

Chapter 14 Utility Relocation

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Exhibits

[Exhibit 14-A: Local Agency Submittal Requirements for Federal Participation in Utility Relocations](#)

[Exhibit 14-B: Local Agency Utility Agreement Provisions for Federal Participation](#)

[Exhibit 14-C: FHWA Specific Authorization/Approval of Utility Agreement](#)

[LAPM 14-D: Notice to Owner](#)

[LAPM 14-D-REV: Revised Notice to Owner](#)

[Exhibit 14-E: Report of Investigation](#)

[Exhibit 14-F: Utility Agreements](#)

[Exhibit 14-G: Utility Agreement Clauses](#)

[Exhibit 14-H: Stages of R/W Utilities through Stages of Project Development](#)

[Exhibit 14-I: Local Agency/Utility Owner Special Agreement](#)

All LAPM Exhibits are located at:

<https://dot.ca.gov/programs/local-assistance/forms/local-assistance-procedures-manual-forms>

EXECUTIVE SUMMARY

A. Introduction

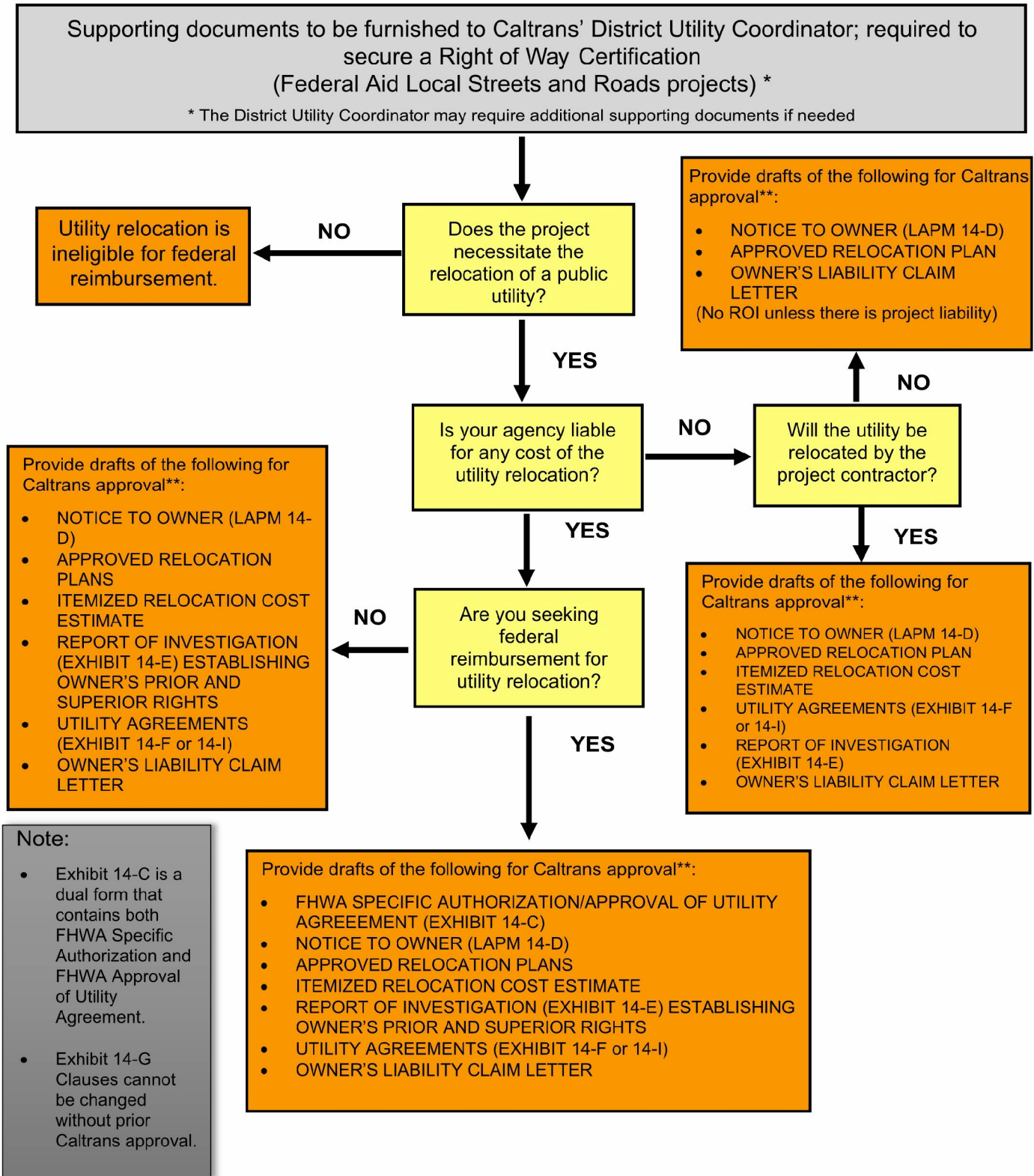
After the environmental document (NEPA) has been approved by Caltrans or FHWA, the administering agency may request an RFA for R/W and/or Utility Relocations. Utility relocations are required on most transportation projects. A conflict exists when a utility must be relocated, adjusted, protected-in-place, or abandoned as a direct result of the project. The draft (unsigned) utility package must be reviewed and approved by the District Utility Coordinator before it is furnished to the utility owner for execution.

Utility relocation work can happen before, concurrent with, or in rare circumstances after construction. The scope of work can be authorized in either the R/W phase (required if a third party utility owner is paid) **or** when the work is performed exclusively by the project contractor, as part of the construction phase. In some cases, the reimbursable expenditure must match the project's FTIP programming. If this work is to be authorized at the construction phase, certain guidelines and conditions must be met, please contact your DLAE for details.

B. Purpose and Objective

A flowchart has been developed to assist Local Public Agencies (LPAs) successfully navigate the utility relocation process. This process must be used on all utility relocations that are performed at project expense or by the project contractor. This is the case even when no federal reimbursement is being sought for the relocation. Waiving federal reimbursement does not eliminate the need for compliance.

Although Caltrans is always available to provide guidance and support, it is the sole responsibility of the administering agency to understand and comply with federally mandated utility relocation requirements. More in-depth utility relocation guidance is outlined in the remainder of this chapter.



** All submitted documents are in draft format except for the approved relocation plans

Figure 14-1: Utility Relocation Document Submission Process

Chapter 14 Utility Relocation

14.1 Introduction

The procedures in this chapter have been designed to comply with Federal Highway Administration (FHWA) regulations and requirements under Code of the Federal Regulations (CFR) governing utility relocations. The purpose of this chapter is to provide guidelines to the Local Public Agency (LPA) when performing R/W utility relocations on projects outside of the State Highway System (SHS) and financed with federal funds.

Utility relocation procedures in this chapter only apply when relocating public utility facilities that serve the general public. Service connections and private utilities are handled through R/W Acquisition under Cost to Cure (23 CFR 710.203), and Uniform Act (49 CFR 24: Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-assisted Programs).

Forms and Exhibits referenced in this chapter are to provide the LPA with working samples. The language in these forms has been reviewed and approved by Caltrans Legal Department. The LPA has the option to modify the format of these forms or to use its own forms. However, the LPA's own forms must satisfy all required elements under 23 CFR 645.113, and the use of non-approved forms and clauses will require review and approval by Caltrans Headquarters Utilities Relocation office and Caltrans Headquarters Legal Department on a case-by-case basis.

Any federal-aid project that involves any R/W utility relocations must be accomplished in accordance with the Utility and Buy America Procedures described in the [Caltrans Right of Way Manual](#), Chapter 13.

These manuals are available online at:

Right of Way Manual: <https://dot.ca.gov/programs/right-of-way/right-of-way-manual>

Encroachment Permits Manual: <https://dot.ca.gov/programs/traffic-operations/ep/ep-manual>

14.2 Terms and Definitions

Public Utility Facilities – Publicly and privately owned utility facilities, which serve the public.

Impacted Utility Facility – A public utility facility that has been identified in conflict with the proposed activity of a transportation project.

Utility Relocation – Any adjustment to the impacted utility facility required by the proposed transportation project.

Owner – Utility company, municipal utility department, who owns the impacted facility.

Utility Coordinator – LPA's person who acts as a liaison with owners.

District R/W Utility Coordinator – District Right of Way Utility Coordinator assigned to this project.

Conflict Resolution Plan (Relocation Plan) – Plan from owner to resolve the conflict with activity of a transportation project. This plan should clearly define scope of work and the duration of construction.

Claim Letter – Owner's liability determination along with supporting documentations. It is the owner's responsibility to support their claim.

Unanticipated Utility Relocation – Unforeseen, or discovery utility relocation as a result of accident or incomplete utility verification/conflict identification.

Prior Rights – The LPA will bear relocation costs for facilities installed within an easement area. The LPA must determine that the utility facility existing in the deed is, in fact, in the area of the recorded easement area by comparing the facility location with easement deed description. A replacement easement deed will need to be prepared and recorded by the LPA.

Utility Relocation Procedures

The following steps have been modeled after the Caltrans Right of Way Utility Relocation procedures. These activities are performed in different stages of project development (see [Exhibit 14-H: Stages of R/W Utilities through Stages of Project Development](#)) to ensure proper and complete utility clearance prior to R/W Certification.

This procedure is designed to identify utility conflicts early in the design stage. It provides the Project Engineer with an opportunity to evaluate the proposed plan and make adjustments to avoid or lessen the impact on existing utility facilities. Thus, it reduces utility relocation cost, saves time, and prevents discovery conflicts during construction.

Note: It is strongly recommended that each LPA adopt and follow these procedures:

Utility Verification

- In the early phase of the Design process, the Utility Coordinator sends a proposed project plan to owner and request for owners' facility map(s) of any facility located within project limits.
- Utility Coordinator forwards owners' map(s) to the Project Engineer. The Project Engineer plots all existing facilities onto UTILITY SHEET (Refer to Caltrans Design's Standard Plan or American Society of Civil Engineers [ASCE], Standard Guidelines for the Collection and Depiction of Existing Subsurface Utility Data).

Identifying Conflict

- Project Engineer identifies all impacted utility and potholing facilities within project limits.
- Provide conflict maps for each impacted facility to the Utility Coordinator.

Requesting Conflict Resolution Plan

(This step would be done only after National Environmental Policy Act approval).

- Utility Coordinator contacts and informs the owner(s) of the conflict(s), requests conflict resolution plan(s), detail cost estimate(s), and owner's liability determination.
- When the above items are received from owner(s), the Utility Coordinator will forward the plan(s) to the Project Engineer for approval.

Liability Determination

After the conflict resolution plan(s) is approved by the Project Engineer, a liability determination must be made to determine whether the LPA is legally liable for any portion or all of the relocation cost(s). See Chapter 13: Utility Relocation, Section 13.04.00 of the [Caltrans Right of Way Manual](#) for guidance.

- Liability can be determined by property rights, franchise rights/ agreements, State and local statutes/ordinances, permits, or finding by the LPA's counsel.

- Complete [Exhibit 14-E: Report of Investigation \(ROI\)](#). The ROI is a document that determines the LPA's liability for relocation costs.
- The cost of relocating such facilities is eligible for federal participation:
 - a. Only when the relocation is made necessary by the proposed construction.
 - b. Only when the LPA is legally liable to pay for any portion of the relocation.

The Utility Coordinator must send a proposed copy of the ROI, Notice to Owner (NTO), and Utility Agreement to the District Local Assistance Engineer (DLAE) and District Right of Way Utility Coordinator for review and approval, prior to sending out to owner.

Note: For State highway projects, the LPA must ensure that all utility relocations and encroachments are accomplished in accordance with Caltrans policies, procedures, standards, practices, and statutes. In addition, any existing agreements or contracts between the Department of Transportation (Caltrans) and a utility owner will also obligate the LPA in such circumstances.

Notifying Owner

- After the conflict resolution plan is approved and liability is determined, the Utility Coordinator must seek concurrence from the owner in case the liability determination is different from owner's claim letter.
- Once the owner concurs with the liability (this is referred to as Meeting of the Minds), the Utility Coordinator will issue a written NTO (see [LAPM 14-D: Notice to Owner](#)) to the owner. The LPA must make all necessary arrangements with owners of the affected utility facilities for their relocations.
- The NTO will clearly define the impacted facility, owner's conflict resolution plan number and date, estimated completion date, and liabilities.
- The LPA must provide all other necessary permit(s) related to the relocation to the owner prior to the commencing of work. Only when any ordered work is located within the SHS, a Caltrans Encroachment Permit is required. The Utility Coordinator can request the permit through the District Right of Way Utility Coordinator.
- If the LPA is liable for any portion of the relocation, a Utility Agreement (see [Exhibit 14-F: Utility Agreements](#) and [Exhibit 14-G: Utility Agreement Clauses](#)) will also be prepared and sent to the owner along with the NTO. Utility Agreements are required for all projects with LPA liability.
- The LPA's liability portion and authority to pay for the relocation must be clearly cited in its Utility Agreement and in the liability section of the NTO.

Note: For freeway projects, State policy and procedure take precedence for cost liability determination even where relocation work to support or accommodate the project may take place outside of the State's R/W.

Right of Way Utility Clearance Memo

- Once all utility conflicts have been resolved, the Project Engineer and the Utility Coordinator will issue a Utility Clearance Memo that clearly lists all conflicts, locations, the NTO numbers and issued date, liability, and estimated completion date.
- The information on this memo will be incorporated into the R/W Certification.

Managing the Physical Relocation

- Prior to any physical relocation work being commenced, the Project Engineer and Utility Coordinator must make sure all agreements have been executed, Specific Authorization/Approval of Utility Agreement has been approved (if federal funding is sought), and funding has been secured.
- The Project Engineer and Utility Coordinator must monitor the progress and verify that the relocation has been carried out according to the conflict resolution plan and schedule.

Managing Relocation Invoices

- The Utility Coordinator will process utility relocation invoices for reimbursement in accordance with the procedures described in [LAPM Chapter 5: Invoicing](#).
- The Project Engineer and Utility Coordinator must make sure the owner provides credit when applicable, for salvage value, betterment, and all supporting documents are attached to the invoice.

Utility Records Keeping

The Utility Coordinator will create a Utility File for each impacted facility. These records will be retained by the LPA as required by FHWA regulations.

Section 23 CFR 645.119(c)(1)(iv), Alternate Procedure Approval requires documentation of actions taken in compliance with State and federal policies. All engineering decisions affecting the utility relocation from the beginning of planning to the completion of the relocation and billing, should be documented in the LPA's Utility File diary.

It is essential that documented field verification of the progress and completion of all reimbursable utility work be provided by the LPA. This required documentation is met by the use of detailed inspector's diaries or their equivalent.

If the LPA wishes not to request federal participation for the utility relocation work on projects off the SHS, even though they will be requesting federal participation in other R/W activities and/or the construction phases of the project, they must comply with FHWA's regulations. Transportation Infrastructure Finance and Innovation Act (TIFIA) Loan must follow all Code of Federal Regulations as well as 23 CFR 645. The LPA must provide the proposed utility relocation plan to the DLAE for forwarding to the District Right of Way Utility Coordinator for review so that proper R/W certification on utility relocation matters may be given prior to construction.

14.3 Federal Reimbursement

Federal regulations governing utility relocation are described extensively in 23 CFR 645. LPAs should be familiar with these regulations. The following procedures are based on the above-mentioned and other federal regulations, which must be followed when the LPA requests federal participation in a utility relocation:

Under the current federal transportation funding act and the FHWA Alternate Procedure process (23 CFR 645.119), E-76 utility relocation work has been delegated to Caltrans on Delegated projects for full review oversight requirements by FHWA (See [LAPM Chapter 2: Roles and Responsibilities](#)). Caltrans also has approval authority for Specific Authorization and Approval of the Utility Agreement.

The Utility Coordinator will send all submissions to the District Right of Way Utility Coordinator for review and approval.

The following items must be included in the request for review and approval by Caltrans:

1. Copy of draft and final Notice to Owner
2. Draft and final fully executed Utility Agreement
3. Draft and final approved owner's conflict resolution plan showing the necessary relocations
4. The completed Report of Investigation and any supporting documents
5. An itemized estimate of the LPA's relocation costs

Such review typically takes three weeks. Submission must be sent in advance of the proposed Right of Way Certification date. The DLAE is not responsible for delays due to an incomplete or erroneous relocation package. All documents must be approved by Caltrans.

Note: If federal funds are not participating in utility relocation then items 1 through 5 above **still apply**. However, neither [Exhibit 14-C: FHWA Specific Authorization/Approval of Utility Agreement](#) nor an E-76 is needed for said utility relocation, since the LPA is not seeking federal reimbursement.

Anticipated Utility Relocation

To apply and qualify for federal reimbursement, the following steps must be followed:

Authorization to Proceed (E-76)

Prior to the start of any physical utility relocation work, the LPA must complete [LAPM 3-A: Project Authorization/Adjustment Request](#) where all anticipated utility facilities requiring relocation will be listed with an estimated cost to relocate each facility.

The E-76 request must be submitted to the DLAE, who will forward the request to the District Right of Way Utility Coordinator for review and comment. The E-76 request form will then be processed by the DLAE.

Specific Authorization to Relocate Utilities

In addition to [LAPM 3-A: Project Authorization/Adjustment Request](#), and prior to commencement of any physical relocation, the LPA must also request and receive [Exhibit 14-C: FHWA Specific Authorization/Approval of Utility Agreement](#) form (for each utility relocation). Form 14-C must also be attached to the R/W certification whether the utility relocation happens before or during construction or if done by the utility owner/utility owner's contractor or the LPA's highway contractor. Either the utility owner or the construction contractor may perform all or portions of the utility facility relocation for which Specific Authorization approval is requested.

Note: [Exhibit 14-C](#) is a dual form, containing both the FHWA Specific Authorization to Relocate Utilities and FHWA Approval of Utility Agreement.

1. Work by Utility Owner or Owner's Contractor

If the relocations are to be performed by the utility owner and federal participation is requested, [Exhibit 7-B: Field Review Form](#) should include the item with sufficient detail to allow programming of the work in the R/W phase for approval by FHWA under a Utility Agreement.

Note: Prevailing Wages are required for any work performed by Owner's contractor (Labor Code Section 1720).

2. Work by Local Public Agency's Highway Contractor

If the relocations are to be performed during the construction phase by the LPA's highway contractor, the work should be included in the Plans, Specifications and Estimate (PS&E).

The LPA must also add the following statement to the Remarks section of [Exhibit 14-C](#):

"The proposed adjustment of utility facilities to be performed by the LPA's highway contractor is approved. Payment for the utility adjustment will be vouchered through the construction phase. Therefore, the authorization date for this work will be the date that the FHWA approves the construction project."

The LPA must attach a copy of the approved Specific Authorization to the R/W Certification submittal. Utility relocation costs may be included in the highway contract as a bid item, as supplemental work, or as a contract change order, and financed from funds in the construction work authorization.

In the event a major change in scope of work and/or relocation cost is found to be necessary, a revised Specific Authorization to Relocate Utilities must be immediately submitted for authorization prior to the new work being commenced.

Any minor change that does not include changes in scope of the work, addition or deletion of the proposed conflict resolution plan, may be submitted in a letter to Caltrans describing the change including revised maps and estimate, and requesting that the change be included under the original authorization.

Approval of Utility Agreement

The LPA must submit each executed Utility Agreement and a request for FHWA approval of the Utility Agreement to the DLAE for processing. This approval authority has been delegated to the Caltrans Division of Right of Way and Land Surveys by FHWA. Such review and approval typically takes three weeks if the LPA used the pre-approved utility clause from [Exhibit 14-G: Utility Agreement Clause](#). For LPA owned utilities, the appropriate agreement and clauses for the LPA to use are found in [Exhibit 14-I: Local Agency/Utility Owner Special Agreement](#).

Upon approval, Caltrans will provide the LPA with [Exhibit 14-C: FHWA Specific Authorization/Approval of Utility Agreement](#) for each Utility Agreement. Any exceptions to the approval will be noted in writing on the Remarks section of the form, and the LPA will be requested to concur with the exceptions or to prepare a rebuttal. It is anticipated that an agreement will be reached on all such items prior to any physical work commencement to avoid the loss of eligibility.

It is strongly recommended that the standard [Exhibit 14-G: Utility Agreement Clauses](#) should be used in every circumstance. Use of nonstandard clauses requires Caltrans Headquarters Office of Utilities and Caltrans Headquarters Legal review and recommendation before the Utility Agreement can be executed. (Non-standard language request form is available in the Caltrans Right of Way Manual, Chapter 13). When applicable, the following items should be shown in the itemized estimate(s) of the relocation costs.

Credits

- FHWA Regulations (23 CFR 645.117(h)) require salvage credit to any highway or freeway project for the value of facilities removed as part of the relocation for future use or resale.
- FHWA Regulations (23 CFR 645.117(h)) also require betterment credit for the cost of any betterment to the facility being replaced or adjusted.

Note: For projects on the State Highway System, State law (Section 705 of the California Streets and Highways Code) requires that utility owners itemize, estimate, and invoice for utility relocation to show a credit for the used life of an existing utility facility being replaced in connection with improvement to a freeway. Where these credits are received by the LPA, they must be properly listed on the invoice and deducted from the total federal-aid reimbursement amount.

Removal Only

Where the entire utility transaction consists of removal without replacement, consideration should be given to handling it as an R/W clearance item and invoicing for federal reimbursement in that fashion. If processed as an R/W clearance activity, the following conditions apply:

- The utility owner must have a property right in the existing location, which is compensable in eminent domain.
- The LPA must enter into an agreement with the owner providing for the removal of the facility. In support of the invoice for federal reimbursement, the file must contain information to show that the cost of removal by the utility owner was more cost-effective than the LPA buying the facilities and having them removed by some other method.
- Where legitimate removal without replacement charges is included in a utility owner's invoice and the LPA has not arranged to receive a credit for salvage (see above), the charges may be invoiced for federal reimbursement only when they are reduced by the amount of salvage attributable to the subject facilities, as shown by the utility owner's records available for audit as noted in the Utility Agreement (48 CFR 31).

Using Right of Way Clearance Contract

Where utility relocation work is performed by the LPA under an R/W clearance contract, a conformed copy of the executed contract must be forwarded to the DLAE before submitting an invoice for federal reimbursement.

Using Consultants

When the LPA or utility owner employs a consulting engineer to perform engineering services in connection with a specific utility relocation, and federal participation is involved, the procedures in [LAPM Chapter 10: Consultant Selection](#) must apply. The consultant agreement must satisfy the criteria specified in Chapter 13, Section 14 of the [Caltrans Right of Way Manual](#), including a completed pre-award evaluation, if applicable. These steps must be performed by the LPA early in the process to avoid loss of eligibility.

Non-reimbursable

FHWA regulations prohibit federal reimbursement for costs of interest during construction or interest on funds borrowed by the owner for performing the relocation.

Unanticipated Utility Relocation

After the normal period to apply for Specific Authorization to Relocate Utilities has expired and an unanticipated utility relocation is encountered, the Utility Coordinator must immediately notify the DLAE and request a Special Authorization to Relocate Utilities. The approved environmental documents may also need to be re-evaluated depending on the scope of the utility relocation. The Special Authorization to Relocate Utilities is reserved for those cases where required work could not be identified in time to secure normal authorization, or when the contractor's operations will be delayed. The LPA must provide a statement with full explanation of the special circumstances for the request. Requests for Special Authorization to Relocate Utilities must be based on substantial reasons.

Special Authorization to Relocate Utilities for discovered work must be upgraded by the LPA to full Specific Authorization status before the LPA submits an invoice for reimbursement.

Special Authorizations

There are two types of Special Authorization to Relocate Utilities: 1) Written and 2) Verbal. Both written and verbal Special Authorization to Relocate Utilities are Preliminary Authorization. The request will be reviewed and approved on a case-by-case basis. No utility work may begin before Special Authorization to Relocate Utilities is obtained or risk the eligibility for reimbursement.

The submittal for either written or verbal Special Authorization to Relocate Utilities request must contain:

- Reason for special Preliminary Authorization
- Name of the owner, type of facility, as they are listed in the E-76
- Best available liability determination, including documentation such as an ROI
- Best available itemized cost and estimate
- Breakdown of time, material, and equipment costs
- Relocation plan showing the R/W, access control, existing and proposed utility facility
- The name of the entity who will perform the work (if the utility owner's contractor will be performing the work, explain how the contractor was selected)

Written Authorization

If a written Special Authorization to Relocate Utilities is obtained, a complete request package ([Exhibit 14-A: Local Agency Submittal Requirements for Federal Participation in Utility Relocations](#) in this chapter) must be submitted to the DLAE within 30 days. The DLAE will forward the request package to the District Right of Way Utility Coordinator for review and approval.

The approval should contain a statement that the District Right of Way Utility Coordinator has reviewed the relocation plans and is familiar with the circumstances requiring Special Authorization to Relocate Utilities.

Verbal Authorization

Verbal Special Authorization to Proceed may be requested, if during construction a previously unknown utility conflict is discovered that will delay the contractor. Verbal Special Authorization to Proceed may be obtained from the District Right of Way Utility Coordinator (via the DLAE) by

telephone or fax. The District Right of Way Utility Coordinator will confirm each verbal authorization via letter to the LPA's Project Engineer. Such confirmation letters must be issued within five working days or sooner, depending on the complexity of the relocation and the circumstances, which necessitate it. A copy of each confirmation letter will be sent to the DLAE.

If Verbal Special Authorization to Proceed is obtained, the LPA must furnish a written submittal to the DLAE confirming the information and containing a fully documented relocation plan. This must be accomplished within 30 days. An appropriate diary of decisions and discussions must be maintained.

14.4 Utility Facilities

The Caltrans Encroachments and Utilities Policy requires all high priority facilities located within project limits be positively identified and shown on project plans within highway R/W.

For federally funded participating projects off the SHS, compliance with the state's Encroachments and Utilities Policy is not mandatory. This policy must be followed to ensure the maximum safety during construction of the project.

Note: For projects on the SHS: All LPA projects on the SHS must conform to the state's Encroachments and Utilities Policy within Highway R/W. See Caltrans Project Development Procedures Manual (PDPM), Chapter 17. A copy of the policy may be obtained from Caltrans' Division of Design. It is also available at: <https://dot.ca.gov/-/media/dot-media/programs/design/documents/pdpm-chapters.pdf#page=489>.

When performing R/W Utility Relocation on a state highway project, the LPA's Project Engineer must complete the Project Engineer's Certification of Utility Facilities and submit it as an attachment to the project certification, as required by the policy.

14.5 Audit Requirements

The Utility Coordinator is responsible for submitting a request for any applicable audits as described in of [LAPM Chapter 5: Invoicing](#) (Section 5.8).

Note: For projects on the SHS, refer to Chapter 13 of the [Caltrans Right of Way Manual](#), and discuss with the District Right of Way Utility Coordinator.

14.6 References

23 Code of Federal Regulations (CFR) 645

<http://www.fhwa.dot.gov/legregs/directives/fapp/cfr0645a.htm>

48 Code of Federal Regulations (CFR), Chapter 1, Part 31

http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title48/48cfr31_main_02.tpl

California Streets and Highways Code, Sections 702, 703, 705, and 706

http://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=SHC&division=1.&title=&part=&chapter=3.&article=2.5

Caltrans Encroachment Permits Manual

<https://dot.ca.gov/programs/traffic-operations/ep/ep-manual>

Caltrans Project Development Procedures Manual, Appendix LL, Utilities

<https://dot.ca.gov/programs/design/manual-project-development-procedures-manual-pdpm>

Caltrans Right of Way Manual

<https://dot.ca.gov/programs/right-of-way/right-of-way-manual>

Code of Civil Procedure, Section 1268.350

http://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=CCP&division=&title=7.&part=3.&chapter=11.&article=4.

Government Code, Section 53630

http://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=GOV&division=2.&title=5.&part=1.&chapter=4.&article=2.

Water Code Sections 7034 and 7035

http://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=WAT&division=4.&title=&part=&chapter=3.&article=