


TO:		ENGINEERING INSTRUCTION	
SUPERSEDED BY EB 98-045		NEW YORK STATE DEPARTMENT OF TRANSPORTATION	
EFFECTIVE 12/1/98		SUBJECT: NECESSARY OVERHEAD CHARGES FOR UTILITY WORK INCLUDED IN A STATE CONSTRUCTION PROJECT ON BEHALF OF AND AT THE EXPENSE OF THE UTILITY OWNER Subject Code: 7.26-2	
Distribution:		Code: EI 89-27	
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APPROVED:		EI 87-34	
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The purpose of this Engineering Instruction is to revise EI 87-34. This revision is a result of our concurrence with an FHWA audit regarding overhead costs owed the State for utility betterment work included in a State's contract.

For purposes of this EI, a "betterment" shall mean any additional work performed by the State on behalf of, at the request of, and at the expense of a utility owner.

Engineering Instruction 75-13 and Chapter 21 of the Highway Design Manual require that overhead costs for any utility betterments incorporated in a DOT highway contract be included in the utility owner's reimbursement to the Department. Replacement in kind for public utilities is not a betterment and does not require these overhead charges. The purpose of this EI is to clarify the items to be included as necessary overhead costs assigned to the betterment share.

Mobilization, Engineer's Office, Maintenance and Protection of Traffic and Survey & Stakeout shall be included in the summary of fiscal shares for each utility owner requesting a betterment. This shall apply whether the betterment is by bid items, lump sum fixed price item(s), or a combination of both. Lump sum fixed priced items should not include these overhead costs. These costs shall be included in the betterment share for each utility owner, under their respective items.

The Utility Work Agreement (HC140) must include the total cost of the estimated betterment item(s), plus necessary overhead costs. The amount of the Agreement shall be the total of these two, plus a 15% additive for engineering and contingencies (D. Egan's memo 6/16/86).

The following guidelines shall apply to overhead charges:

- 1) Mobilization shall always be added. It will be computed by multiplying the total betterment share by the contract mobilization factor (usually a straight 4%).

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- 2) Engineer's Office will always be added. The cost shall be prorated as explained in 4.
- 3) Judgment must be made to determine whether Maintenance & Protection of Traffic and Survey & Stakeout are to be included as overhead costs. The judgement should be based on the direct need for that item to complete the betterment work. It shall be explained and included in the documents sent to the Main Office Utility Section with the HC140. For example:
 - It would be reasonable to assume that installation of a utility on a new bridge would require no additional Maintenance & Protection of Traffic (M&PT).
 - A new water main not previously existing, and outside of any proposed excavation for other purposes may require additional M&PT as well as Survey & Stakeout.
 - Installation of a utility on a bridge rehab may require additional M&P if the utility work is not completed within the timeframe of the rehab work.
- 4) The utility owner's share for Maintenance & Protection of Traffic and Survey & Stakeout shall be computed by multiplying the estimated dollar amount for each item by the utility's prorated percent (total share cost divided by the total project cost.)

The Design Engineer and the Regional Utility Engineer shall concur on the total costs due the Department. The dollar amount of the Utility Work Agreement must be 115% of the estimated betterment share submitted with the PS&E. Note that these amounts are estimates only. Adjustments for actual bids will be made later by the Main Office Accounting and Fiscal Services Bureau.

Overhead costs for any individual overhead item need not be included if it totals less than \$200.00.

The Regional Utility Engineer shall submit the following with the HC140 to the Main Office Utility Section: Appropriate pages of the plans and specifications; detailed estimate of the betterment; tabulation of the betterment share; overhead costs and rationale for exclusion of overhead costs.