The utility coordinator should identify utility facilities that may need accommodation on the new structure, as soon as practical.

The ODOT Bridge Design Manual (BDM) Section 3.14.10 provides information for utility facilities to be installed in or on bridges.

SECTION 3 – UTILITY COORDINATION

Throughout the project design, official letters are sent to utility owners to notify them of an upcoming project. Through this notification process potential conflicts are discussed or ruled out. Utility coordination occurs through the entire design phase and sometimes into construction.

Certified LPAs will follow the utility notification process outlined in this section, including issuing project notification letters, conflict letters, time requirement letters and utility certifications. Differences are covered in section 3-7.

3-1 – First Notification

The first notification, per [OAR 734-055-0045\(2\)](#), is either a conflict letter or project notification letter, see Appendix E. The first notice occurs shortly after 30% plans or the Design Acceptance Package (DAP).

Conflict analysis begins with the designers and technical specialists. Conflicts occur when a construction design element falls within the “reasonable accuracy” limits as defined by a marked underground facility, per [OAR 952-001-0010](#).

The preliminary utility conflict list developed during the design stage is refined by collaboration between the utility coordinator, designers, and other technical specialists during the development of preliminary or advance plans. Roadway, drainage, environmental, signal, temporary widening and detours, and structural designs need to be developed to provide the detailed information to prepare the conflict letter.

Once the conflict list has been refined, the utility coordinator will prepare the conflict letter and enclosures to send to the utility owner. The utility owners need to know as early as possible which facilities are in conflict in order to prepare plans, get approvals, establish and execute contracts and schedule necessary work.

If a utility located within the project limits is found to be not in conflict, a project notification letter will be issued as the first notification.

The utility coordinator can usually determine if the utility owner has reimbursable rights by evaluating the ROW maps, title reports and any “X” permits. Conflict letters are issued to those utilities that appear to have no reimbursable rights, as well as those with rights. Utility owners are instructed to notify the utility coordinator with supporting documentation if they believe their facility qualifies for reimbursement.

If the utility coordinator knows a utility owner is eligible for reimbursement at the time of the first notification, the following materials are sent. See Appendix E for form numbers.

- Reimbursable conflict letter.
- Reimbursement information form (RIF).
- Request for documentation to prove reimbursement.

- Request for a detailed cost estimate.

These documents will need to be filled out and provided by the utility owner to the utility coordinator, within the timeframe indicated in the conflict letter. The estimate can be completed in multiple stages, i.e. preliminary engineering, construction engineering, or construction.

Once the information is collected, the utility coordinator will send the reimbursement package to the SUL. The SUL will send the utility owners a reimbursement process information letter (form 734-5168) discussing the reimbursement process.

At this time, a sample utility construction agreement is provided to the utility owner for their review. Once all of the required documentation has been submitted, the SUL will sign the agreement and issue a notice to proceed (NTP), allowing the utility owner to initiate relocation work.

3-1-1 – Plan Review with Utility Owners

After the conflict list has been issued, a meeting may be held to review the design and conflict list that has been prepared. The utility owner, utility coordinator, and designer discuss the impacts to the utility facilities and determine where additional horizontal and vertical data may be required through pothole excavation, or potholing. Design modifications will be considered to minimize utility facility impacts.

Utility Facility Test Hole Excavation

The initial utility conflict list developed during the design stage is refined through collaboration with the utility coordinator, designers, and other technical specialists.

The group prepares a list of locations that need further vertical and/or horizontal data. The utility coordinator provides the list of locations to the utility owner so that the owner can provide ODOT or certified LPA with the requested information. The data is used to confirm whether a conflict exists or whether a minor design modification would avoid the conflict.

Typically, the utility owner is responsible for the cost of the utility facility test-hole. If a utility owner is eligible for reimbursement, ODOT or certified LPA will hire a test-hole contractor or reimburse the utility owner for the costs of test-hole excavations. Whenever possible, it is best to have the survey crew record the horizontal position and vertical depth to include the data in the 3-dimensional model of the project.

3-1-2 – Next Steps

Once the conflict letter is issued, the process of establishing utility facility relocation plans, estimate, and schedule is dependent upon the facility being reimbursable or non-reimbursable. The process for reimbursable facility relocations is described in Section 3-3 and the non-reimbursable facility relocation process is described in Section 3-2.

3-2 – Reimbursable Utility Facilities

The basis for determining if the utility facility relocation is eligible for reimbursement comes from federal regulation [23 CFR 645.107\(a\)](#). Under provisions [in 645.103\(d\)](#), FHWA reimbursement to the state is governed by either a state standard as established by state law or regulation, or by an FHWA standard as established by regulation.

Should FHWA and state standards differ, FHWA reimbursement is limited to the one that is more restrictive. Invoicing and auditing procedures are covered under Section 10.400.

Oregon state statute, [ORS 366.321](#), defines when a utility owner is eligible for reimbursement by ODOT for the relocation of their facilities due to a state highway project. ODOT is responsible for the cost of the work affecting the utilities facilities located when the utility has a documented ownership of and/or interest in real property, such as an easement, fee title, or a judgment of prescriptive rights issued by a court of competent jurisdiction, which is impacted by ODOT's project. For reimbursable relocations, the state agency that is requesting the relocation is responsible for the cost.

3-2-1 – Betterment

When filling out the RIF, see appendix E, the utility owner must declare whether their proposed relocation includes an upgrade or betterment to their system. A betterment is considered to be any upgrade or increase in functional capacity that is not a result of complying with current codes or standards for that type of utility facility. If a betterment will result from the planned relocation, a detailed cost split between an in-kind replacement of the facility and the additional functional capacity must be itemized and shown in the estimate submitted by the utility owner.

3-2-2 – Process

Certification of Reimbursement Eligibility

During the design phase, a preliminary or draft ROW map is produced by the survey crew. The map shows the existing ROW, adjacent property boundaries, easements, and proposed ROW based on the construction footprint. The utility coordinator uses this information to determine potential eligibility for a reimbursable relocation.

When the relocation of a utility facility is determined to be reimbursable, an RIF is sent along with the conflict letter. The utility owner must return the RIF with documentation showing they have ownership rights. Once eligibility is confirmed, the utility coordinator prepares a reimbursement certification form and submits the reimbursement package to the SUL. The package includes the transmittal request form, the reimbursement certification, the RIF, and documentation of why the utility facility relocation is reimbursable.

See section 3-7 for certified LPAs.

Utility Reimbursement Process

The SUL prepares a utility reimbursement process letter (form 734-5168) to the utility owner outlining the steps that need to occur prior to a NTP with any work occurs.

Utility Construction Agreement

The SUL provides the utility construction agreement to the utility owner after the receipt of the RIF and a detailed cost estimate of the proposed work. This agreement is updated over the course of the reimbursable project to include the detailed cost estimates for each phase, approved relocation plans and specifications. This agreement is reviewed by Oregon Department of Justice (DOJ) prior to it being sent to a utility for signature.

Estimated Preliminary Engineering and Construction Schedule and Estimate

The RIF includes an estimate for preliminary engineering and/or construction and identifies who will perform the work. Relocations with a utility facility betterment will have a split estimate itemizing the cost differentials between restoring the original facility and the desired improvements. The utility coordinator or SUL compares the estimate to the utility relocation (UR) budget for the project. Adjustments to the UR budget are made by the PL and STIP coordinator. The utility coordinator submits the detailed cost estimate along with the reimbursable eligibility documentation to the SUL. The SUL requests a project expenditure account (EA) to be assigned and issues an NTP with preliminary engineering. Any work completed by the utility prior to the NTP will not be reimbursed per the utility construction agreement.

A detailed cost estimate is only needed prior to each notice to proceed. The utility does not have to provide all phases at one time. Amendments can be completed as needed.

Preliminary Engineering by Utilities in Coordination with ODOT

The utility owner can perform preliminary engineering in one of two ways: either by themselves or through a consultant. See Section 5, Invoicing and Auditing.

- a) The utility owner can prepare the plans and perform construction with its own forces. It prepares a detailed cost estimate of the preliminary engineering and submits it through the utility coordinator for review and approval by the SUL. This information is then included in the utility construction agreement.
- b) The utility owner has the plans prepared by an engineering consultant. The consultant agreement, whether part of a continuing agreement or a new engineering contract, must be submitted and approved prior to receiving the notice to proceed with preliminary engineering from the SUL.

A new engineering contract must be advertised and awarded based on the competitive bid process. The advertisement, bid tabulation and selection of the qualified bidder is

submitted to the SUL for review and approval of the process before a notice to proceed is issued.

Notice to Proceed

The SUL retains authority to issue NTPs on all reimbursable utility work, unless otherwise delegated in writing.

The NTP is required for each phase that might be completed by the utility or its contractor(s):

- Preliminary engineering,
- Construction,
- Construction engineering,
- Ordering of materials,
- Bidding a contract, and so on.

Prior to each NTP there are requirements of what must be received; this list is captured in the reimbursement process information letter. A detailed cost estimate is required for each notice to proceed, which will be amended to the utility construction agreement. As soon as the SUL has the required documents, and the funding piece is set up, the SUL will issue the NTP.

Utility Facility Construction Alternatives

The construction of utility facilities can be completed one of three ways:

- Utility owner can deploy its own workforce to complete the work.
- Utility owner can contract the work out to a third-party, through a competitive bid process.
- Utility owner can ask ODOT to include the relocation work in its overall project scope.

Upon request, ODOT may identify the ROW boundary and stake any 'no work' areas so that utility owners can lay out their proposed facility relocation for review and approval by the utility coordinator.

In each of the three situations detailed below, federal Buy America program requirements must be followed. See section 6 Buy America.

Option 1 – Utility Owner Workforces

Prior to the utility owner commencing any construction work with its own workforces, the utility owner must submit plans and a detailed estimate for approval. The documents are submitted through the utility coordinator to the SUL. The SUL reviews the documents and cost estimate to confirm that there is sufficient UR budget to cover the costs. After all of the documentation is reviewed and approved the SUL will then include this information into the utility construction agreement and then issue the notice to proceed with construction.

Option 2 – Utility Owner Work by Contract

If the utility owner chooses to use contracted labor, the utility owner may use a continuing agreement, or prepare PS&E for the project and submit it to ODOT prior to advertising the project.

Projects completed by a third-party must be advertised and awarded based on a competitive bid process. Advertising and bid tabulations are submitted to ODOT for compliance with their process, as well as for inclusion into the utility construction agreement. Upon intent to award, the SUL ensures that the UR budget will cover the costs and then issues a notice to proceed with construction. Depending upon the site conditions, additional survey layout may be required at the time the contractor begins its relocation work.

Option 3 – Work Added to ODOT Contract

Utility facility relocation work added to an ODOT contract must be requested in writing. The ODOT project team will evaluate if the work is a good fit with the overall project. Once the project team agrees to the additional scope, the utility owner is required to submit its PS&E package to ODOT for inclusion in the overall construction contract.

3-3 – Non-Reimbursable Utility Facility Relocation Process

A non-reimbursable utility facility is one that is located in the ROW by permit and the utility owner does not have a property right.

3-3-1 – Submittal of Relocation Plan

The conflict letter, as required by [OAR 734-055-0045\(2\)](#), is submitted to the utility owner by the utility coordinator. The letter contains an itemized list of identified conflicts. The utility owner is required to respond within 30 days or a timeframe designated within the letter with a proposed schedule to complete their relocations.

A copy of the conflict list and either the preliminary or approved plan sheets, along with the identified conflicts, are attached to the conflict letter. The utility owner uses the conflict list and project plan sheets to prepare its relocation plan. The utility owner requires the ROW boundary and any 'no work' areas be staked so it can lay out its proposed facility for review and approval. Depending upon the site conditions, additional survey layout may be required at the time the utility owner's contractor begins their relocation work.

3-3-2 – Review of Relocation Plan and Schedule

The utility coordinator, in collaboration with the designer, district manager or designee, and construction office, reviews the relocation documentation submitted by the utility owner. The review is to ensure that all conflicts have been resolved and the proposed utility facility relocation work schedule will not impact the schedule of the project.

Occasionally relocation work cannot be finished until a specific phase of the project is complete. The approved schedule proposed by the utility owner is included in the project special provisions under Section 00150.50. The project contractor is required to incorporate the utility facility relocation schedules into the project schedule per section 00180.42 of the special provisions. If the utility owner wants to add work to the contract, see Section 3-3-2 “Work Added to ODOT Contract.”

3-4 – Second Notice

[OAR 734 Division 55](#) requires the utility owners to provide their estimated time required to complete relocation within 30 days or time frame designated in the conflict letter from the utility coordinator. Before the schedule can be developed and reviewed, the utility coordinator contacts the region ROW Section for a timeline of the ROW acquisition and possession.

Once the schedule, relocation plan, and estimates are reviewed and approved, the utility coordinator prepares and issues a time requirement letter to the utility owner, see appendix E. This letter meets the second notice requirement as defined in [OAR 734-055-0045\(4\)](#). The letter is a confirmation of the schedule as agreed upon between the state and the utility owner. The letter includes the relocation date or dates that are included in the project special provisions.

If it is determined that a utility is no longer in conflict after being issued a conflict letter, a project notification letter is issued as a second notice.

3-5 – Utility Facility Relocation Work included in ODOT Contracts

Relocations that are included in the contract documents require the utility owner, utility coordinator, SUL, and designer to work together to prepare agreements and plans and specifications. The SUL is the only one authorized to enter into agreements with the utility owners. See section 3-6 for Add work agreements.

The Oregon Constitution states that the revenue collected from taxes on motor vehicle use and fuel are used exclusively for highway purposes. Highway trust funds cannot be utilized for non-highway purposes, including non-reimbursable utility facility relocation work. Therefore, funds covering the cost of non-highway construction must be deposited with the agency administering the highway construction contract in advance of the actual construction.

The utility owner submits a scope of work for those elements to be incorporated into the project. Reimbursable and non-reimbursable work can be included in ODOT projects. The process is similar for both types of work:

1. Analysis of the work to be incorporated. Project team is involved.
2. Agreements between ODOT and the utility owner written by the SUL.
3. Fund deposits made for non-reimbursable work, see section 3-6.
4. Fund deposits made for betterment work not qualified as reimbursable.

For work that is not standard to ODOT, the utility owner will develop PS&E for inclusion in the construction contract. The plans and specifications are reviewed by ODOT staff and must be submitted in the format and media ready for incorporation into the ODOT contract documents.

3-6 – Letters of Agreement, Add Work Agreements

There are three basic types of letter agreements covering utility facility relocation work included in ODOT contracts: add work letter agreement- fixed cost; the add work letter agreement; and the cooperative improvement utility agreement. These agreements are prepared by the SUL. For Buy America requirements see section 6.

3-6-1 – Fixed Cost Add Work Letter Agreements

For minor non-reimbursable utility facility relocations, the utility owner can request the utility facility relocation work be added to the contract at a fixed cost, not to exceed \$10,000. The work commonly performed under this type of arrangement includes items that ODOT has a long history of cost such as adjustment to manholes and valve boxes. This type of agreement is generally used on paving and preservation projects.

The fixed cost is based on the most recent ODOT average bid unit cost for the region, as provided by the project estimate. The utility owner pays ODOT for the added work approximately four to six weeks prior to the contract being awarded. Should the final quantities differ from the original agreement during construction, the utility owner will be invoiced for the additional quantities or receive a refund based on the cost established by the agreement.

3-6-2 – Add Work Letter Agreement

Work that is more complex in nature is covered under the Add Work Letter Agreement. This agreement includes the scope description, quantities and associated values required to complete the relocation work. The work commonly performed under this type of arrangement includes adjustment to manholes, adjusting boxes/valves and utility attachment on structures. Any work beyond these items or above \$50,000 is covered by a cooperative improvement utility agreement. Once executed, agreement details are incorporated into ODOT's construction contract. The utility owner cannot remove the work from the ODOT contract once the agreement is signed. The utility owner will deposit with ODOT the estimated value prior to contract bid opening. Upon completion of the construction, a verification of the actual costs will be made and the utility owner will be invoiced for any additional costs or refunded any remainder of their initial deposit.

3-6-3 – Cooperative Improvement Utility Agreement

The cooperative improvement utility agreement is used when the utility estimate exceeds \$50,000, or beyond the items allowed in the Add Work Agreement. This agreement is written by the SUL and submitted to the procurement office for review.

This agreement is a formal agreement with obligations, general provisions, and exhibits showing a project title sheet and a detailed estimate that is taken from estimator. This

agreement includes the scope description, quantities and associated values required to complete the relocation work. Once executed, agreement details are incorporated into ODOT's construction contract.

The utility owner cannot remove the work from the ODOT contract once the agreement is signed. The utility owner will deposit with ODOT the estimated value prior to contract bid opening. Upon completion of the construction, a verification of the actual costs will be made, and the utility owner will be invoiced for any additional costs or refunded any remainder of their initial deposit.

3-7 – Certified Local Agency Project Differences

Certified LPAs will provide a reimbursement process information letter to the utility owner discussing the reimbursement process. The certified LPA will provide a sample utility construction agreement to the utility owner for their review.

Once all of the required documentation has been submitted, the certified LPA will sign the agreement and issue an NTP allowing the utility owner to initiate relocation work.

3-7-1 Reimbursable Utility Facilities

The certified LPA is responsible for the cost of the work effecting the utilities facilities located within the project limits when the utility has:

- Documented ownership.
- Interest in real property that is impacted by the certified LPA project, such as an easement, fee title, or a judgment of prescriptive rights issued by a court of competent jurisdiction.

3-7-2 Process

Once a utility is deemed reimbursable, the utility coordinator prepares a reimbursement certification form and submits the reimbursement package to the designated certified LPA project manager (PM).

Utility Reimbursement Process

The certified LPA PM prepares a utility reimbursement process letter, to the utility owner, outlining the steps that must occur before an NTP will be issued.

Utility Construction Agreement

The certified LPA PM provides the utility construction agreement to the utility owner after the receipt of the RIF and a detailed cost estimate of the proposed work. This agreement is updated over the course of the project to include the detailed cost estimates for each phase, approved relocation plans and specifications. Legal representatives for the certified LPA conduct a review prior to it being sent to a utility for signature.

Estimated Preliminary Engineering and Construction Schedule and Estimate

The RIF includes an estimate for preliminary engineering and/or construction and identifies who will perform the work. Relocations with a utility facility betterment will have a split estimate itemizing the cost differentials between restoring the original facility and the desired improvements.

The certified LPA PM compares the estimate to the STIP utility relocation (UR) budget for the project. Adjustments to the UR budget are made through consultation with ODOT's regional LAL. The utility coordinator submits the detailed cost estimate along with the reimbursable eligibility documentation to the certified LPA PM. The certified LPA PM issues an NTP with preliminary engineering once the utility construction agreement is executed. Any work completed by the utility prior to the NTP will not be reimbursed, per the utility construction agreement.

A detailed cost estimate is only needed prior to each NTP. The utility owner is not required to provide estimates for all phases at one time; amendments can be completed as needed.

Preliminary Engineering by Utilities in Coordination with the Certified Local Agency

The utility owner can perform preliminary engineering in one of two ways: either by themselves or through a consultant. See Section 5, Invoicing and Auditing.

- a) The utility owner can prepare the plans and perform construction with its own forces. It prepares a detailed cost estimate of the preliminary engineering and submits it through the utility coordinator for review and approval by the designated certified LPA PM. This information is included in the utility construction agreement.
- b) The utility owner hires an engineering consultant to prepare the plans. The consultant agreement, whether part of a continuing agreement or a new engineering contract, must be submitted and approved prior to receiving the NTP with preliminary engineering from the designated certified LPA PM.

A new engineering contract must be advertised and awarded based on the competitive bid process. The advertisement, bid tabulation and selection of the qualified bidder is submitted to the designated certified LPA PM for review and approval of the process before an NTP is issued.

Notice to Proceed

The certified LPA PM retains authority to issue NTPs on all reimbursable utility work, unless otherwise delegated in writing.

The NTP is required for each phase that might be completed by the utility owner or its contractor(s):

- Preliminary engineering,
- Construction,
- Construction engineering,
- Ordering of materials,
- Bidding a contract, and so on.

Prior to each NTP, all required items noted in the reimbursement process information letter must be received. A detailed cost estimate is required for each notice to proceed, which will be amended to the utility construction agreement. Once the certified LPA PM has the required documents and verified the utility phase has been set up and is fully funded, he or she will issue the NTP.

Utility Facility Construction Alternatives

The construction of utility facilities can be completed one of three ways:

- Utility owner can deploy its own workforce to complete the work.
- Utility owner can contract the work out to a third-party, through a competitive bid process.
- Utility owner can ask to include the relocation work in its overall project scope.

Upon request, the certified LPA may identify the ROW boundary and stake any “no work” areas so that utility owners can lay out their proposed facility relocation for review and approval by the utility coordinator.

In each of the three situations detailed below, federal Buy America Program requirements must be followed. See section 6 Buy America.

Option 1 – Utility Owner Workforces

Prior to the utility owner commencing any construction work with its own workforces, the utility owner must submit plans and a detailed estimate for approval. The documents are submitted to the certified LPA PM who reviews the documents and cost estimate to confirm that there is sufficient UR budget to cover the costs. After all of the documentation is reviewed and approved, the PM incorporates this information in the utility construction agreement. Once the agreement is executed and the federal funds have been authorized, the LPA PM issues an NTP for construction.

Option 2 – Utility Owner Work by Contract

If the utility owner chooses to use contracted labor, the utility owner may use a continuing agreement, or prepare PS&E for the project and submit them to the certified LPA prior to advertising the project.

Projects completed by a third-party must use a competitive bid process for advertisement and award. Advertising and bid tabulations are submitted to the certified LPA for compliance with

their approved procurement process, as well as for inclusion into the utility construction agreement. Upon intent to award, the certified LPA PM ensures that sufficient UR budget exists then issues an NTP for construction. Depending upon the site conditions, additional survey layout may be required at the time the contractor begins its relocation work.

Option 3 – Work Added to the Certified Local Agency Contract

Utility facility relocation work added to a certified LPA contract must be requested in writing. The certified LPA project team will evaluate if the work is a good fit with the overall project. Once the project team agrees to the additional scope, the utility owner is required to submit its PS&E package to the certified LPA for inclusion in the overall construction contract.

SECTION 4 – UTILITY CERTIFICATION

The certification of project related utility facility relocation work is required by federal regulation 23 CFR 635.309. This requirement applies to all federal and state funded projects, whether the utility facilities are in conflict or not. The utility certification, see appendix E is submitted to the SUL and PL. The PL includes the utility certification as part of the PS&E documents.

4-1 – Certification Contents

All utility facilities within the project limits are listed on the certification. The utility facilities are separated into two sections. One section is for listing those utility owners that will be relocating or adjusting facilities before, during, or after construction. The other section is a listing of the utility owners and facilities located within the project limits, but no conflicts are anticipated or have agreements in place to add the work to the construction contract.

4-2 – Exceptions

An exception to the certification occurs when an agreement on a utility facility relocation schedule has not been confirmed. A detailed explanation of why there is an exception must be included on the form and the utility manager and the area manager are required to sign the utility certification form.

4-3 – Responsibility for Preparation and Approval

The utility coordinator prepares the utility certification for the project and circulates for signature. The SUL signs all certifications for consulted, certified and non-certified LPA projects, while the region utility manager signs all projects completed by the region's utility coordinator. If there is a utility facility relocation exception, the area manager is required to sign the utility certification form as discussed above.

4-4 – Timing

The utility certification can be submitted at any time during project development, but no later than PS&E submittal.

4-5 – Coordination with the Construction Office

Once the project development stage is complete, a transition package of critical project development documentation is prepared by the PL for the construction PM. Included in the transition package are utility facility relocation agreements and timing schedules.

SECTION 5 – UTILITY INVOICING AND AUDITING

All reimbursable invoice documentation of the utility owner, its contractors and subcontractors are subject to audit by representatives of the state and the FHWA and will be retained for a period of five years from the date final payment was issued.

5-1 – Reimbursement Eligibility

Reimbursement eligibility is covered under Title 23 CFR 645 Subpart A and this manual. CFR 645 states, “the FHWA’s reimbursement to the State Transportation department will be governed by state law (or state regulation) or the provisions of this regulation, whichever is more restrictive.”

Per the Federal Acquisition Regulation (FAR), [Part 31.201-3\(a\)](#), “the burden of proof shall be upon the contractor to establish that such cost is reasonable.” Reimbursement is paid on reasonable actual expenses and shown with supporting documentation.

A utility owner can submit either progressive invoices, at least every 3 months, throughout the relocation or a single invoice upon completion of all work. The utility owner has one year from the time of completion of its work to submit a final invoice, as per the utility construction agreement. The utility owner must submit an invoice with the supporting documents to request reimbursement.

The utility coordinator reviews the invoice documentation submitted by the utility owner and verifies that all required information attached is accurate and represents verifiable actual costs. Per the Federal Acquisition Regulation (FAR), [Part 31.201-3\(a\)](#), “the burden of proof shall be upon the contractor to establish that such cost is reasonable.” All supporting documentation must be verifiable.

5-2 – Invoice Requirements

Invoice submissions should include, but are not limited to the following:

- Invoices must:
 - Include utility company information:
 - Company name,
 - Address,
 - Phone and fax numbers
 - Email address.
 - Indicate whether the invoice is a progressive or a final invoice.
 - Identify the total dollar amount requested.
 - Include an invoice date.

- Include a unique invoice number.
- Identify the project name and key number.
- Indicate the billing period, with beginning and end dates.
 - Beginning date must not be prior to the NTP, nor can it land within any previous billing period.
- Invoices should:
 - Be printed on company letterhead.

5-2-1 – Revised Invoices

If a utility owner submits a revised invoice, the following requirements apply:

- The invoice date should be updated to the new submittal date.
- The invoice number should reference the previously submitted invoice. For example, invoice number 2256 would be revised to invoice number 2256-R.

5-3 – Supporting Documentation Requirements

The supporting documentation must be included with each invoice and itemized in verifiable categories and be available for audit. Supporting documentation must be in accordance with [48 CRF 31](#) – Contract Cost Principles and Procedures.

Supporting documentation must include but is not limited to the following items. This list is not all-inclusive. Additional documentation may be requested by ODOT.

5-3-1 – Labor

- Detailed labor records that show the daily hours worked by employee, including pay rate. (Employee number or name, classification, hours worked, date worked, and unit cost).
- Summary of what job the employee was working on (detail location).

5-3-2 – Equipment

- Equipment description, rates, dates worked, and hours used.

5-3-3 – Materials and Tools

All material costs shall be paid on an actual cost basis that is reasonable, allowable and allocable. (FAR 31.201-2, 3, 4, 6 and 7)

- All materials used including description, price per unit, quantity, and total cost.
- All certificate of materials origin which are required on all projects.
- Restocking fees may be charged.

5-3-4 – Subcontractors and Vendors

- Copies of original invoices from vendors and/or subcontractors to support all invoiced costs.
- Copies of continuing contracts or lowest bid documents, if not already submitted to the SUL.

5-3-5 – Travel, Lodging and Per Diem

Travel, Lodging and Per Diem shall be paid in accordance with the Oregon Accounting Manual available online: <https://www.oregon.gov/das/Financial/Acctng/Pages/OAM.aspx>

The following guidelines shall apply:

- The travel, lodging, and per diem rates are the maximum reimbursement. Under no circumstance shall travel, lodging and per diem rates exceed the maximums set forth by the state controller. See <https://www.oregon.gov/das/Financial/Acctng/Documents/40%20Travel%20search.pdf>.
- Mileage – All mileage approved by agency will be reimbursed according to the rates in effect when the travel occurs. See <https://www.oregon.gov/das/Financial/Acctng/Documents/40%20Travel%20search.pdf>.
- For all methods of compensation, cost estimates for mileage, lodging and per diems for approved travel shall be based on the rates in effect on the date when the contract is executed.
- Mileage expense reimbursement must be based on actual distance traveled, whether from home office, residence, other project site in proximity to the project, or from lodging accommodations used for project assignment(s), whichever is less.
- Receipts are required for lodging and lodging taxes.

5-3-6 – Overhead/Additive rates

- All applicable indirect costs/overhead rates must be approved prior to invoicing and payment. Indirect costs must comply with [48 CFR Part 31](https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title48/48cfr31_main_02.tpl) of the Federal Acquisition Regulations, refer to: https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title48/48cfr31_main_02.tpl. Indirect cost rates may be subject to audit by ODOT Audit Services
- State, Local and Indian Tribal governments are required to follow [2 CFR 200 Part 21](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl) (http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl) prior to reimbursement of indirect costs/overhead. Direct costs, i.e. employee salaries, employee fringe benefits, materials, subcontractors, etc. are allowable.
- Allowance for funds used during construction (AFUDC) charges are unallowable.

5-4 – Recommending Payment

Once the invoice is verified by the utility coordinator, they submit a memo recommending payment to the SUL.

If the individual utility owners' invoice for a project exceeds \$10,000, the utility coordinator must obtain written verification and approval from the respective area manager confirming that there are sufficient funds in the project budget for the invoice. The area manager's written approval must be submitted with the memo recommending payment.

If any utility owner invoice causes the overall utility relocation expense account (UR EA) to exceed the programmed budget, the area manager must approve, in writing, any further monthly utility invoices.

The SUL verifies that the invoice documentation and calculations are correct and recommends approval of payment to the ROW programs manager. The ROW programs manager signs the approval for payment certifying that the invoice meets all program requirements and is authorized for payment. The SUL then submits the approved invoice to ODOT Financial Services Department.

ODOT is required to submit payment within 45 days of the invoice date. This timeframe has been established by [ORS 293.462](#) and discussed in the "Accounts Payable and Expenditures" chapter of the Financial Administration and Standards Manual. The utility coordinator has 10 business days to review the complete invoice package, obtain the area manager's approval if applicable, and forward the payment recommendation to the SUL.

If the utility owner's invoice package is incomplete, the utility coordinator must request, in writing, any needed additional support documents. Stamp all incoming invoices and supporting documentation with the date of receipt. The SUL has three business days to review the invoice and have it signed and turned into the Finance Office for payment.

5-5 – Invoicing for Certified LPA Projects

Certified LPA projects will follow the utility invoicing requirements as discussed in this Section 5.

SECTION 6 – BUY AMERICA and BUILD AMERICA

BUY AMERICA

All reimbursable utility relocations must comply with [23 CFR 635.410](#) Buy America requirements and the Build America Buy America Act and implementing regulations (Infrastructure Investment and Jobs Act (“IIJA”), Pub. L. No. 117-58, which includes the Build America, Buy America Act (“the Act”). Pub. L. No. 117-58, Sections 70901-70941). Buy America requires that all iron and steel manufacturing processes, including without limitation the casting of ingots, for iron or steel materials permanently incorporated into the project shall occur in the United States, unless the cost of foreign-origin iron or steel materials does not exceed one-tenth of one percent (0.1 percent) of the total contract cost or \$2,500, whichever is greater.

The utility company shall not incorporate iron or steel materials of foreign origin more than this amount into the project. All excess foreign iron or steel materials used shall be removed and replaced with domestic materials at the utility owner's expense.

For the purposes of compliance to Buy America, the value of iron and steel products shall be calculated based on the date they are delivered to the project site, not the date of purchase.

Manufacturing processes include, without limitation, the application of coatings to finished iron or steel products or components. Coatings include epoxy coating, galvanizing, painting, and any other coating that protects or enhances the value of the steel or iron product or component.

The utility company shall provide ODOT with a Certificate of Materials Origin (CMO), on a form furnished by ODOT, before incorporating any iron or steel products into the project. Unless a CMO has been provided to ODOT, the materials will be considered of foreign origin.

The utility owner shall supply with the CMO, the manufacturers' certificates verifying the origin of all domestic iron or steel materials and retain such documentation for three years after the date of final payment for the project.

If a utility owner knows of any parts that are not available domestically, as part of the Buy America requirements, they are to contact the SUL as soon as possible for guidance on how to proceed.

The following materials, when comprised of steel or iron are subject to Buy America compliance:

- Poles and cross arms.
- Pipe and valves.
- High-strength bolts, anchor bolts and anchor rods.
- Girders used to comprise transmission towers and stand-alone structures.
- Rebar and other reinforcing iron/steel for all cast-in-place installations.

- Conduit and ducting.
- Fire hydrants.
- Manhole covers and rims and drop-inlet grates.

Once an NTP with engineering is issued by the SUL the following Buy America requirements apply:

- If the project sponsor does not wish to subject betterment materials (as defined below) to Buy America provisions, then the betterments must be excluded from the utility agreement or contract that includes work eligible for federal-aid.
- Buy America does not apply to:
 - Existing utility materials that are relocated from one location to another within the project limits.
 - Assembly materials, attachment materials, miscellaneous electronics, or encasements, as defined under Appendix B, Definitions and Acronyms.
 - Any associated materials (including spare materials) required for maintenance.
 - Any materials necessary to repair equipment that was discovered or damaged during construction and requires immediate action to restore to safe conditions or to minimize adverse public impact.
 - Associated materials necessary for a temporary utility relocation.
 - Utility relocations that are not eligible for reimbursement with federal funds. For example, if the utility owner is required to pay for 100% of the relocation effort, then the materials associated with that relocation are not subject to Buy America requirements. However, such work must remain separate from federal-aid eligible work; separate utility agreements and/or contracts are needed for projects that include both eligible and non-eligible work.
- Per 23 CFR 635.410, the work to be performed under the utility agreement may include foreign iron and steel products if the cost of Buy America compliant materials will cause the cost of the work to increase by at least 25%. To determine applicability of this provision one of the following two procedures shall be used:

If the utility company will use a contractor to perform the work included in the utility agreement, the following procedures apply: Demonstration of meeting the 25% excess cost requirement must be accomplished by receiving two separate bids each from at least two qualified contractors for the work. Requests for bids from the qualified contractors must conform to 23 CFR 635.410 (b)(3). One bid from each contractor will include a cost of performing the work described in the utility agreement using BUY AMERICA compliant material and the other bid will include a cost for the same work assuming foreign materials. If the bid with the Buy America compliant materials is at least 25% greater than the bid that includes foreign material, then the contract can be awarded to the lowest bid based on materials that are not compliant with Buy America.

If the utility company performs work in the utility agreement with its own forces, the following procedures apply:

- Demonstration of meeting the 25% excess cost requirement must be accomplished by receiving two separate bids from vendors or manufacturers listing the cost of Buy America compliant materials on one bid document; and
- Listing the cost of non-compliant materials on a separate bid document.

The utility company will take the cost of the Buy America compliant materials and use it to create the total estimated cost of the work included in the utility agreement. The utility company will do the same with the cost of the non-compliant materials.

If the cost of the work included in the utility agreement with Buy America compliant materials is at least 25% greater than the cost using the materials that are not compliant with Buy America, than the non-compliant materials may be used.

SECTION 7 – PERMITS

Permits are issued through ODOT's [District Maintenance offices](#). These permits are provided for the installation, maintenance, and operation of utility facilities such as pipe lines, pole lines, buried cable, and conduits to be located in state-owned ROW. [OAR 734-055](#) provides the authority and process by which ODOT issues permits for utility facilities to occupy state highway ROW. Any questions related to obtaining permits, or documentation required, please contact the Office of Maintenance.

For certified LPA projects, consult with that agency's permitting office for their local requirements.

7-1 – Permit Types

Each utility owner is responsible for obtaining the permits required for their project. There are two types of permits available: the standard permit and the "X" permit. Permit forms can be found at: <https://www.oregon.gov/ODOT/Maintenance/Pages/Permits.aspx>.

7-1-1 – Standard Permit

The standard permit is issued to the utility owner for the installation, maintenance, or relocation of their facility within state highway ROW.

Facilities installed under a standard permit are not eligible for relocation reimbursement from any state agency. Facilities relocated at the request of someone other than a state agency or pursuant to a developer project will be at the cost of the requesting party.

7-1-2 – "X" Permit

Per OAR734-055 utility facilities that originally occupied a portion of the ROW in which the owner had a compensable interest or a prior right to occupy said ROW, will be issued an "X" permit.

For utility owners relocating as a result of a highway project, the utility coordinator gathers the property right documentation from the owner and certifies its validity. The utility coordinator provides the certification along with the approved relocation plan and timing agreement to the SUL and district permit specialist. Once certified, the utility owner fills out the standard permit form and submits it to the permit specialist.

Supplemental permit special provisions are attached to the "X" permit. The special provisions detail the property rights, rule exceptions and future relocation rights.

SECTION 8 – SPECIAL PROVISIONS

Special provisions are those specifications that enable a contractor to bid a project successfully. The utility coordinator is required to provide the utility facility relocation special provisions for each project.

The specification writer prepares and compiles a set of preliminary special provisions and distributes them to the appropriate technical discipline. The utility facility relocation special provisions identify the utility owner and facilities within the project site, estimated completion times for relocations, and instructions for coordination and advance notifications to the utility owner. The utility coordinator collects this information and submits the revised special provisions to the specification writer.

8-1 – Special Provision 00150.50

There are two sections under Special Provisions (SP) 00150 that are completed by the utility coordinator. SP00150.50(f) contains the contact information for the utility owners located on the project site but have no anticipated conflicts or relocations to perform.

SP00150.50(g) is the list of utility owners that will perform relocations during the contract or have special requirements when working around their facilities.

The estimated completion date included in SP00150.50(g) must match the completion date identified in the time requirement letter. The information used by the utility coordinator is contained in the timing letter agreement made with the utility owner.

8-2 – Special Provision 00180.40 and 00180.42

Section 00180, “Prosecution and Progress,” includes the following utility-related provisions:

Irrigation season information is placed in section 00180.40, should an irrigation facility be within the project limits.

Section 00180.42 adds a requirement for the contractor to hold a group utility facility relocation scheduling meeting with representatives from the utility owners involved in the project. The meeting is held prior to the contractor preparing its schedule and assists the contractor by providing the time frames and staging required by the utility owners.

The recommendation to include these special provisions is made by the utility coordinator.

8-3 – Other Specifications

The utility coordinator may develop other specifications to be added to the special provisions to clarify utility facility relocation accommodation work or utility facility relocation work added to the contract.

The utility coordinator must follow any active technical guidance or process which details the steps that are followed in creating a project specific special provision. Technical guidance documentation is available online:

<https://www.oregon.gov/ODOT/Engineering/Pages/Technical-Guidance.aspx>.

SECTION 9 – CONSTRUCTION

The relationship between the PM, contractor, and the utility owner(s) is described in the [ODOT Construction Manual](#). The information presented in Chapter 11 of the construction manual covers the Pre-Construction Conference (pre-con). The information presented in Chapter 24 of the Construction Manual covers monitoring and documenting the work performed by the utility owners when a delay claim is involved.

Certified LPAs will follow the process described in their approved General Conditions and Quality Program Plan for construction of their utility relocation projects.

9-1 – Utility Pre-Construction Conference

The utility coordinator in conjunction with the PM determines during project development whether a utility pre-con is required. If it is needed, the utility coordinator adds Section 0180.42 to the contract special provisions. This section requires that utility pre-cons be held prior to the general project pre-con meeting.

During this meeting the contractor meets with representatives from all the utility owners prior to developing its project schedule. Discussion during the meeting covers:

1. Notification time frame when contractor is ready for utility facility relocation work to commence.
2. Time frame to complete utility facility relocation work.
3. Coordinating work zone signing, flagging, and work areas.
4. Intermittent utility facility relocation work.
 - a. Notification lead time.
 - b. Response time.
 - c. Time to complete relocations.
 - d. Coordination with Contractor work force.

The contractor submits its schedule, which includes the utility facility relocation timing requirements, prior to the project pre-con.

9-2 – Project Pre-Construction Conference

The pre-con is required per the Oregon Standard Specification for Construction and occurs within 30 days of the NTP for construction. The meeting must be held before any work starts on a project.

Typically the pre-con is a single meeting with the PM and staff, contractor, sub-contractor representatives, utility owner representatives, and technical discipline representatives.

The utility facility relocation portion of the pre-con covers utility facilities within the project limits. This meeting establishes the communication between the contractor and the utility owners when a utility pre-con has not been required. The contractor and the utility owners discuss which facilities have been relocated and where, which facilities have been abandoned, and the coordination with the contractor's schedule for any remaining relocations.

The contractor and the utility owners also establish a notification and relocation time frame for any unidentified utility facility conflicts that may occur during construction.

9-3 – Required Communications

Under Section 00150.50 of the Standard Specifications, the contractor is required to contact utility owners about their facilities. The contractor must follow the rules adopted by the Oregon Utility Notification Center.

9-4 – Inspections

The PM is responsible for the monitoring of all utility facility relocations.

9-5 – Utility Caused Delays

When a utility owner fails to complete facility relocations on time and causes additional costs to ODOT, those costs are eligible for recovery per OAR 734-055-0045(6). Any utility facility adjustments deemed beneficial for contractor convenience are negotiated and paid by the contractor. The following steps are found in Chapter 24-5 of the Construction Manual for recovering those costs.

For certified LPA projects, the LPA is responsible for completing the delay claim process.

1. Notification of Intent to File Delay Claim.

The contractor is responsible for notifying the PM when the contractor perceives there is a delay or additional cost resulting from a utility owner's failure to relocate their facilities within the time frame stated in the special provisions. The PM and contractor document the time, labor, equipment, and materials impacts for future analysis of the damages to the contractor.

2. Notifications to the Utility.

Once the contractor has notified the PM there will be additional costs due to a utility facility relocation delay. The SUL or the PM issues a preliminary delay claim notice to the utility owner, see appendix E.

The letter includes any documentation supporting the claim and offers the utility owner the opportunity to monitor and track the costs. The utility coordinator and SUL receive a copy of the letter and documentation.

3. Tracking Costs of Delay Claim.

The PM staff tracks the additional work performed by the contractor. Delays impacting the contract time must impact the critical path of work designated on the contractor's schedule. Cost impacts include but are not limited to:

- a) Mobilization of additional equipment or remobilization of existing equipment
- b) Reduced production rates
- c) Expanded workforce to accelerate production

4. Settlement with ODOT's Contractor.

Section 27 of the Construction Manual describes the detail process of settlement of a contract dispute between ODOT and the contractor. The utility coordinator and SUL participate in the analysis.

5. Recovery of Costs from Utility.

The step by step process of recovering costs from a utility owner is itemized in Section 24-5 of the ODOT Construction Manual.

Once the settlement with the contractor has been established, the PM sends the estimated utility cost assessment or liability to the SUL. The SUL forwards the information to the utility owner with a copy to the utility coordinator. The SUL initiates the invoice process with ODOT Financial Services. The SUL sends a copy of the invoice to the PM, utility coordinator and construction administration engineer. ODOT Financial Services invoices the utility owner, receives payment(s), and disperses the funds as necessary.

9-6 – Unanticipated Utility Conflicts

Changes in plans, quantities, or details of construction are inherent in construction. Early and frequent communication with the utility owners throughout the duration of the project can minimize the impacts from unanticipated utility facility conflicts. When a utility facility is discovered, the utility owner is required to relocate, as per OAR 734-055.

9-6-1 – Identification and Reporting of Conflict

Upon discovery of an unanticipated conflict, the contractor notifies the PM. The PM meets with the contractor and utility owner's representative to discuss corrective measures and develop a plan to resolve the conflict. If the contractor's schedule or costs are impacted by the resolution, those additional costs must be presented to the PM.

9-6-2 – Reimbursable Conflicts

Discovery of reimbursable conflicts do occur during construction. Upon discovery of the utility facility conflict, the contractor notifies the PM and the utility owner. The utility coordinator can assist in the verification of reimbursable rights. The utility owner will have to furnish the

documentation showing proof of eligibility for reimbursement. Once reimbursable rights have been verified, the utility coordinator follows the process as described in Section 3-3 of this manual.

9-6-3 – Non-Reimbursable Conflicts

Discovery of non-reimbursable conflicts do occur during construction. Upon discovery of the utility facility, the contractor notifies the PM and the utility owner. The utility coordinator follows the process as described in Section 3-4 of this manual.

SECTION 10 – Utility Quality Management

10-1 – Quality Management

We recognize our success is determined, in part, by the quality of services and products we provide for our customers.

Assuring quality requires not only a commitment, but also a consistent systematic approach. The ODOT utility quality control program endeavors to go beyond the review of work products to result in a continuous improvement of the processes and products associated with the utility program.

The ultimate goal of quality control is to achieve an overall quality of work in all endeavors that meets or exceeds the goals of the agency.

The QC process is not intended to relieve the project team from responsibility for their work products.

10-2 – Quality and Technical Standards

See Appendix A for laws, regulations, and guidance pertaining to utilities.

The [ODOT Project Delivery QA/QC Program website](#) provides an overview of the ODOT Project Delivery QA/QC Program, access to the quality standards of practice. The Project Delivery Statewide Quality Management Program Manual can be found there, as well as a listing of the quality plans and guidance documents, including the region Technical Center quality plans, the technical discipline quality plans, and the transportation project management statewide quality plan. There is also a listing of the associated quality forms and checklists.

10-3 – Roles and Responsibilities

The roles and responsibilities for implementing utility quality management are described in this section.

Table 2: Utility Quality Roles and Responsibilities

Roles	Responsibilities
State Utility and Railroad Liaison (SURL)	<ul style="list-style-type: none"> • The SURL is responsible for standards and policies, including the development of this manual, for utility work throughout ODOT as well as for agency wide QA reviews. • They will work with the SURS to review all plans, specifications and agreements to ensure that the project moves forward.
State utility and rail specialist (SURS)	<ul style="list-style-type: none"> • The SURS is responsible for reviewing all plans, specifications and agreements to ensure that the project moves forward.

Roles	Responsibilities
Right of Way HQ	<ul style="list-style-type: none"> • The deputy state row of way manager oversees the SURL, SURS and the headquarters process
Region management	<ul style="list-style-type: none"> • The management team of each region is ultimately responsible for the management of staff and resources within the region.

10-4 – Quality Control

10-4-1 - Quality Control Milestones

Table 3: Utility QC Milestones

Milestone	Document	Requirements
Scoping Phase	<ul style="list-style-type: none"> • Scoping Notes 	<ul style="list-style-type: none"> •
Project Kickoff	<ul style="list-style-type: none"> • DAP Narrative 	<ul style="list-style-type: none"> •
DAP Phase	<ul style="list-style-type: none"> • Review of DAP Plans and Estimate 	<ul style="list-style-type: none"> •
Preliminary Phase	<ul style="list-style-type: none"> • Review of Preliminary Plans • Start required agreements 	<ul style="list-style-type: none"> •
Advanced Phase	<ul style="list-style-type: none"> • Review of Advanced Plans • Advance Special Provisions 	<ul style="list-style-type: none"> •
Final Phase	<ul style="list-style-type: none"> • Review of Final Plans • Final Special Provisions • Finalize Agreements • 	<ul style="list-style-type: none"> •
PS&E Package	<ul style="list-style-type: none"> • Utility Certification <ul style="list-style-type: none"> ○ QC the following: <ul style="list-style-type: none"> ▪ Project Specifications ▪ Notices ▪ Utility Report if available 	<ul style="list-style-type: none"> • Utility Cert Signed by the SURL
Construction Phase	<ul style="list-style-type: none"> • Pay Invoices • Project Closeout 	<ul style="list-style-type: none"> •

10-4-2 - Quality Control Reviews

The SURL and SURS is responsible for reviewing all utility plans noting who is completing the work, letters, specifications, and agreements to ensure that the project moves forward. The Utility Coordinator completes the QC process according to their respective QC plans. The SURL in the QC process will review the utility report, utility letters, project specifications and utility certificate among other documents to provide verification that utility coordination is completed

to the extent possible to not delay the project. The SURL certifies the QC steps are complete by signing the utility certification.

10-4-3 - Authority of Reviewer

The SURL must sign all utility certifications.

10-4-4 - Software, Tool, and Data Validation

Not applicable to utilities work.

10-4-5 - Quality Control Documentation

As project QC work is done, quality records are created that provide reviewable evidence documenting that quality work was done. These quality records also provide the basis for QA reviews and/or audits (performed by professional auditors). The Utility Coordinator completes the QC process according to their respective QC plans and checklists by verifying the utility report, utility letters, project specifications and utility certificate among other documents are consistent in information.

Quality records in ProjectWise are stored in their regular discipline or milestone directory, with either "QC" or "QA" in the document title or description, to facilitate searches for quality documentation. A set of quality files from each discipline or milestone folder in ProjectWise will be created in the ProjectWise "7_quality" folder. The set naming convention for Utility will be as follows:

The Utility Certification will be saved in the following locations:

Draft Utility Certification is saved in the Utility folder, naming convention:

U_K#####_Cert_##

Signed Utility Certification is saved in the PS&E folder, naming convention:

U_K#####_Cert_##

10-4-6 - Quality Communications

The process described in this section defines the minimum level of communication and collaboration necessary to meet the requirements of the ODOT Utility quality plan. Members of the project team are encouraged to freely communicate throughout the life of the project to assure a high level of service and quality and reduce significant amounts of rework, errors, or omissions.

Internal and external QC conversations start when the utility report or utility list, specifications, notifications, agreements (if applicable), other documents, and utility certification among are reviewed for signature. Any discrepancies or questions will be communicated to the Utility coordinator to determine if edits are required.

10-5 – Quality Assurance

QA is a system undertaken to maximize the effectiveness of the QC program. The QA process will assist in measuring the effectiveness of the QC efforts in order to provide input into continuous improvement of the work and assist in identifying technical development needs.

10-5-1 – Quality Assurance Review Process

In order to achieve the goals stated above, the QA process will need to be objective, transparent, and effectively communicated.

The QA team will consist of the SURL, the SURS and the Deputy State Right of Way Manager.

Projects are candidates for review after they go to bid. Projects that have utility problems in construction are likely candidates for selection. In general, projects selected for review will be selected by one of the following ways:

- By request from the regions. Based on documented concerns or known project issues, a region may request a QA review on any project.
- Randomly. Projects from throughout the regions will be selected randomly for QA review.

Project Review. An in-depth review of the project documentation will address how well the project met standards and the extent to which the QC process contributed to the success of the project. The results of the in-depth reviews will be collected and evaluated for inclusion in an annual summary report.

Completeness Review. Initial information on completed projects will be gathered from ProjectWise. The QA team will complete an initial review and evaluation, focused on the completeness and timeliness of the QC documentation, and will write up their findings and recommendations in a draft version of a short, project-specific report.

10-5-2 – Quality Assurance Documentation

Quality records in ProjectWise are stored in their regular discipline or milestone directory, with either “QC”, “QA”, or “QV” in the document title or description, to facilitate searches for quality documentation. A set of quality files from each discipline or milestone folder in ProjectWise will be created in the ProjectWise “7_quality” folder. The set naming convention for Utilities will be as follows:

QUA_K#####_QA_##

QUA_K#####_QAReview_##

QUA_K#####_QC_##

10-5-3 – QA Communications

Summary Report. The results from both the completeness and project reviews will be collected and summarized in an annual report. That report will not present specific projects but rather an analysis of issues and trends with respect to quality control and project success. The report will contain generalized findings and recommendations to share with the agency. A copy of the QA review will be provided to the Project Delivery QA/QC Program.

APPENDIX A – LAWS, RULES, REGULATIONS AND GUIDES

The following section includes references to legal regulations and laws pertaining to the Utility Relocation Program. It is a general guideline and not meant to be all inclusive.

Statutes, rules, and regulations set policy and procedures which govern the way this program operates. Utility facilities can be found to occupy federal, state, and local roads and streets ROWs throughout the state of Oregon. Location of utility facilities within the ROW is controlled by the ROW owner to protect and maintain the use and safety of the roadways.

ODOT's utility facility relocation and reimbursement policy and procedures originate with the Oregon Constitution and [ORS 35.510](#). The ORS stipulates that the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, codified as [49 CFR 24](#), guides state policy and procedures. [49 CFR 24](#) further refers to [23 CFR 645A](#), the federal policy and procedure for relocation and reimbursement of utility facilities.

The location, access for maintenance, and relocation for highway improvements of utility facilities are regulated by federal, state, and/or local laws. The following sections address the various state, federal, and local laws and regulations as they apply to utility facilities lying within federal and state highway ROW.

Federal Laws

State and federal highway authorities have developed policies and practices which govern when and how utility owners use public ROW and under what conditions public funds may be used to relocate the facilities to accommodate highway construction.

Two sections of Federal highway law in Title 23 of the United States Code (cited as 23 USC) deal specifically with utility facilities:

1. [23 USC 109\(l\)](#) Federal-aid Highways Standards.

Section (l) addresses the accommodation of utility facilities within the ROW of federal-aid highways and the criteria used to analyze eligibility.

2. [23 USC 123](#) Federal-aid Highways – Relocation of Utility Facilities.

When the state laws or legal contract between the state and utility owner entitle a utility owner to reimbursement for relocating their facility, federal funds may be used to reimburse the state for the costs of the relocation. The federal reimbursement follows the transportation project's federal-aid participation ratio.

Federal Regulations

Federal Regulations are referenced as Code of Federal Regulations or abbreviated as CFR.

Policies and procedures for the relocation and federal funding of relocations began in the 1940's under General Administration Memorandum Number 300 (GAM-300). Many of those policies and procedures are still in effect, in part or in whole, and are the basis of the current 23 CFR 645. The full regulation reference is Title 23 – Highways, Chapter 1 – Federal Highway Administration, Department of Transportation, sub-chapter G – Engineering and Traffic Operations, Part 645 – Utilities.

1. [2 CFR 225](#) – Cost Principles for State, Local, & Indian Tribal Governments (OMB Circular A-87).

This part establishes principles and standards for determining costs for federal awards carried out through grants, cost reimbursement contracts, and other agreements with state and local governments and federally-recognized Indian tribal governments (governmental units).

2. [23 CFR 635.410](#) – Buy America Requirements.

This regulation requires the use of domestic steel and iron in federally funded construction projects.

3. [23 CFR 645 Utilities – Subpart A](#) – Utility Relocations, Adjustments, and Reimbursements.

Subpart A defines when and which costs of relocation are eligible for reimbursement and the relationship between the state DOT rules and regulations and FHWA regulations.

4. [23 CFR 645 Utilities – Subpart B](#) – Accommodation of Utilities.

This section defines the policies and procedures for accommodating utility facilities within the ROW of federal-aid or direct federal highway projects. State DOTs policy requirements as to the fulfilling of the federal highway occupancy and safety standards are included in this section.

5. [23 CFR 645.117 \(d\)](#) – Cost Development and Reimbursement.

(d) Overhead and indirect construction costs. (1) Overhead and indirect construction costs not charged directly to work order or construction accounts may be allocated to the relocation provided the allocation is made on an equitable basis. All costs included in the allocation shall be eligible for Federal reimbursement, reasonable, actually incurred by the utility owner, and consistent with the provisions of 48 CFR part 31.

6. [48 CFR 31](#) – Contract Cost Principles and Procedures.

“No presumption of reasonableness shall be attached to the incurrence of costs by a contractor. If an initial review of the facts results in a challenge of a specific cost by the contracting officer or the contracting officer’s representative, the burden of proof shall be upon the contractor to establish that such cost is reasonable.”

7. [49 CFR 24](#) – Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs (Uniform Act).

This section puts into effect the Uniform Act of 1970. Section 24.306 of the Act refers specifically to utility facility relocation and reimbursement policies and procedures.

Utility Program Guide, FHWA

The Federal Utility Program Guide is located on the internet for all users to have access to the latest information and changing laws and regulations that control the use of federal funds for utility facility relocations. The internet address for the guide is:

<http://www.fhwa.dot.gov/reports/utilguid/utilin.cfm>. This is an excellent resource for the administration and evaluation of utility facility relocations and eligibility of reimbursement.

Material presented in 23 CFR 645 is reviewed by subject matter in the guide. A historical perspective is included for several items to explain why certain policy requirements were established. Examples are included to show how certain provisions have been applied.

The information in the guide is accurate as of the date of the guide. Generally, FHWA requirements and policies regarding utility facility relocation, adjustment, and accommodation have remained consistent over the years. However, from time to time certain regulations and/or policies and practices have been and may be modified.

State of Oregon

Oregon Constitution

The basis for reimbursing utility owners for facilities relocated during construction when they have prior right or a property right within the ROW is based on the Oregon Bill of Rights, Article I, Section 18.

Article IX, Section 3a allocates the funding source and exclusive use for the funds for the construction, improvement, repair, maintenance, and operation of public highways, roads, streets, and rest areas.

Department of Transportation and the creation of policy and procedures are addressed under the Oregon Revised Statutes [ORS 184.610](#) to [184.668](#).

Oregon Revised Statutes

Oregon Revised Statutes (ORS) are the codified body of statutory law governing the state of Oregon and are subordinate to the Oregon Constitution. The complete ORS citation can be accessed electronically at the following website: <https://www.oregonlaws.org>.

This section pertains to those statutes concerning the relocation of both non-reimbursable and reimbursable utility facilities.

1. [ORS 35.510](#) – Relocation duties of public entity; use of certain federal relocation assistance program policies.

Relocation procedures of a public entity as the result of a program or public project must comply with the Uniform Act.

2. [ORS 366.321](#) – Expense of relocating municipal facilities payable by department; exceptions.

Where applicable, ODOT will reimburse any municipal corporation, district, or authorities for the relocation of their facilities that are located within public ROW or within state highway ROW prior to the designation as state highway. Exceptions for this reimbursement are when the facilities are required by law or OTC regulations to be installed by permit.

3. [ORS 373.020](#) – Jurisdiction over streets taken over for state highway routing through cities; effect on public utility duties.

Complete jurisdiction and control of streets taken over by ODOT as provided in [ORS 366](#) and [ORS 105.760](#), and [ORS 373.010](#) through [373.030](#) is vested in the department and extends from curb to curb. If there is no regular established curb, then such control extends over the portion of the ROW as may be utilized by ODOT for highway purposes. The cities retain the exclusive right to grant franchises over, beneath, and upon any such streets and to control and regulate such franchises.

4. [ORS 374.305](#) to [374.330](#) – Necessity of permission to build on rights of way.

This gives ODOT authority to issue permits to regulate the placement and removal of facilities on the public ROW. This is the statute authority for OAR 734-Division 55.

5. [ORS 758.010](#) – Authority to construct lines and facilities; requirements and conditions.

Except within cities, any person or corporation has a right and privilege to construct, maintain, and operate utility facilities along the public roads. ODOT retains the right to designate the location of such facilities and/or remove the facilities if they are determined to be a public nuisance.

6. [ORS 758.020](#) – Joint occupancy of poles.

The county court, board of county commissioners or ODOT, when designating the location of poles along a designated scenic or recreational corridor, may require joint occupancy. If term and conditions cannot be agreed upon by the facility owners, then the Public Utility Commission may determine the reasonable terms and conditions to be met.

7. [ORS 758.210 to 758.270](#) – Underground electric and communications facilities.

A public authority shall have the power to require the conversion of overhead electric or communications facilities to underground facilities in underground assessment districts. The underground assessment districts are created by cities and counties along city streets, county roads, and state highways.

8. [ORS 810](#) – Road Authorities; Courts; Police; Other Enforcement Officials

Oregon Administrative Rule

Oregon Administrative Rules (OARs) are the rules and regulations having the force of law in Oregon. They are the administrative and regulatory corollary to the ORSs. Citations to the rules are in 3 parts: the chapter, the division, the specific part. A common citation would be 734-055-045(6).

The following citations reference those OARs that pertain to the occupancy of utility facilities on public ROW.

1. [OAR 734-051-5030](#) – Highway approaches, access control, spacing standards and medians.

Division 51 includes ODOT's Highway Division rules and regulations for construction of approaches. Adjustments of utilities in approaches are covered under 734-051-5030 (3) (a).

2. [OAR 734-055](#) – Department of Transportation, Highway Division, Pole lines, buried cables, pipe lines, signs, miscellaneous facilities, and miscellaneous operation.

Division 55 includes ODOT's Highway Division rules and regulations for issuing permits to occupy the state ROW and under what conditions the utility owner may construct and maintain their facilities on the ROW.

"X" permits are described under [734-055-0110](#) for such cases where the utility owner has a prior right or compensable interest in the property before it is acquired by the state.

3. [OAR 860](#) – Public Utility Commission.

The Public Utility Commission (PUC) regulates customer rates and services of the investor-owned utility facilities in the state of Oregon. Laws that govern the functions of the PUC are contained in the [ORS Chapters 756](#) through [774](#).

Of prime interest to the ODOT Utility Relocation Program is [OAR 860-024](#), which defines the safety standards for the individual utility facility types and the maintenance of mapping and records of underground facilities.

[OAR 860-024-0007](#) directs the utility owners to comply with [OAR 952](#).

4. [OAR 952](#) – Oregon Utility Notification Center.

The Oregon Utility Notification Center (OUNC), its board and duties are established under ORS [757.542](#) through [757.562](#) and [757.993](#).

[OAR 952](#) establishes the laws for excavators, designers, and utility facility owners to request and have marked the utility facilities that lie within the boundaries of areas under proposed construction or immediate construction.

Violations of any rule of OAR 952 are filed through the OUNC with a [Request for Administrative Action](#) (RAA). The OUNC researches the necessary background

information for the complaint and forwards it to the Oregon Public Utility Commission (OPUC) for appropriate action. There are instances when the survey crew encounters problems getting adequate facility markings for design surveying. All attempts should be made to communicate and work with the utility owner prior to filing an RAA.

Documenting the contact time, date, and contact person during the communications will provide the OUNC additional background for their investigation.

The color coding and types of markings for the individual utility facilities are designated under [952-001-0070](#).

See Appendix C for the Derivation of ODOT's Utility Relocation and Reimbursement Policy

APPENDIX B – DEFINITIONS AND ACRONYMS

Definitions

Table 3: Definition of Terms

Term	Definition
Allowance for Funds Used During Construction (AFUDC)	AFUDC is a component of construction costs representing net cost of borrowed funds and a reasonable rate on other funds used during the period of construction. AFUDC is capitalized until the project is placed in operation by concurrent credits to the income statement and charges to utility plant, based generally on the amount expended to date on the particular project. Effective Jan. 1, 1977, FERC amended the Uniform System of Accounts establishing formulas for maximum allowable AFUDC rates.
Anchor and High Strength Bolts	Anchor and high-strength bolts will be distinguished in one of three methods to be selected, and consistently applied, by the utility owner: <ol style="list-style-type: none"> <li data-bbox="537 890 1409 1066">1. The utility owner may identify anchor & high-strength bolts in the specifications or plans as necessary for the safe and functional design of the utility relocation. If a bolt is not called out as anchor or high strength, it stands that the design did not require that level of performance and the supplied bolt is not subject to Buy America. <li data-bbox="537 1073 1409 1209">2. The utility owner may identify anchor and high-strength bolts through the application of a strength rating. Any bolt possessing a yield strength of fifty-thousand pounds per square inch (50-ksi) or greater will be considered an anchor or high-strength. <li data-bbox="537 1215 1409 1352">3. The utility owner may identify anchor and high-strength bolts through the application of a weight measurement. Any bolt possessing a weight of 15 pounds or greater will be considered an anchor or high-strength.
Assembly Materials (miscellaneous steel)	The collection of miscellaneous materials used to fasten, hold, attach, secure and/or assemble materials including but not limited to nuts, bolts, U- bolts, screws, washers, clips, fittings, sleeves, lifting hooks, mounting brackets, pole steps, clamps, brackets, mountings, straps, fasteners, hooks, pins, braces, disks, clevises, couplers, swivels, snaps, crimps, trunions, dead-ends, compression swages, valves and other miscellaneous materials used to assemble.

Term	Definition
Attachment Materials	<p>An item or material that is not an integral part or permanently attached to the pole or pipe. Cross arms are an exception to this rule and do not qualify as attachment materials. Attachment materials include but are not limited to cross arm bracing, insulators, avian equipment, miscellaneous hardware (defined below), fittings, racks, ladders, encasements, guy wire, strand, conductors and tubing 0.75-inch diameter or less.</p> <p>Any upgrading of the facility being relocated that is not attributable to the highway construction and is made solely for the benefit of and at the election of the utility (23 CFR 645.105). As such, a betterment is not eligible for federal-aid.</p>
Betterments	<p>Any upgrading of the facility being relocated that is not attributable to the highway construction and is made solely for the benefit of and at the election of the utility (23 CFR 645.105). As such, a betterment is not eligible for federal-aid.</p>
Conductor	<p>A material (specifically wires and cables) that allows the flow of energy including electricity, heat, data, audio/video transmission, etc.</p>
Easements	<p>An easement is the right to use the real property of another without possessing it. Easements are recorded in property deed descriptions and follow the property through successive sales or transfers of ownership.</p>
Encasements	<p>Include cabinets, housings, boxes, vaults, covers, shelves, and other items use to protect or house equipment or miscellaneous electronics.</p>
Estoppel Easement	<p>A utility facility was placed upon private property with permission of the fee owner of the property without an easement added to the property deed. Subsequent owners of the property made no objection to the utility facilities placed up on the property. The utility owner can declare an estoppel easement and relocation of the facility becomes reimbursable.</p>
Fittings	<p>Individual parts used to join, adjust or adapt a system of pipes including but not limited to: elbows, tees, wyes, crosses, nipples, reducers, end caps, couplers, outlets, transitions, connectors (steady state, seismic and flexible), unions, mechanical flanges (not permanently affixed to the pipe), bushings, ferrules, gaskets, O-rings, plugs or taps.</p>
Girders	<p>A load bearing beam or strut commonly taking the cross-sectional shape of a circle, square, rectangle, or an I, C, L, or Z, and assembled for the purpose of creating lattice towers, stand-alone platforms or transmission towers.</p>
Lattice Towers	<p>A structure that is compiled of girders and is typically used in series to support conductor cables.</p>
Maintenance	<p>An action or application of materials necessary to keep a system functioning safely and at optimal capacity; general up-keep.</p>
Miscellaneous Electronics	<p>Manufactured products or assemblies consisting of many components such as electronic equipment, routers, switches, radios, processors, power supplies, batteries, antennas, splice cases, pre-connectorized hubs and terminals, and cross-boxes.</p>

Term	Definition
Miscellaneous Hardware	An assembly of small parts that are compiled to form a finished product that is often used independently or as an attachment material, including but not limited to, locks, switches, cutouts, regulators, gauges, meters, barometers, strainers, filters, pilots, arrestors, insulators, ball bearings, dampeners, needle valves, braces, pipe supports, actuators, motors and pumps.
Miscellaneous Permit	A fully executed form with ODOT to construct pole line, buried cable, pipe line, signs, miscellaneous operations, and miscellaneous facilities within the public ROW under the jurisdiction and control of the agency. The permit includes the standard form as well as all attached exhibits and special permit provisions deemed necessary by the district manager.
Non-Reimbursable Utility	Any utility facility located under permit within the public ROW under ODOT jurisdiction and control is not eligible for relocation reimbursement, when directed to relocate by ODOT.
Permanent Installation	The final location and final installation of the materials as defined on the plans or in the specifications. No further adjustments or relocations are necessary to accommodate the final transportation project improvements
Prescriptive Rights	A utility facility was placed upon private property and continuously maintained for a period of 10 years or more. There was no written or implied easement recorded upon the property deed at the time of installation or during the 10-year period. At no time during that 10-year period did the property owner dispute the presence of the utility facility. The utility owner can now claim a prescriptive easement and relocation of the facilities becomes reimbursable.
Private Property Rights	Private property is any property that is not public and is under the control of a single person or group of persons jointly. This person or group of persons control and use the property, benefit from the property (i.e. mining or rent), can transfer or sell the property, and can exclude others from the property.
Public Interest Finding (PIF)	Public interest findings are letters from the area manager to document to the project file that the best interest of the public is addressed when an element of the project scope is not included in the prime contract. Exceptions contained within the utility certification would require a PIF in order for the PS&E package to be approved.
Quality Assurance, QA	QA is a program undertaken to assure developed work products were completed and documented in accordance with established QC requirements. Further, the process seeks to evaluate project outcomes in order to critically review the effectiveness of the QC processes.
Quality Control, QC	QC consists of the daily processes, practices, and checks in place to control the quality of the engineering works as they are being developed.
Quality Verification, QV	Review process to ensure technical sufficiency of all deliverables, verify performance of all quality tasks, and to document the completion of those tasks.

Term	Definition
Reimbursable Utility	A utility required to relocate due to a highway construction project is eligible for reimbursement of their relocation costs when they have a property interest (title or easement) to the land they currently occupy. Municipally owned facilities on a current or prior to department occupancy of municipally owned public ROW are also eligible for reimbursement of relocation costs.
Stand-alone Platforms	A structure that is compiled of girders and is used to permanently hold or support large equipment.
Temporary Utility Relocation	A temporary utility relocation is generally subject to the schedule necessary to accomplish the scope as defined by the NEPA document. A temporary utility relocation is one that is needed to allow the roadway construction to proceed, but is not required to remain in its relocation as a result of the ultimate roadway improvement. For example, if the scope requires the sequential completion of six separate construction contracts, theoretically a temporary utility relocation could remain in place prior to commencement of the first construction contract and extend beyond completion of the sixth construction contract prior to its final placement. A temporary utility relocation can also be established if the contract specification or plans require that the steel or iron material used on the project either must be removed at the end of the project or may be removed at the contractor's convenience.
Utility	<p>Any privately, publicly or cooperatively owned line, facility, or system for producing, transmitting, or distributing communications, cable television, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, storm, water not connected with highway drainage, or any other similar commodity, including any fire or police signal system or street lighting system which directly or indirectly serves the public.</p> <p>The term utility shall also mean the utility inclusive of any substantially owned or controlled subsidiary. The term utility includes those utility-type facilities which are owned or leased by a government agency for its own use, or otherwise dedicated solely to governmental use. The term includes those facilities used solely by the utility which are a part of its operating plant.</p>
"X" Permit	Utility facilities that originally occupied a portion of the ROW in which the owner had a compensable interest or a prior right to occupy said ROW, will be issued a permit titled "X" permit. Applicant will be responsible for furnishing the district manager with the documentation of the prior rights. The special provisions of this permit will identify the obligations and responsibilities of applicant and the agency.

Acronyms

The following acronyms are found within the Utility Relocation Manual.

Table 4: Federal Acronyms

Acronym	Meaning
AFUDC	Allowance for Funds Used During Construction
CFR	Code of Federal Regulations
FAR	Federal Acquisition Regulation
FHWA	Federal Highway Administration
IAST	Independent Assurance Sampling and Testing
NHS	National Highway System
USC	United States Code

Table 5: General Acronyms

Acronyms	Meaning
CMO	Construction of Materials Origin
DAP	Design Acceptance Package
DM	District Manager
EA	Expenditure Account
LAG	Local Agency Guidelines
LAL	Local Agency Liaison
LPA	Local Public Agency
NTP	Notice to Proceed
OAR	Oregon Administrative Rule
ODOT	Oregon Department of Transportation
ORS	Oregon Revised Statutes
OUNC	Oregon Utility Notification Council
OPUC	Oregon Public Utility Commission
PDLT	Project Development Leadership Team
PE	Preliminary Engineering
PL	Project Leader
PM	Project Manager
PUC	Public Utility Commission
PS&E	Plans, Specifications, and Estimate
RAA	Request for Administrative Action
RIF	Reimbursement Information Form

Acronyms	Meaning
ROW (ROWS)	Right of Way (Rights of Way)
RUS	Region Utility Specialist
SP	Special Provisions
STIP	State Transportation Improvement Plan
SUL	State Utility Liaison
TLT	Technical Leadership Team
TSB	Technical Services Bulletin
UC	Utility Coordinator
UR	Utility Relocation (usually combined as UR EA)
URLT	Utility Relocation Leadership Team

APPENDIX C – DERIVATION OF ODOT UTILITY RELOCATION AND REIMBURSEMENT POLICY

Prepared by Andrew Griffith, ODOT ROW Section, March 27, 1998

The purpose of this paper is to provide additional information on the derivation of reimbursement policy for utility relocation on Oregon Transportation Commission (OTC) approved projects. The State's utility relocation and reimbursement policy originates from the following sources:

- Oregon Constitution
- ORS 281.060; Relocation Duties Of Public Entity; Use Of Certain Federal Relocation Assistance Programs; Policies
- The federal Uniform Relocation Act of 1970 and its amendments of 1987
- 49 CFR 24; Uniform Relocation Assistance And Real Property Acquisition For Federal and Federally Assisted Programs
- 23 CFR 645A; Utility Relocation's, Adjustments, and Reimbursement

ODOT bases its reimbursement policy on:

23 CFR 645A: Utility Relocation's, Adjustments, and Reimbursement which is contained in FHWA's Program Guide for Utility Adjustments and Accommodation on Federal-Aid Projects.

On federal aid projects it is evident and very understandable that ODOT must follow the policies and procedures outlined in 23 CFR 645A. However, there are many OTC approved projects which are funded entirely with State dollars. Further, even on federal aid projects, the majority of utility reimbursement has historically been paid for using state funds. Therefore, the question of relevance and authority of 23 CFR 645A becomes apparent. In other words, are the provisions of 23 CFR 645A applicable to State funded projects or to federal aid projects when the utility reimbursement is paid with State dollars?

To answer this question, the derivation of the State's reimbursement policy must be examined. The source of the Oregon's utility reimbursement policy is vested in the Oregon Constitution.

The discussion below focuses on how each of these are related and ultimately linked to 23 CFR645A in forming the elements for ODOT's policy and procedures for utility relocation and reimbursement.

Oregon Constitution

Since 1859, Oregon's Constitution has provided the framework for the State's government. Specifically with regard to the State's taking of property for the use of roads, Article 1, Section 18 of the Constitution says:

"Private property shall not be taken for public use, nor the particular services of any man be demanded, without just compensation".

If there is a taking of private property, such as a utility's easement and facilities, the Utility must be compensated and made whole.

For information purposes, the entire section of Article 1 is attached as Exhibit A.

ORS 281.060; Relocation Duties of Public Entity; Use of Certain Federal Relocation Assistance Programs; Policies

The enabling legislation that evolved from the Constitution is ORS 281.060.

ORS 281.060 Relocation Duties of Public Entity; Use of Certain Federal Relocation Assistance Programs; Policies, states in part:

“Whenever any program or project is undertaken by a public entity which program or project will result in the acquisition of real property, notwithstanding any other statute, charter, ordinance, or rule or regulation, the public entity shall:

In acquiring the real property, be guided by the land acquisition policies in section 301 of the 1970 federal Act as amended by the Uniform Relocation Act amendments of 1987 and the provisions of section 302 of the 1970 federal Act.”

Exhibit B contains the entire statute.

This means that the State of Oregon, specifically, ODOT uses the federal Uniform Relocation Act of 1970 and its amendments of 1987 as the basis for state policy and procedures on relocation and reimbursement.

49 CFR 24; Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs

The Uniform Relocation Act of 1970 and its amendments of 1987 were codified and implemented as:

Title 49 of the Code of Federal Regulations, Part 24 (49 CFR 24); Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs

49 CFR 24 covers all aspects of right of way acquisition for State agencies to follow including:

- Real property acquisition
- General relocation requirements
- Payments for moving and related expenses
- Replacement housing payments
- Mobile homes

Additionally, **Section 24.307; Discretionary Utility Relocation Payments** of 49 CFR 24 (see Exhibit C), refers specifically to utility relocation and reimbursement policy and procedures.

Further, **Appendix A of 49 CFR 24**, states:

Section 24.307(c) describes the issues which must be agreed to between the displacing agency and the utility facility owner in determining the amount of the relocation payment. To facilitate and aid in

reaching such agreement, the practices in the Federal Highway Administration regulation, **23 CFR part 645, subpart A, Utility Relocations, Adjustments and Reimbursement, should be followed.**

Summary

To reiterate, ODOT's utility relocation and reimbursement policy and procedures originate with the Oregon Constitution and ORS 281.060. ORS 281.060 stipulates that the federal Uniform Relocation Act, codified as 49 CFR 24, guide state policy and procedures. 49 CFR 24 further reveals that 23 CFR 645A should be followed as the policy and procedures which govern utility relocation and reimbursement.

Therefore because of this link, it is evident that for State funded projects or federal aid projects where the utility reimbursement is paid with State dollars, the provisions of 23 CFR 645A do indeed apply.

Exhibit "A"**Oregon Constitution, Article 1, Section 18. Private Property or Services Taken For Public Use.**

Private property shall not be taken for public use, nor the particular services of any man be demanded, without just compensation; nor except in the case of the state, without such compensation first assessed and tendered; provided, that the use of all roads, ways and waterways necessary to promote the transportation of the raw products of mine or farm or forest or water for beneficial use or drainage is necessary to the development and welfare of the state and is declared a public use. [Constitution of 1859; Amendment proposed by S.J.R. No. 17, 1919, and adopted by people May 21, 1920; Amendment proposed by S.J.R. No. 8, 1923, and adopted by people Nov. 4, 1924]

Exhibit "B"**ORS 281.060 Relocation Duties of Public Entity; Use of Certain Federal Relocation Assistance Programs; Policies.**

Whenever any program or project is undertaken by a public entity which program or project will result in the acquisition of real property, notwithstanding any other statute, charter, ordinance, or rule or regulation, the public entity shall:

- (1) Provide fair and reasonable relocation payments and assistance to or for displaced persons as provided under sections 202, 203, 204 and 206 of the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended by the Uniform Relocation Act amendments of 1987;
- (2) Provide relocation assistance programs offering to displaced persons and others occupying property immediately adjacent to the real property acquired the services described in section 205 of the 1970 federal Act as amended by the Uniform Relocation Act amendments of 1987 on the conditions prescribed therein;
- (3) In acquiring the real property, be guided by the land acquisition policies in section 301 of the 1970 federal Act as amended by the Uniform Relocation Act amendments of 1987 and the provisions of section 302 of the 1970 federal Act;

- (4) Pay or reimburse property owners for necessary expenses as specified in sections 303 and 304 of the 1970 federal Act;
- (5) Share costs of providing payments and assistance with the Federal Government in the manner and to the extent required by sections 211 (a) and (b) of the 1970 federal Act as amended by the Uniform Relocation Act amendments of 1987; and
- (6) Appoint such officers, enter into such contracts, utilize federal funds for planning and providing comparable replacement housing, and take such other actions as may be necessary to comply with the conditions and requirements of the 1970 federal Act as amended by the Uniform Relocation Act amendments of 1987. [1971 c.142 s.2; 1973 c.373 s.1; 1975 c.613 s.5; 1989 c.14 s.1]

Exhibit "C"**Code of Federal Regulations****TITLE 49 --TRANSPORTATION**

Subtitle A --Office of the Secretary of Transportation

PART 24--UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION FOR FEDERAL AND FEDERALLY ASSISTED PROGRAMS

Subpart D--Payments for Moving and Related Expenses

Sec. 24.306 Discretionary Utility Relocation Payments.

- (a) Whenever a program or project undertaken by a displacing agency causes the relocation of a utility facility (see Secs. 24.2 (aa) and (bb)) and the relocation of the facility creates extraordinary expenses for its owner, the displacing agency may, at its option, make a relocation payment to the owner for all or part of such expenses, if the following criteria are met:
 - (1) The utility facility legally occupies State or local government property, or property over which the State or local government has an easement or right-of-way; and
 - (2) The utility facility's right of occupancy thereon is pursuant to State law or local ordinance specifically authorizing such use, or where such use and occupancy has been granted through a franchise, use and occupancy permit, or other similar agreement; and
 - (3) Relocation of the utility facility is required by and is incidental to the primary purpose of the project or program undertaken by the displacing agency; and
 - (4) There is no Federal law, other than the Uniform Act, which clearly establishes a policy for the payment of utility moving costs that is applicable to the displacing agency's program or project; and
 - (5) State or local government reimbursement for utility moving costs or payment of such costs by the displacing agency is in accordance with State law.
- (b) For the purposes of this section, the term extraordinary expenses means those expenses which, in the opinion of the displacing agency, are not routine or predictable expenses relating

to the utility's occupancy of rights-of-way, and are not ordinarily budgeted as operating expenses, unless the owner of the utility facility has explicitly and knowingly agreed to bear such expenses as a condition for use of the property, or has voluntarily agreed to be responsible for such expenses.

(c) A relocation payment to a utility facility owner for moving costs under this section may not exceed the cost to functionally restore the service disrupted by the federally assisted program or project, less any increase in value of the new facility and salvage value of the old facility. The displacing agency and the utility facility owner shall reach prior agreement on the nature of the utility relocation work to be accomplished, the eligibility of the work for reimbursement, the responsibilities for financing and accomplishing the work, and the method of accumulating costs and making payment. (See appendix A, of this part, Sec. 24.307.)

Section 24.306 Discretionary Utility Relocation Payments

Section 24.307(c) describes the issues which must be agreed to between the displacing agency and the utility facility owner in determining the amount of the relocation payment. To facilitate and aid in reaching such agreement, the practices in the Federal Highway Administration regulation, 23 CFR part 645, subpart A, Utility Relocations, Adjustments and Reimbursement, should be followed.

APPENDIX D – ROLES AND RESPONSIBILITIES

The Engineering & Technical Services Branch is responsible for the administration of the Utility Relocation Program. However, there are other internal and external partners that play a key role in its success.

Federal Highway Administration

Title 23 of the United States Code of Federal Regulations (USC) governs the Federal-aid Highway Program. FHWA uses the state transportation departments, through a stewardship agreement, to carry out the federal-aid transportation programs within each state. Division offices located in each state provide oversight and coordination of the federal-aid programs.

The division office works with the section manager, or delegate, and the SUL to provide oversight and coordination of the Federal-aid Utility Relocation program. This office reviews and approves funding for the reimbursable relocation work that uses federal monies.

ODOT Highway Division

ODOT's Highway Division provides policy, administration, guidance, training, agreements, and support to the regions. The division is comprised of technical disciplines that contribute to the management of the state highway system.

State Utility Liaison

The SUL is responsible for the day-to-day operations and provides technical leadership for the Utility Relocation Program. The SUL receives and reviews all project-related utility facility relocation documentation for compliance and consistency, and maintains the utility relocation tracking database.

Duties include:

- Create templates for external communication with utility owners, local jurisdictions and other related organizations.
- Provide quality assurance and control reviews of correspondence and other formal documentation sent on behalf of ODOT.
- Ensure STIP Utility Relocation (UR) budget has current utility relocation estimates and that an Expenditure Account (EA) is assigned to reimbursable utility facility relocation work.
- Prepare all utility CIA agreements, add work agreements, and reimbursable agreements.
- Prepare all NTPs for reimbursable preliminary engineering, construction, and others as required.

- Prepare advance funding agreements for utility facility relocation work added to construction contracts.
- Review utility coordinator recommended utility owner cost invoices. Recommend payment for reimbursable relocation expenditures to the section manager and submit to Financial Services for payment.
- Notification to utility owner of one-year time limit to submit invoices.
- Maintain and revise as directed by policy the form letters used for the program.
- Maintain reimbursable expenditure documentation.
- Maintain the database of all utility facility relocations associated with ODOT projects.
- Review plans, specifications and schedules of all projects.
- Lead the region utility specialist meetings and bring issues to the Utility Relocation Leadership Team (URLT) from this meeting.
- Serve as program liaison for local agency and consultant projects.
- Provide support to the URLT.
- Assist with the analysis of delay claims and notify the utility owner for financial reimbursement to ODOT.
- Assist the state external auditors.
- Maintain utility certificate of materials origin within project files.
- Closing of reimbursement files.

Utility Coordinator

Utility coordinators identify and relocate utility facilities per the policies and procedures of the Utility Relocation Program in coordination with the PL, technical center staff, construction staff, local maintenance sections, and utility owners. Utility coordinators can be ODOT staff or contracted personnel.

Duties include:

- Identify potentially significant utility facility impacts during project scoping.
- Contact all utility owners within the project limits to notify them of upcoming projects and request facility information.
- Prepare utility relocation or conflict reports and provides updates to the project leader, as needed.
- Provide technical support on project teams.
- Provide the initial UR budget to the project team to be incorporated into the project budget during scoping.
- Verify completed field utility facility surveys shown on the base map.

- Prepare utility facility impact analysis if needed and identify the utility facility ROW needs.
- Review, confirm, compile the conflict list and arrange for potholing.
- Send first notice (conflict letter with enclosures or project notification) to utility owners, PL, SUL, District Manager and PM.
- Send failure to respond letters to the utility owners and SUL when a utility owner fails to meet a required deadline or requested response.
- Provide specialty maps and drawings to the utility owners, as needed
- Provide the reimbursable document package to the utility owners and notify the SUL.
- Review and secure agreement of the utility facility relocation plan and schedule from the affected designers, PM, and DM.
- Review and comment on draft agreements between utility owners and ODOT, as needed. (Cooperative improvement agreement e.g. irrigation districts or municipal agreement).
- Prepare and issue second notice (time requirement letter) – Relocation schedule and plan approval letter to utility owner, PL, SUL, DM, permit specialist, and PM.
- Prepare utility facility relocation special provisions and submit to specifications writer.
- Prepare utility certification for final PS&E. Obtain the area manager’s approval for any exceptions that may be required.
- Review invoices and recommend payment for relocation reimbursement requests. The area manager’s approval is required on all payments over \$10,000.
- Prepare survey request for the project reference staking for utility facility relocation work.
- Provide technical guidance to the PM as needed.
- Submit required signed originals of relocation and reimbursable documentation to the SUL.

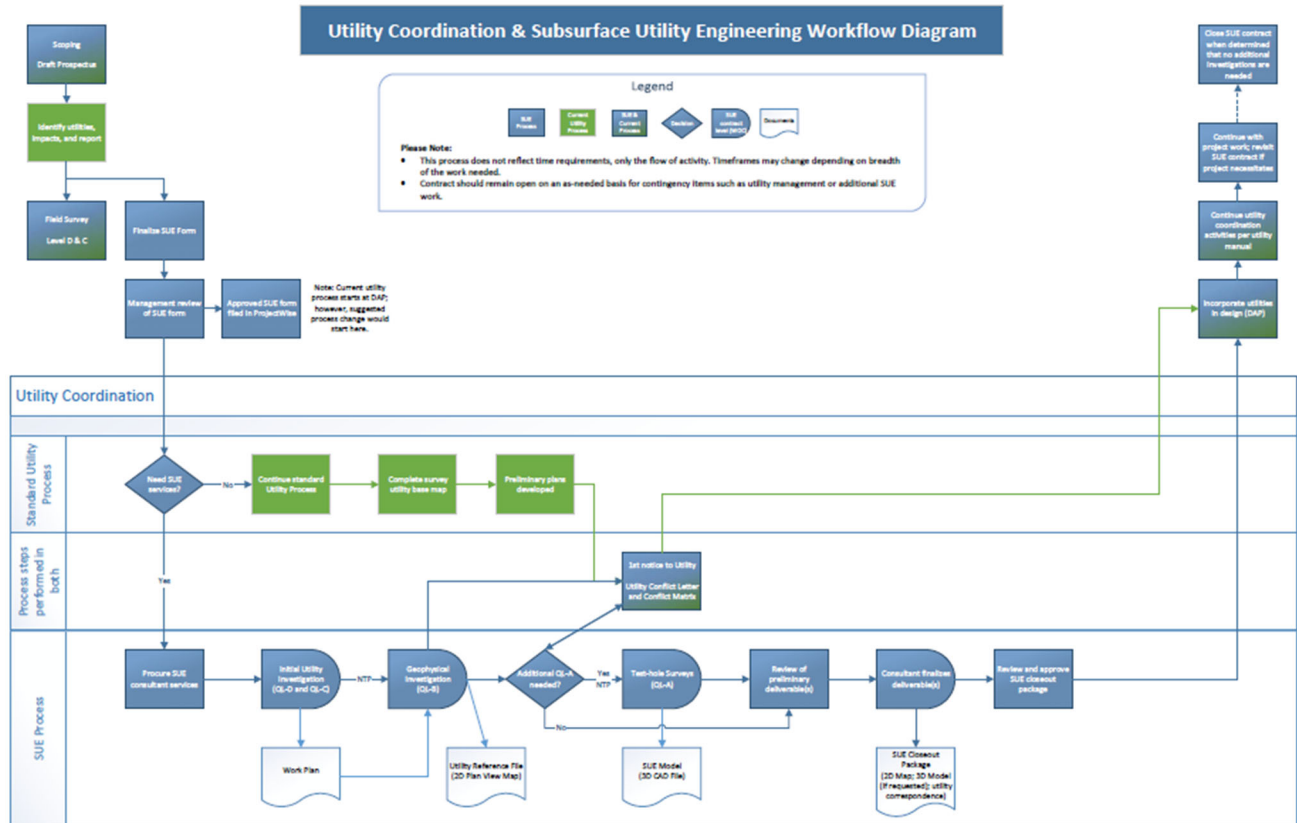
APPENDIX E – FORMS

Table 6: Utility Program Forms

Form Number	Description
734-5154	Conflict Letter – Non reimbursable work
734-5155	Conflict Letter – Reimbursable work
734-5156A	Project Notification Letter – ODOT Single with locates
734-5156B	Project Notification Letter – Consultant Single with locates
734-5156C	Project Notification Letter – LPA Single with locates
734-5157	Time Requirement Letter
734-5158	Utility Certification Letter
734-5162	LPA Utility Certification Letter
734-5163	Utility Relocation Information Sheet
734-5168	Reimbursement Process Information Letter
734-5169	Detailed Cost Estimate Template
734-5170	Delay Claim Notice – Preliminary
734-5171	Delay Claim Notice – Result
734-5176A	Project Notification Letter – ODOT Single without locates
734-5176B	Project Notification Letter – Consultant Single without locates
734-5177A	Project Notification Letter – ODOT Multiple Project Notification
734-5177B	Project Notification Letter – Consultant Multiple with locates
734-5178A	Project Notification Letter – ODOT Multiple without locates
734-5178B	Project Notification Letter – Consultant Multiple without locates
734-XXXX	ADA Conflict Letter Non Reimbursable Work
734-XXXX	Reimbursement Information Form

APPENDIX F – SUBSURFACE UTILITY ENGINEERING WORKFLOW PROCESS AND DECISION GUIDE

Figure 2: Subsurface Utility Workflow Diagram



For more Subsurface Utility Engineering documentation please visit:
<https://www.oregon.gov/ODOT/ETA/Pages/SUE.aspx>.