

# Utility Delay Process

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# Utility Delay Reimbursement Process

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Before Project Award



Contract Documents

Special Provision  
Standard Specification



Conflict During Construction



Delay Claim Process



## Before Project Award

- Most projects take 2.5 years to design.
- Coordination starts when design is at about 30% complete.
- Time Requirements Letter sent when design is about 80% complete.
- Design can change from the utility coordination letters to final design. If design changes then ODOT re-engages with impacted utilities.

Subject: Relocation Time Requirements  
(PROJECT NAME)  
(HIGHWAY)  
(COUNTY)  
Key Number: (PROJECT KEY NUMBER)

Attention: (UTILITY CONTACT NAME)

(INSERT THE FOLLOWING SENTENCE IF A CONSULTANT, OTHERWISE DELETE)

(CONSULTANT FIRM NAME) has been retained by the Oregon Department of Transportation (ODOT) to provide design engineering services during the design phase of the subject project located (COUNTY / CITY NAME).

Pursuant to the provisions of paragraph 734-055-0045 (4) of the Oregon Administrative Rules, Chapter 734, Division 55, you have advised ODOT (INDICATE WHETHER IN WRITING OR VERBALLY) that the relocation or adjustment work will be completed as listed below:

**Relocation Work:** (UTILITY COMPANY NAME) will relocate, adjust and/or install the following prior to construction: (FOR EACH WORK ELEMENT, IDENTIFY THE FACILITY, APPROXIMATE LOCATIONS, AND IF WORK IS A RELOCATION, ADJUSTMENT OR NEW INSTALLATION. INCLUDE DETAILS AS APPROPRIATE).

The following work will be done during construction: (FOR EACH WORK ELEMENT, IDENTIFY THE FACILITY, APPROXIMATE LOCATIONS, AND IF WORK IS A RELOCATION, ADJUSTMENT OR NEW INSTALLATION. INCLUDE DETAILS AS APPROPRIATE)

**Relocation Completion:** All work performed by (UTILITY COMPANY NAME) crews shall be completed no later than (REQUIRED COMPLETION DATE).

(UTILITY COMPANY NAME) may begin the above work once all agreements, permits (City, County, State) and other required documentation are in place. An ODOT permit may be necessary depending on the relocation plan.

## Before Project Award: Time Requirements Letters

- Utilities are notified by the State.
- Includes **what** needs to be relocated and **when** it needs to be relocated.

# Contract Documents: Special Provisions

- 00150.50 (c) and (g) – Contractor Responsibilities and Utility Relocations
- 180.42 – Preconstruction Conference

Table 00150-2

Subsection	Utility	Contact Person's Name, Address, Email, and Phone Number	Estimated Completion Date
00150.50(g)(1)	Charter / Spectrum	Lynn Lundquist 458-802-9835 1400 Newmark Ave. Coos Bay, OR 97420 <a href="mailto:Lynn.Lundquist@charter.com">Lynn.Lundquist@charter.com</a>	November 11, 2022
00150.50(g)(2)	Lumen	Travis Vaughn 971-346-4141 740 State ST. RM 407 Salem, OR 97301 <a href="mailto:travis.v@lumen.com">travis.v@lumen.com</a>	November 11, 2022

**00180.42 Preconstruction Conference** - Add the following to the end of this subsection:

The Contractor shall conduct a group Utilities scheduling meeting with representatives from the Utility companies involved with this Project and the Engineer before the preconstruction conference. The Contractor shall incorporate the Utilities time needs into the Contractor's schedule submitted at the preconstruction conference.

# Contract Documents: Standard Specifications

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00150.50 (c) – Cooperation with Utilities - (c) *Contractor's Responsibilities*

## *The Contractor shall*

- *Contact Utility owners during Bid preparation and after the Contract is awarded to verify all Utilities' involvement on the Project Site;*
- *Coordinate Project construction with the Utilities' planned adjustments, take all precautions necessary to prevent disruption of Utility service, and perform its Work in the manner that results in the least inconvenience to the Utility owners;*
- *Include all Utility adjustment work, whether to be performed by the Contractor or the Utilities, on the Contractor's Project Work schedule submitted under 00180.41;*
- *Report to the Engineer any Utility owner who fails to cooperate or fails to follow the planned Utility adjustment.*

Need to try and work around utilities whenever possible!

Adjust staging to avoid conflict if possible!

# Conflict During Construction

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If unavoidable conflict, then follow 00180.55(d)

**(d) Delays** - If the Contractor complies with 00150.50(c), and if Utility adjustments are completed later than the date specified in the Special Provisions, thus causing Project completion to be delayed (provide notification under 00180.60), additional Contract Time will be considered under 00180.80, and additional compensation, if applicable, will be considered under 00195.40.

OAR 734-055-0045 allows ODOT to “claim” for reimbursement from utility.

**We need the contractor’s help to be able to submit claim.**



## Contractor's Notice of Differing Site Conditions, Delay, or Protest

Print Form

### Completed by Contractor

**Instructions:** If you have more than one notice, use a separate form for each. See Section 00150.30 for general requirements for delivery of written notice. See 00140.40, 00180.60 or 00199.20, whichever is applicable for the notice content, timing and other requirements that must be met for timely and proper notice.

Project Name (Section) \_\_\_\_\_ Contract No. \_\_\_\_\_ Notice No. \_\_\_\_\_  
Contractor Name \_\_\_\_\_ Date Oral Notice Given, If Required \_\_\_\_\_ Date of This Notice \_\_\_\_\_ Date Mailed/Delivered to Agency Project Manager \_\_\_\_\_

Check the box for which section this notice applies:

**Differing Site Conditions** (Section 00140.40) in the field below provide all of the information required by 00140.40.  
 **Notice of Delay** (Section 00180.60) in the field below provide all of the information required by 00180.60.  
 **Notice of Protest** (Section 00199.20) in the field below provide all of the information required by 00199.20.

(Attach additional sheets if necessary.)

Signature of Person Signing for Contractor \_\_\_\_\_ Name and Title of Person Signing for Contractor (please print) \_\_\_\_\_ Date \_\_\_\_\_

### For Agency Use Only

Date Notice Was Received \_\_\_\_\_ Date of Meeting to Discuss Notice \_\_\_\_\_

If meeting was not held, please state why.

Date of Written Response to Contractor \_\_\_\_\_

Distribution: Area Manager; Contract Administration Engineer

# Delay Claim Process: What We Need From The Contractor

- Advance notice of intent to file claim helps.
- Contractor provides Notice of Delay to ODOT.
- This is NOT a contractor claim.
- Contractor and ODOT negotiate a Change Order.



# Delay Claim Process: Now What?

- ODOT “claims” for reimbursement from utility.
- It’s between ODOT and utility now. CCO costs need to be defensible.
- ODOT returns reimbursement funds to the project budget.



# Delay Claim Process: Why should I care?

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- CCO easier to negotiate if Contractor follows process => helps ODOT get reimbursed => happier RE.
- Holds utilities accountable => more likely to relocate in time for the next project.
- Over 15 successful utility reimbursements in last 2-years. Increased effort by ODOT.

# Project Example: OR99E- Halsey



- Utility didn't move conflict by date in conflict letter.
- Contractor coordinated with utility and worked around conflict.
- Delay notice was submitted when no other work could be completed.
- CCO negotiated and paid.
- ODOT claimed for reimbursement from utility and was paid.

# Project Example: US101 @ NE Devils Lake Rd.

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- Aerial fiber utility didn't move conflict by date in letter.
- Tree clearing vs. bird nesting work window.
- Delay notice was submitted.
- CCO negotiated and paid.
- ODOT claimed for reimbursement from utility and was paid.

# Questions:

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Nicole's Contact Information

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