

The following Implementation Memo is supplemental to *NCHRP Research Report 1053: Valuation and Compensation Approaches in Utility Accommodation: A Guide* (NCHRP Project 15-70, “Valuation and Compensation for Accommodating Utility and Communications Installations in Public Rights-of-Way”). The full report can be found by searching on the report title on the National Academies Press website (nap.nationalacademies.org).

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NCHRP Project 15-70

Valuation and Compensation for Accommodating Utility and Communications Installations in Public Rights-of-Way

Implementation of Research Findings and Products

Prepared for
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NCRHP Project 15-70, “Valuation and Compensation for Accommodating Utility and Communications Installations in Public Rights-of-Way”

Implementation Tech Brief

Introduction

The research effort of NCRHP Project 15-70, “Valuation and Compensation for Accommodating Utility and Communications Installations in Public Rights-of-Way,” included the preparation of a guide. This project involved a literature review; policy, legislation, and regulation review; a survey; subject matter expert (SME) interviews for case examples; and analyses to present valuation and compensation approaches for the accommodation of utility and communication installations on public rights-of-way (ROW).

This research highlighted the vast multitude of valuation and compensation approaches currently in use by state departments of transportation (DOTs) for the accommodation of utilities and telecommunication infrastructure in public rights-of-way. The intent of this document is to provide a guide to DOTs regarding the selection and use of valuation and compensation approaches for the accommodation of utilities on public ROW. The guide entails the use of information as collected through NCHRP Project 15-70, “Valuation and Compensation for Accommodating Utility and Communications Installations in Public Rights-of-Way.”

Research Objectives

In this research, information about compensation approaches for utility accommodation on public ROW was gathered from reviewed relevant literature, legislation, regulations, and highway agency policy manuals, reviewed published articles, consultancy reports, documented research, and other sources of publicly available information, and discussed current practices for the valuation and establish fees to utility and communication installations on public roads. The research summarized the current practices of state DOTs on how to evaluate and charge for the accommodation of utility and communication installations on public ROW.

The objectives of this research were to:

1. Identify best practices and prepare guidelines for state departments of transportation (DOTs) on how to evaluate and charge for the accommodation of utility and communication installations on public rights-of-way (ROW), and
2. Prepare guidance for:
 - a. Fee approaches in comparing fees, leasing, and in-kind trading used by other DOTs;
 - b. Setting fees through analyzing fee structures used by other DOTs and standardizing and normalizing these fees with an explanation for the variation among the fees, valuation methods, and other factors;

- c. Providing DOTs a decision-support framework inclusive of the means and approaches necessary to execute a fee or leasing schedule for occupancy both for general utilities and for telecommunications facilities; and
- d. Identifying and supporting policy or legislation needs stemming from the DOT's decision to execute a fee or leasing structure.

Findings & Products

The research determined that most state DOTs (44 states) value ROW to accommodate utilities based on DOT costs. In more than half of the states, utilities are accommodated on the ROWs by valuing the adjacent land (16 states) and doing market research (13 states), whereas six states (12%) do not use any kind of valuation method. State DOTs typically set fees based on the typical administrative cost of permit processing, review, and inspection. Also, historical and market-driven values have been used to set fees, such as supply-demand, across the fence property valuation comparisons, and AADT. They are also typically inflated or adjusted in some manner (e.g., value of single-owner, unencumbered, continuous longitudinal parcel). There are, however, other types of permits, such as small cells and longitudinal use of Limited Access ROWs, which are prescribed by legislation (FCC ruling, etc.). These approaches were discussed in state DOT interviews. It was often found that the details of the valuation approaches were lost over time.

This research aims to identify best practices, understand current practices, and develop guidelines and a decision support framework for DOTs regarding valuation and compensation approaches for accommodating utility and communication installations on public ROW.

A decision support tool and guidance are presented to assist DOTs in valuing and compensating for utility and communication installations in public rights of way. The guidance provides state DOTs with the means and approaches needed to execute a fee or leasing schedule for general utilities and telecommunications facilities. The decision-support tool will guide users through the valuation and compensation decisions for accommodating utilities and communications on public rights-of-way. As part of the study, a framework was identified through various sources, including feedback from the study survey and case studies (see Appendix A for the framework).

This framework categorizes each state's DOT policy following database logic, enabling a query approach to identify states that have specific policies and approaches of interest. It is divided into two parts: the first part describes the current state of DOT practices, and the second part describes the tool for decision support. In the categorization section, state DOTs are divided into three groups based on status of revenue, revenue neutral, and non-revenue generating. This categorization mechanism is based on the collected data from states' policies and legislation. Under each state, the collected information includes documentation of state policies, manuals, laws, legislation, and regulations, a summary of these policies and legislation, and the accommodation fee structure as applied to different types of utility providers.

Arranged by utility types, the second part of guidance includes general permits and attachments to structures, telecommunication facilities (cell towers, small wireless facilities, and broadband/fiber optics), electric lines, gas pipelines, and water lines, in addition, to railroad ROW. Detailed information is provided about the state's fee structure with an explanation for the variation among

the fees, valuation methods, and compensation approaches for all associated fees charged by the state DOTs to utility providers.

Implementation of Research Findings and Products

(a) Research to Practice

These research findings and products developed through this effort are practice-ready and have been used in decision-making by state DOTs. The products inform state DOT staff who are responsible for decision-making in regard to utility accommodation valuation and compensation approaches. Providing the approaches of other DOTs promotes effective practice and idea exchange. To see this research impact practice largely requires outreach to state DOTs so that they are aware that the research and products are available.

(b) Implementation Champions

The research team anticipates presenting the finalized research to the American Association of State Highway and Transportation Officials (AASHTO) Committee on Right of Way, Utilities and Outdoor Advertising Control (CRUO). The group maintains a strong community and regularly shares insight and effective practices. The AASHTO CRUO will be the lead institution for promoting this work.

(c) Possible Implementation Barriers

The most apparent barrier to the implementation of this research is related to legislation and policies. This makes the guide's collection of legislation, regulation, and policy instrumental to the success of implementing the research. By providing linkages to the legislation of states who have already implemented valuation and compensation approaches, states seeking to do so can determine the legislation changes they must make to implement the research.

(d) Recommended Methods for Measuring Impact

The recommended method for measuring the impact of this research is to review individual states who use it to implement fee structures for utility accommodations.

Conclusions

As previously noted, state practices for utility compensation on the rights-of-way vary widely across the country, and there is no one, best approach that works everywhere. In fact, within one state DOT, a variety of approaches can be used to value and determine accommodation fees. These variations point to a larger problem in there being no standard approach to valuation of ROW used to accommodate utility installations. This study assists in this regard with the developed framework based on what other states have done and organizes a complex array of information. This information will be needed for states seeking to change accommodation processes and fees since stakeholders among utility commissions, multiple DOT offices, and sometimes offices outside the DOT will be involved. Thus, for the state DOT to evaluate utility accommodation, it is necessary to have a systematic approach with sound information. This research not only highlighted utility compensation criteria but also assembled the approaches used by DOTs to accommodate various utilities. These approaches were organized in a meaningful and useful way state DOTs can adapt existing objective-based approaches. This is

true for identifying valuation of rights-of-way methods and how states should consider setting fees based on their goals.

These fee guidelines include approaches to compare fees, leasing, and in-kind trading used by other DOTs, guidance for setting fees through analyzing fee structures used by other DOTs, and standardizing and normalizing these fees (with explanation for the variation among the fees, valuation methods, and other factors). The decision-support framework includes information to consider when developing a fee or leasing schedule for occupancy for telecommunications facilities and to the extent feasible, general utilities.