

to the lowest qualified bidder, (2) under existing continuing contracts at reasonable costs, or (3) as an exception by negotiation when paragraph (f) (1) and (2) of this section are impractical due to project location or schedule.

(g) *Transportation costs.* (1) The utility's cost, consistent with its overall policy, of necessary employee transportation and subsistence directly attributable to the project is reimbursable.

(2) Reasonable cost for the movement of materials, supplies, and equipment to the project and necessary return to storage including the associated cost of loading and unloading equipment is reimbursable.

(h) *Credits.* (1) Credit to the highway project will be required for the cost of any betterments to the facility being replaced or adjusted, and for the salvage value of the materials removed.

(2) Credit to the highway project will be required for the accrued depreciation of a utility facility being replaced, such as a building, pumping station, filtration plant, power plant, substation, or any other similar operational unit. Such accrued depreciation is that amount based on the ratio between the period of actual length of service and total life expectancy applied to the original cost. Credit for accrued depreciation shall not be required for a segment of the utility's service, distribution, or transmission lines.

(3) No betterment credit is required for additions or improvements which are:

- (i) Required by the highway project,
- (ii) Replacement devices or materials that are of equivalent standards although not identical,
- (iii) Replacement of devices or materials no longer regularly manufactured with next highest grade or size,
- (iv) Required by law under governmental and appropriate regulatory commission code, or
- (v) Required by current design practices regularly followed by the company in its own work, and there is a direct benefit to the highway project.

(4) When the facilities, including equipment and operating facilities, described in §645.117(h)(2) are not being replaced, but are being rehabilitated and/or moved, as necessitated by the

highway project, no credit for accrued depreciation is needed.

(5) In no event will the total of all credits required under the provisions of this regulation exceed the total costs of adjustment exclusive of the cost of additions or improvements necessitated by the highway construction.

(i) *Billings.* (1) After the executed TD/utility agreement has been approved by the FHWA, the utility may be reimbursed through the STD by progress billings for costs incurred. Cost for materials stockpiled at the project site or specifically purchased and delivered to the utility for use on the project may also be reimbursed on progress billings following approval of the executed TD/utility agreement.

(2) The utility shall provide one final and complete billing of all costs incurred, or of the agreed-to lump-sum, within one year following completion of the utility relocation work, otherwise previous payments to the utility may be considered final, except as agreed to between the STD and the utility. Billings received from utilities more than one year following completion of the utility relocation work may be paid if the STD so desires, and Federal-aid highway funds may participate in these payments.

(3) All utility cost records and accounts relating to the project are subject to audit by representatives of the State and Federal Government for a period of 3 years from the date final payment has been received by the utility.

(Information collection requirements in paragraph (i) were approved by the Office of Management and Budget under control number 2125-0159)

[50 FR 20345, May 15, 1985, as amended at 60 FR 34850, July 5, 1995; 65 FR 70311, Nov. 22, 2000]

§ 645.119 Alternate procedure.

(a) This alternate procedure is provided to simplify the processing of utility relocations or adjustments under the provisions of this regulation. Under this procedure, except as otherwise provided in paragraph (b) of this section, the STD is to act in the relative position of the FHWA for reviewing and approving the arrangements, fees, estimates, plans, agreements, and

other related matters required by this regulation as prerequisites for authorizing the utility to proceed with and complete the work.

(b) The scope of the STD's approval authority under the alternate procedure includes all actions necessary to advance and complete all types of utility work under the provisions of this regulation except in the following instances:

(1) Utility relocations and adjustments involving major transfer, production, and storage facilities such as generating plants, power feed stations, pumping stations and reservoirs.

(2) Utility relocations falling within the scope of § 645.113 (h), (i), and (j), and § 645.107(i) of this regulation.

(c) To adopt the alternate procedure, the STD must file a formal application for approval by the FHWA. The application must include the following:

(1) The STD's written policies and procedures for administering and processing Federal-aid utility adjustments. Those policies and procedures must make adequate provisions with respect to the following:

(i) Compliance with the requirements of this regulation, except as otherwise provided by § 645.119(b), and the provisions of 23 CFR part 645, subpart B, Accommodation of Utilities.

(ii) Advance utility liaison, planning, and coordination measures for providing adequate lead time and early scheduling of utility relocation to minimize interference with the planned highway construction.

(iii) Appropriate administrative, legal, and engineering review and coordination procedures as needed to establish the legal basis of the TD's payment; the extent of eligibility of the work under State and Federal laws and regulations; the more restrictive payment standards under § 645.103(d) of this regulation; the necessity of the proposed utility work and its compatibility with proposed highway improvements; and the uniform treatment of all utility matters and actions, consistent with sound management practices.

(iv) Documentation of actions taken in compliance with STD policies and the provisions of this regulation, shall be retained by the STD.

(2) A statement signed by the chief administrative officer of the STD certifying that:

(i) Federal-aid utility relocations will be processed in accordance with the applicable provisions of this regulation, and the STD's utility policies and procedures submitted under § 645.119(c)(1).

(ii) Reimbursement will be requested only for those costs properly attributable to the proposed highway construction and eligible for participation under the provisions of this regulation.

(d) The STD's application and any changes to it will be submitted to the FHWA for review and approval.

(e) After the alternate procedure has been approved, the FHWA may authorize the STD to proceed with utility relocation on a project in accordance with the certification, subject to the following conditions:

(1) The utility work must be included in an approved program.

(2) The STD must submit a request in writing for such authorization. The request shall include a list of the utility relocations to be processed under the alternate procedure, along with the best available estimate of the total costs involved.

(f) The FHWA may suspend approval of the alternate procedure when any FHWA review discloses noncompliance with the certification. Federal funds will not participate in relocation costs incurred that do not comply with the requirements under § 645.119(c)(1).

(Information collection requirements in paragraph (c) were approved by the Office of Management and Budget under control number 2125-0533)

[50 FR 20345, May 15, 1985, as amended at 65 FR 70311, Nov. 22, 2000]

Subpart B—Accommodation of Utilities

SOURCE: 50 FR 20354, May 15, 1985, unless otherwise noted.

§ 645.201 Purpose.

To prescribe policies and procedures for accommodating utility facilities and private lines on the right-of-way of Federal-aid or direct Federal highway projects.