



Chapter Forty-two

OBTAINING A UTILITY ESTIMATE
AND ESTABLISHING A COST
AGREEMENT

MONTANA RIGHT-OF-WAY
UTILITIES MANUAL

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Chapter Forty-two

OBTAINING A UTILITY ESTIMATE AND ESTABLISHING A COST AGREEMENT

42-1 OBTAINING UTILITY RELOCATION ESTIMATES PRIOR TO UTILITY PLAN-IN-HAND (PIH)

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

To ensure that preparation is completed in a timely manner and that the necessary parties are notified of the meeting, utility agents should take the following steps:

1. After you receive plans from the Engineering Officer, record them in the logbook (Logbook is located in the office of Engineering Officer). The Engineering Officer will enter the project in the computer under Utility Tracking.
2. Look at project file and make a copy of memos, scope of work report, etc. and start your own file. (Project files are in tall cabinets. 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.)
3. Review plans and mark-up conflicts, on utility plans and cross sections. (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, go upstairs and talk to the designers. It is a good idea to see the designers before you go out on the PIH to see if there is 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 Officer and discuss options that may be available to obtain this information.**
4. 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 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 conflict 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.)

5. Contact the district utility agent to see if they are free for the PIH.
6. Check with the Engineering Officer and he will check your schedule.
7. Generate the following notifications:
 - a. Set up letters, Forms RWU-300 or RWU-576 for off-system bridge. Form RWU-300 and RWU-576 letters are in the computer. If they are not in your files, ask one of the other agents to help you get it into your files. Form RWU-300 letters are in your form letters file, you will need 1 original filled out and placed in the Engineering Officer's box for his review. The Engineering Officer will forward the letters/memos to the Utilities Engineering Manager's box for signature and will return the signed letters/memos to you. Two sets of utility plans should be attached to the utility company's letter upon distribution.
 - b. At the same time that you make up Form RWU-300, make out Form RWU-332 memo to the District (This is also in your form letter file and in your computer). You need to send 1 original to the District. Two sets of utility plans and your original set of marked-up cross sections should be attached to the District memo upon distribution.
 - c. Fill out Form RWU-110 memo and send to the Environmental Services requesting their information.
8. Order a car by filling out ticket, give the ticket to the administrative assistant and the administrative assistant will type and give the typed form to the Utilities Engineering Manager. The Utilities Engineering Manager will sign it.
9. Order motel room if you will be staying overnight.
10. Write on the board by the administrative assistant your PIH dates and put the PIH in your calendar manager; include the District utility agent.
11. Sign out at the R/W's Office Manager's desk.
12. Attend the Plan-in-Hand.

42-1.2 Following the Utility Plan-in-Hand

The utility agent performs the following tasks:

1. Fill out an agreement cover sheet for all utilities in the Engineering Officer 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 computer Utility Tracking System.
2. Fill out a memo 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. Fill out estimate status book. (On top of Engineering Officer shelf.)
4. Review plans with the Utilities Engineering Manager and the Engineering Officer of the Utilities Section.
5. Order cross sections, if the utility company needs a set. (Order cross sections from the Utilities Section designer.)
6. Give your marked-up PIH plans to the administrative assistant and the administrative assistant will put them in the rack for you.
7. Cross out the project in the logbook and put the date of the PIH into Utility Tracking System.
8. The Engineering Officer will give you the estimate when it's received from the utility company.
9. Log in the status book that you have received the estimate and the date that you received it.
10. Check the estimate for mathematical accuracy and compare unit costs to the companies' master units (See Chapter 44). If there are any mistakes, call the utility's engineer and discuss possible revisions to the estimate.
11. Compare existing footage and/or pole count conflicts, which are used as the basis for the cost share percentages used in the billing payment process, 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, notify the District utility agent so he keeps informed.
12. Check the exhibit to see if the new footage or the number of new poles match the estimate. If not, call the utility's engineer to find out why and correct as needed.
13. 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-36 memo will be sent to you to verify your findings. Return it to the Engineering Officer with your comments.)

14. If overhead power, ensure they have a raptor proof design for their poles. There may be an exception for raptor proofing near some cities.
15. Fill out 1 work sheet for fast process agreements or 2 work sheets for a normal agreement and put it in the folder.
16. Put the reviewed estimate in the Engineering Officer's basket and mark the date in the Red Book when you returned it.
17. Give the plans, sent with the estimate as an exhibit in the utility agreement, to the utilities secretary for reduction and printing or to the Utilities Section designer for scanning.
18. When the plans are returned, color up 2 sets for the Engineering Officer, and put them with the folder in his office. Color 1 set for the utilities secretary, in order for her to complete the coloring of the remaining plans.
19. Put the original full-size drawings in the storage cabinet, for future reference.
20. Place utility information for each utility company that will have an agreement in utility agreement input and fill out the appropriate information.

42-2 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 Engineering Manager.
2. Log in the estimate in the "RED BOOK." At this time, 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 utility agent assigned to the project.
6. The utility agent will review the exhibit and estimate, and return the package to the Engineering Officer with 3 copies of the estimate, 4 copies if on an NH Route and over \$100,000.
7. The Engineering Officer will make 2 originals and 1 copy of the following agreements:
 - Regular Utility Agreement (Form RWU-159), and
 - Utility Agreement for use with Cities (Form RWU-159A).

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

8. 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.

9. Assemble the agreement packages. Include the following:
 - Form RWU-159 or RWU-159A agreements,
 - Addendum "A" (where applicable),
 - the utilities estimate,
 - the utilities exhibit, and
 - submit agreement package to the Engineering Officer for review and approval. Make up an RW 326 form letter (Request of Utility Signature) and take 2 complete Agreement packages and put them in Utility Engineer Managers 'In box'.
10. Log in the "RED BOOK" date sent to Utilities Engineering Manager for signature.
11. 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 Compliance Review Section for approval.
12. Log in the "RED BOOK" when sent to Compliance Review Section.
13. If property interests are involved, send 1 copy of the utility agreement with a Form RWU-36 memo, and the utilities right-of-way documentation to the responsible utility agent. The utility agent will check the easement, sign the Form RWU-36 memo and return the package.
14. Log in the "RED BOOK" when Form RWU-36 memo is sent to the utility agent.
15. When received back from the agent, log in the "RED BOOK."
16. The Engineering Officer will make out a Form RWU-151A (Statement of Property Interest) for the Utilities Engineering Manager to sign. This will also be included in the agreement package. Insert Form RWU-151A behind the agreement.
17. When the Compliance Review Section returns the agreement, if lump sum or actual cost, log in the "RED BOOK" and include their comment sheet in the agreements. This is inserted behind the legal review Form RWU-151A.
18. When the initialed agreement packages are returned from the Utilities Engineering Manager and Form RWU-36 is signed, give to the administrative support secretary for mailing. The secretary will conduct the following:

- 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.
 - Send 1 copy of the letter to the District.
 - Place 1 copy of the letter in the file.
 - Place 1 copy of the letter in the reading file.
19. Log in the "RED BOOK" when sent to the utility company for signature.
 20. If this is the first agreement, in order to have funds programmed, check that the Environmental Document has been completed and write a Form RWU-739B 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. Form RWU-739B must be hand delivered to the Supervisor to assemble a funding package.

Check with the Engineering Officer (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.

21. Make an extra copy of the Form RWU-739B memo (Step 21) and put it in the "RED BOOK" for future reference.
22. When Form 1240/PR-2, Funding Approval, is received from FHWA, write in the amount obligated and the date it was obligated on the Agreement Cover Sheets in the "RED BOOK" and file Form 1240/PR-2.
23. The Utilities Engineering Manager will give the Engineering Officer back the 2 agreements after the utility signs them.
24. Log in the "RED BOOK" that the utility returned the agreement.
25. 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.
26. 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 Officer for final review and approval. Then send to the Utilities Engineering Manager for signature.
27. Have the Utilities Engineering Manager sign the agreement if under \$100,000. If over \$100,000, send to the Right-of-Way Bureau Chief for signature along with a copy of the agreement cover sheet in the "RED BOOK."
 28. Log the date the agreements are sent in "RED BOOK."
 29. When the agreements are returned, log them in the "RED BOOK". Use the date that the Utilities Engineering Manager signs the agreement or R/W Bureau Chief signs the agreement, for the agreement date.
 30. For final distribution, make out the following letters:
 - Form RWU-325, Letter to the Utility Company or city, if city or city's contractor is doing all their own work;
 - Form RWU-555 Letter to the City, if the State's contractor is doing all or part of the work; or
 - Form RWU-740 to the Supervisor of the Fiscal Programming Section for each agreement.
 31. Put the letter and memo in Utilities Engineering Manager's signature basket.
 32. When letters are returned, give the folder containing the letters, agreements and extra exhibits to the utilities administrative assistant and this person will make the copies and send them out.
 33. Log in the "RED BOOK" and insert the data into the Utility Agreement Input in Oracle.
 34. If an additional agreement comes in, make out Form RWU-738A letter to send to the FHWA Division Administrator with a copy of the agreement if the following occurs:
 - the agreement is over \$100,000 on the National Highway System or Interstate;
 - all Interstate agreements go to FHWA, if over \$100,000 lump sum or total estimate is over \$100,000; 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!!!

35. If an additional agreement is under \$100,000 total, or under \$100,000 lump sum, send Form RWU-740 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-740 memo.

NOTE: THE SUPERVISOR, FISCAL PROGRAMMING SECTION RECEIVES A FORM RWU-740 MEMO FOR ALL AGREEMENTS WHEN THEY GO OUT.

36. When the last agreement is out, card out the 814 activity.
37. 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.

42-3.1.1 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 a number of 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.

42-3.2 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. a. 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.
 - b. 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 Agent 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.

42-3.3 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.

42-3.3.1 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.

42-4 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 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.

42-5 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 program.*

Figure 43-3A

General rules for processing fast process agreements are as follows:

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.