



RIGHT-OF-WAY OPERATIONS MANUAL

Chapter Forty-Two Obtaining a Utility Estimate & Establishing a Cost Agreement

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Chapter Forty-two

OBTAINING A UTILITY ESTIMATE AND ESTABLISHING A COST AGREEMENT

42-1 OBTAINING UTILITY RELOCATION ESTIMATES

42-1.1 Preparing for The Plan-in-Hand Review

1. The Engineering Contract Specialist will record the project and the Helena Utility Engineering Specialist assigned to the project in the logbook (Logbook is located in the office of the Engineering Contract Specialist). The Utility Engineering Specialist will: Review project file and make a copy of memos, scope of work report, etc. and start your own file. In your file, have the scope of work report and any memos or reports that will help you explain and be able to answer any questions that may arise.
2. Review plans and mark-up conflicts, on utility plans and cross sections. Utilize the Plan in Hand Checklist. (Conflicts that should be marked are utilities that are in the construction limits, vertical clearances, clear zones, check for new pipe, approaches, depth requirements of underground utilities, and bridge attachments.) **Note: When reviewing plans, you see something on the plans that you do not understand, or that doesn't make sense, talk to the designers. It is a good idea to see the designers before you go out on the PIH to see if there are any changes that are not shown on the utility plans. If the plans do not indicate possible conflicts or are missing utility topography, review the plans with the Engineering Contract Specialist and discuss options that may be available to obtain this information.**
3. Determine the companies involved and the time required for each utility company PIH meeting. To determine the utility company, look at the maps, charts and books, ask office personnel, then call the utility and confirm if it is their facilities. Ask the utility if they are the only ones that serve that area. To set times for each meeting, look at how many conflicts that the company has, how long the project is, and try to estimate how much time it is going to take to explain the conflicts to the utility and travel to those areas that are in conflict. (Make sure that you set up enough time for each utility company so that you do not overlap your meetings.)
4. Contact the District Utility Engineering Specialist to see if they are free for the PIH.
5. Check with the Engineering Contract Specialist and he will check your schedule.

6. Generate the following notifications:
 - a. Send letter to Utility Forms RWU-902 or RWU-905 for off-system bridge. Fill out 1 original for each Utility and place in the Engineering Contract Specialist's box for his review. The Engineering Contract Specialist will forward the letter(s) to the Utilities Section Supervisor box for signature. Two sets of utility plans and one set of cross sections should be attached to each utility company's letter upon distribution.
 - b. Send Memo to the District Form RWU-903, You need to send 1 original to the district. Two sets of utility plans and one set of cross sections should be attached to the district memo upon distribution.
 - c. Fill out Form RWU-901 memo and send to the Environmental Services requesting their information. Relay Environmental Services response to the Utility Companies and the District Utility Engineering Specialist.

42-1.2 Following the Utility Plan-in-Hand

The Helena Utility Engineering Specialist performs the following tasks:

1. Fill out an agreement cover sheet Form RWU-900 for all utilities in the Engineering Contract Specialist Red Book. Estimate the State's cost share for each utility company and place that information on the cover sheet. Enter each utility company that will have an agreement into the Oracle Utility Tracking System.
2. Fill out a memo and send to the District R/W Supervisor to retain R/W for utility occupancy if a utility is not moving and we were going to turn over the existing R/W to the landowner.
3. Punch and label the marked-up PIH plans and cross sections and place them in the Black Folder Cabinet.
4. The Engineering Contract Specialist will give you the estimate package when it's received from the utility company.
5. The Engineering Contract Specialist will log in the Red Book on the Utility Agreement Cover Sheet that you have received the estimate and the date that you received it.

6. Check the estimate for mathematical accuracy and compare unit costs to the companies' master units (See Chapter 44). If there are any mistakes, discuss all of the problems with the Engineering Contract Specialist. Then call the utility's engineer and discuss possible revisions to the estimate.
7. Compare existing footage and/or pole count conflicts, which are used as the basis for the cost share percentages, to ensure they are the same as you agreed to at the PIH. If it is not, call the utility's engineer to find out why and correct as necessary. If the cost share has changed significantly from the PIH. Document in the utility file and notify the District Utility Engineering Specialist.
8. Check the exhibit to see if the new footage or the number of new poles match the estimate.
9. Check the utility company R/W documentation in areas they claim 100% participation to see if it matches the section, township, range and quarter. (A Form RWU-939 memo will be sent to you to verify your findings. Return it to the Engineering Contract Specialist with your comments. Form RWU-926 will be sent to the utilities Section Supervisor for signature, file in utility file.)
10. If overhead power, ensure they have a raptor proof design for their poles. There may be an exception for raptor proofing near some cities.
11. Fill out 1 work sheet Form RWU-908 for fast process agreements and for normal agreements and put it in the folder.
12. Put the reviewed estimate package in the Engineering Contract Specialist's basket and mark the date in the Red Book when you returned it.

42-2 STEPS FOR AGREEMENTS

LUMP SUM, UNIT COST, FAST PROCESS OR ACTUAL COST AGREEMENT

Use the following steps to prepare and process the agreement, estimate and plans:

1. Receive estimate or Fast Process from the Utilities Section Supervisor.
2. Log in the estimate in the "RED BOOK." Currently, be sure to fill in the following in the Red Book:
 - date received.
 - estimate totals.
 - lump sum, actual cost, unit cost or fast process; and
 - note if betterment.

3. Make a folder. In the folder include the following:
 - estimate,
 - exhibit, and
 - any R/W documentation that the utility has submitted.
4. Give a quick check to determine if the estimate is:
 - Reasonable and accurate and the cost share is correct,
 - unit cost estimate (see Chapter 44).
5. Give the folder to the Helena Utility Engineering Specialist assigned to the project.
6. The Helena Utility Engineering Specialist will review the exhibit and estimate and return the package to the Engineering Contract Specialist with 2 copies of the estimate. The Engineering Contract Specialist will make 2 originals of the following agreements:
 - Regular Utility Agreement (Form RWU-927), and
 - Utility Agreement for use with Cities (Form RWU-928).

NOTE: IF AGREEMENT LANGUAGE IS REVISED FOR A PARTICULAR SITUATION, IT MUST BE REVIEWED BY LEGAL SERVICES.

7. Stamp EXHIBIT A on the utility cover letter or the first sheet of the estimate. Stamp 2 copies OK for signature and 1 APPROVED Utilities Section, with a date stamp, on the last page of the estimate (Summary Sheet). Stamp 2 copies OK for signature on the front sheet of a Fast Process Agreement.
8. Assemble the agreement packages. Include the following:
 - Form RWU-927 or RWU-928 agreements,
 - Addendum “A” (where applicable),
 - the utilities estimate,
 - the utilities exhibit, and
 - submit agreement package to the Engineering Contract Specialist for review and approval. Make up a Form RWU-938 form letter (Request of Utility Signature) and take 2 complete Agreement packages and put them in Engineering Contract Specialists ‘In box’.
9. Log in the “RED BOOK” date sent to Utilities Section Supervisor for signature.

10. If the agreement is lump sum, or if the actual cost agreement is not based on a unit cost estimate, send 1 copy of the utility agreement to Internal Audit for approval.
11. Log in the "RED BOOK" when sent to Internal Audit.
12. If property interests are involved, send 1 copy of the utility agreement with a Form RWU-939 memo, and the utilities right-of-way documentation to the responsible Helena Utility Engineering Specialist. The Helena Utility Engineering Specialist will check the easement, sign the Form RWU-939 memo and return the package.
13. Log in the "RED BOOK" when Form RWU-939 memo is sent to the Helena Utility Engineering Specialist and when it is received back. The Engineering Contract Specialist will fill out a Form RWU-926 (Statement of Property Interest) for the Utilities Section Supervisor to sign. File in the utility file.
14. When the Internal Audit Section returns the agreement, if lump sum or actual cost, log in the "RED BOOK" and include their comment sheet in the agreements. When the initialed agreement packages are returned from the Utilities Section Supervisor and Form RWU-939 is signed, give to the administrative support secretary for mailing. The following shall be conducted:
 - Send the original letter and the 2 originals of the agreement to the utility company with a tab stating, "please sign but do not date," over the date on the last page of agreements.
 - Place 1 copy of the letter in the file. (Stamp with original file)
15. Log in the "RED BOOK" when sent to the utility company for signature.
16. If this is the first agreement, to have funds programmed, check that the Environmental Document has been completed, request an I/C number from Fiscal Programming, and write a Form RWU-947 memo requesting programming of funds for all the utility agreements for the next 4 months to the Supervisor of the Fiscal Programming Section. Use State's share for costs.

Check with the Utility Engineering Specialist (Railroads) to determine if railroad funding needs to be programmed and include if within the next 4 months. A detailed explanation of the railroad work to be performed should be included. This could be railroad flagging, signal work, surface work or some type of railroad work other than signal or surface work.
17. Make an extra copy of the Form RWU-947 memo and put it in the "RED BOOK" for future reference.

18. When Form 1240/PR-2, Funding Approval, is received from FHWA, write in the date it was obligated on the Agreement Cover Sheets in the “RED BOOK” and file Form 1240/PR-2.
19. The Utilities Section Supervisor will give the Engineering Contract Specialist back the 2 agreements after the utility signs them.
20. Log in the “RED BOOK” that the utility returned the agreement.
21. Before final signatures, check that the environmental document is completed and that Form 1240/PR-2 funding is in place. No agreement can be sent out unless both these items are completed. FHWA may make an exception if we must have it.
22. Stamp the last page of the agreement (next to the signatures on the State copy) with 2 OK for signature stamps and APPROVED Utilities Section and date stamp. Submit to the Engineering Contract Specialist for final review and approval. Then send to the Utilities Section Supervisor for signature.
23. Have the Utilities Section Supervisor sign the agreement if under \$100,000? If over \$100,000, send to the Right-of-Way Bureau Chief for signature.
24. For final distribution, make out the following letters:
 - Form RWU-937, Letter to the Utility Company or city, if city or city’s contractor is doing all their own work.
 - Form RWU-941 Letter to the City, if the State’s contractor is doing all or part of the work; or
 - Form RWU-949 to the Supervisor of the Fiscal Programming Section for each agreement.
25. Put the letter and memo in Utilities Section Supervisor’s signature basket.
26. When letters are returned agreements will be distributed. Log in the “RED BOOK” and insert the data into the Utility Agreement Input in Oracle. Also insert data into Excel Agreement Tracking Sheet.
27. If an agreement comes in, make out Form RWU-946 letter to send to the FHWA Division Administrator with a copy of the agreement if the following occurs:
 - the agreement is over \$125,000 on the National Highway System or Interstate.

- all Interstate agreements go to FHWA, if over \$100,000 lump sum or total estimate is over \$125,000: or
- lump sum agreement over \$100,000 on the National Highway System or Interstate.

NOTE: IF FORM 1240/PR2 HAS NOT BEEN RETURNED FROM THE FHWA DO NOT SEND OUT AGREEMENT! WAIT! THE UTILITIES ENGINEERING MANAGER OR R/W BUREAU CHIEF IS NOT TO APPROVE UNTIL FORM 1240/PR2 IS APPROVED BY THE FHWA!!!

28. If an additional agreement is under \$100,000 total, or under \$100,000 lump sum, send Form RWU-949 to the Supervisor, Fiscal Programming Section. Check the "RED BOOK." FHWA must program initial funds. The following will apply:
- a. A program must have been previously approved (Form 1240/PR-2) regardless of agreement amount.
 - b. All Interstate agreements must go to the FHWA, if over \$100,000 lump sum or total estimate is over \$100,000.
 - c. Where (a) & (b) have been satisfied, the agreement can be sent out.
 - d. Send a copy of the estimate summary sheet to the Supervisor, Fiscal Programming Section with the Form RWU-949 memo.

NOTE: THE SUPERVISOR, FISCAL PROGRAMMING SECTION RECEIVES A FORM RWU-949 MEMO FOR ALL AGREEMENTS WHEN THEY GO OUT.

29. When the last agreement is out, direct the Utility Engineering Specialist to card out the 814 activities.
30. Remove the utility cover sheets from the "RED BOOK" and place it in the lower cabinet at the end of the calendar year.

42-3 FAST PROCESS AGREEMENTS

A fast process agreement has three applications for utility relocation work. Project related, where a minor utility relocation is necessary to accommodate a construction project. Non-project related, where a minor utility relocation is contemplated for safety considerations, where there is no active construction project. Project related utility excavations, where it is necessary to obtain actual elevations or depths to design around existing utilities or determine the extent of conflict with a construction project.

The agreement estimate prepared by the utility company and the approval process is

structured to require a minimal amount of time to prepare and approve. The utility company must prepare the lump sum, actual cost, or unit cost estimate. The estimate face sheet will serve as the Department approval format, the work completion certification, and the final bill. The use of a unit cost estimate will be utilized.

42-3.1 Requirements

Requirements for fast process:

- 1) Fast process agreements shall not exceed \$50,000.00 State cost share of the proposed utility relocation.
- 2) Utility Work Orders are initiated by the district before or during the utility relocation activities and must be initiated when the cost will exceed 15% of State's share of the agreement cost with the cost justification supplied by the Utility Company. In rare cases, and providing Unit Costs were utilized, the costs may exceed the \$50,000.00. If the cost will exceed the \$50,000.00 limitation, a Work Order will be required by District with the cost justification supplied by the Utility Company or District.
- 3) Fast process agreements shall be Lump Sum, Actual Cost or Unit Cost agreements only.
- 4) Final bills should be submitted by the District to the Utility Section for payment no later than 60 days after the work is completed.
- 5) Fast process agreements may only be used to relocate Public Utilities. Privately owned facilities cannot be relocated by fast process agreements.

42-3.2 Fast Process-Project Related

Fast process agreements project related should be used for minor utility relocations on active construction projects. Utility companies should be encouraged to use the Lump Sum fast process agreements where the work can be well defined and is under \$50,000.00 State share.

Only one fast process agreement should be written for one utility company per project. If there are several minor conflicts throughout a project for the same utility company, the total of which exceeds \$50,000.00 State share, the standard agreement format should be initiated.

The fast process agreement can be initiated either by the district or by the Helena Utility Section. To save time, the district, in most cases, should initiate and process fast process agreements. Fast process agreements should be signed by the District Administrator when initiated by the district.

42-3.3 Procedures for Approval

1. Field review the proposed adjustment with the utility company.

2. The utility company must furnish two original agreements with the following information:
 - a. An exhibit of the work, including the existing and new locations of the utility facility.
 - b. Two completed estimate face sheets showing the percentage of participation and the cost to the State and utility.
 - c. Complete the description of work.
 - d. Sign and date the two estimate face sheets.
3. Review information for accuracy, complete the project information, sign, and date the agreements and submit two original agreements to the Utility Section.
4. Supervisor Utility Section shall review and sign two agreements. In the absence of the Supervisor, Utilities Section, the agreements are to be signed by the Right-of-Way Bureau Chief.

Distribution is as follows:

- 1) Utility Section, one original agreement
- 2) Utility company, one original and one copy of the agreement
- 3) District, three copies
- 4) Project Analysis, one copy of face sheet

5. The District will notify the utility company to proceed with work.

6. The face sheet of the agreement is the final bill. Within 60 days after the work is completed, the District Utility Engineering Specialist should verify the completion of work by signing the face sheet (estimate sheet) and submit four copies of the face sheet with the pertinent documentation to the Utility Section for payment.

42-4 FAST PROCESS AGREEMENT – NON-PROJECT RELATED

Safety of the traveling public and the elimination of potential utility hazards are the only reasons for relocating utilities by a *non-project fast process agreement*. Fast process agreements, non-project related, are initiated by the district, and used when the district determines a need to adjust or relocate a utility where no active project exists. The justification by which a District may want to relocate a utility facility will vary but should be documented in the files and must be safety related. For example, the district may determine a utility facility should be relocated because it obstructs sight distance, is a potential hazard, or must be relocated for a maintenance widening project. The relocation of utility facilities by this procedure will not replace or conflict with the program for the relocation of high hazard utility facilities, identified for relocation or adjustment by Safety Management.

The same requirements govern non-project related and project related Fast Process Agreements. The agreement must be Lump Sum, Actual Cost or Unit Cost, unless

otherwise approved, not to exceed \$50,000 State share. Bills should be submitted for payment by the district within 60 days after the work is completed.

42-4.1 Procedures for Approval

The approval procedure is identical for the fast process agreements project-related with the following exceptions:

1. The district must submit a memorandum to the Utilities Section either before or with the agreement package explaining the reason for the proposed utility relocation. The rationale should indicate the safety benefits the Department and traveling public will achieve from the relocation.
2. The nearest non-active construction project to the work area shall be used as a project designation along with the route, reference marker and county. However, use the applicable fast process agreement project number.

42-5 FAST PROCESS AGREEMENTS EXPLORATORY (P.E. Funded)

This agreement will be used when project designers and Utility Agents need exact depths to underground utilities to avoid potential conflicts. The agreement process can also be used during the utility plan in hand process when depths of underground utilities are needed to determine the extent of conflict with proposed construction.

The approval procedure is the same process as used for project related agreements. Exploratory work (excavations) performed by a utility company is reimbursed 100% by the state.

The utility company should be encouraged to provide Unit cost estimate per excavation. The Utility Section and District should determine the number of excavations required. When additional excavations are required beyond those approved by the initial agreement, actual number of units for each excavation will be used.

When the Preconstruction Bureau needs to have elevations to utility facilities, the request should be directed to the district. The request should include the number of excavations, stations and distance left or right. The district will initiate the fast agreement.

This agreement cannot be used to determine depths of non-utilities such as cable television facilities.

42-6 FUNDING AND ACCOUNTABILITY FOR FAST PROCESS AGREEMENTS

Fast process agreements shall be processed for funding through the Project Analysis and Programming Engineer in the following manner:

Statewide accounts will be initiated for “fast process” agreements, in the categories according to Figure 43-3A.

Project Type	Account
National Highway System	NH 0002()
Surface Transportation Program	STPX 0002()
Safety Projects	STPHS 0002()
Interstate Project	IM 0002()

Note: Other accounts may be initiated for specific programs.

42-6.1 General Rules for Processing Fast Process Agreements

1. Where an incidental construction (I.C.) program has been or will be initiated on a project, the fast agreement must be programmed, and costs charged to the I.C. Account. On a specific project, ALL agreements must be charged to either the statewide fast process account or the I.C. Account.
2. If the utility work is non-project-related, the fast process utility agreement must be charged to the applicable annual statewide “fast process” agreement project.
3. The Utilities Section is responsible for preparing an itemized summary of all statewide fast process utility agreements.