



TxDOT ROW UTILITY WEEK

THE POWER OF YOU - Delivering Right-Of-Way Solutions to Texas

State Participation 2125 (SP2125) Program

Utility Portfolio Section, Right of Way Division

Track 3 Session 1

Day 2 - 12/13/2023





Mrs. Clark is the Lead Utility Specialist for the Texas Department of Transportation, in the ROW Division. At the beginning of her career in 1992, Corinna was in general administration and construction record keeping before becoming a design technician for 9 years designing plans, specifications, and cost estimates for highway construction, maintenance, and railroad projects. The next 14 years have been involved primarily with utilities, driveways, developing plans, inspection, contract management, and districtwide utility installation request system management as she developed a comprehensive understanding of utility regulations and compliance requirements. This led to the District Utility Coordinator position. After many years in the Paris District, she joined the ROW Division as a Utility Specialist in 2020 leading many projects and ideas to improve the program and its practices. As the Utility Specialist Lead, Corinna's goals are to provide quality guidance and help develop a successful and effective utility relocation program within the State of Texas.



SP2125



Table of contents



1	Background	4-7	6	Summary	21-23
2	Eligibility	8-11	7	Information	24-25
3	Stakeholders	12-13	8	Contact Information	26-27
4	Process	14-15			
5	Form ROW-U-SP2125	16-20			



Background





- **Texas Senate Bill 1512-**
 - 86th Legislature Session, May 28, 2019
 - Added subsections (a-4) and (e) to Section 203.092, Transportation Code
 - “a utility shall make a relocation of a utility facility required by improvement of the state highway system at the expense of this state if the commission determines that.....”
 - A program for utility reimbursement, \$10M a fiscal year (FY)





- **Texas Administrative Code (TAC)**
 - Title 43, Texas Administrative Code, Part 1, Chapter 21, Subchapter B
 - New §21.25: State Participation in the Relocation of Certain Publicly-Owned Utility
 - Also known as “SP2125”
- **Texas Senate Bill 2601-**
 - Passed June 18, 2023
 - Amended: (1) the utility is a political subdivision, is owned or operated by a political subdivision, or is a water supply or sewer service corporation organized and operating under Chapter 67, Water Code





TAC §21.25

(f) Because of the fiscal constraint provided under Transportation Code, Section 203.092(e), the department:

- (1) may prioritize the utility requests based on the needs of the department, including the construction schedules of the projects requiring relocation of utility facilities;
- (2) may delay until the next fiscal year the payment of all or part of a claim made by a utility if at the time the claim is received by the department, the payment is prohibited by Section 203.092(e); and
- (3) will not pay a claim for payment that is received by the department later than one year after the date that the relocation of the utility facility is completed.





Eligibility





1) Payment for all or a part of the relocation of the utility facility would not cause the department to exceed \$10 million for the relocation of utilities authorized under Section 203.092(a-4) in any fiscal year;

- AND -

2) Utility is a Political Subdivision is owned or operated by a Political Subdivision, or is a water supply or sewer service corporation organized and operating under Chapter 67, Water Code;

- AND -

3) A financial condition would prevent the utility from being able to pay the cost in full or in part, if paid at that time, the payment would adversely affect the utility's ability to operate or provide essential services to its customers;

- AND -

4A) The utility would not be able to receive a state infrastructure bank loan to finance the cost of the relocation and is otherwise unable to finance that cost.

- OR -

4B) The utility is owned or operated by a political subdivision, that has a population of less than 5,000 and is located in a county that has been included in at least five presidential disaster declarations in the six-year period preceding the proposed date of the relocation.



Government Code 2254.021, "Political subdivision" means

- A. a county;
- B. an incorporated or unincorporated municipality;
- C. a public junior college;
- D. a public school district or other educational or rehabilitative district;
- E. a metropolitan or regional transit authority;
- F. an airport authority;
- G. a river authority or compact;
- H. a regional planning commission, a council of governments, or a similar regional planning agency created under Chapter 391, Local Government Code;
- I. the Edwards Aquifer Authority or a district governed by Title 4, Water Code;



- J. a soil and water conservation district;
- K. a county or municipal improvement district;
- L. a county road or road utility district;
- M. a county housing authority;
- N. an emergency services or communications district;
- O. a fire prevention district;
- P. a public health or hospital authority or district;
- Q. a mosquito control district;
- R. a special waste district;
- S. a rural rail transportation district; or
- T. any other local government or special district of this state.





Stakeholders

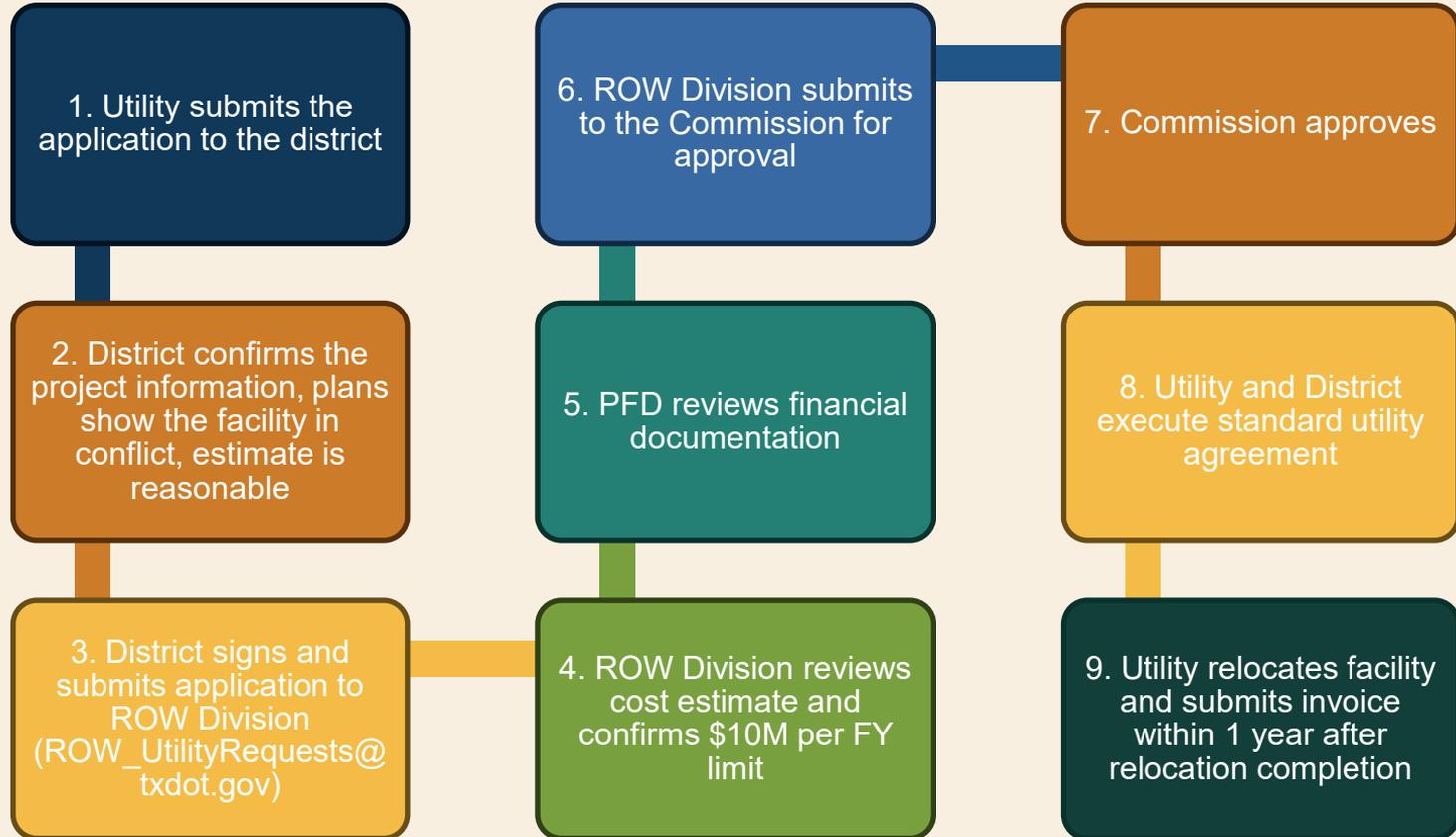






Process







Form ROW-U-SP2125





**Application for State Participation in the Relocation
of Certain Publicly-Owned Utility Facilities**

Form ROW-0-SP2125
(Rev. 06/23)
Page 1 of 4

SECTION I - Applicant Information

Applicant Name: _____ Taxpayer FEIN: _____
 Primary Contact: _____ Contact's Title: _____
 Street Address: _____ Phone Number: _____
 City, State, Zip: _____ Fax Number: _____
 Email Address: _____

Financial Advisor Information, if applicable:
 Name: _____ Phone: _____
 Address: _____ Email: _____

Bond Counsel Information, if applicable:
 Name: _____ Phone: _____
 Address: _____ Email: _____

SECTION II - Financial Information

Requested Amount of Financial Assistance: **A** _____
 Total Cost of Utility Adjustment: **B** _____ Estimated eligibility ratio: **C** _____
 Provide the applicant's Legal Authority to apply for the funding reimbursement: **D** _____

SECTION III - Project Information

TxDOT District/Division: _____
 TxDOT District Engineer/Contact Name: _____
 Brief Description of the Use of funds: _____
E _____
F _____
 What type of construction contract are you planning to use on the project?
 Estimated Utility Construction Begin Date: _____ Completion Date: _____
 Use of funds (Check all that apply): **G**
 Engineering Utility Relocation Utility Inspection Joint Bid Design Joint Bid Construction

Utility ID#: _____ District: _____
 Utility Name: _____
 ROW CSJ No.: _____ Construction CSJ: _____
 Highway No.: _____ County: _____ Let Date: _____
 Project Limits (include station numbers): _____

Complete "Applicant Information"

District Information

Estimated construction dates

Project Information

- A. Cost amount to be included in the SP2125 program (non-compensable portion)
- B. Total relocation cost
- C. Estimated eligibility ratio
- D. Legal authority to apply (*Political Subdivision, owned or operated by a Political Subdivision, water supply or sewer service corporation organized and operating under Chapter 67, Water Code*)
- E. What will the funds be used for?
- F. What type of construction contract will be used? (bid, continuing contract, utility owner forces, joint bid with the highway contract)
- G. Use of funds: Select all that apply



Form ROW-0-SP2125 (Rev. 06/23)
Page 2 of 4

Relocation Estimate Breakdown

Engineering	\$0.00	A	Engineering Percentage of Total Adjustment Cost
Construction	\$0.00		
Materials	\$0.00		
Easements	\$0.00		
Inspection	\$0.00		
Total Adjustment Costs	\$0.00	A	
Betterment	\$0.00	A	0 %
Estimated Eligibility Ratio	\$0.00	A	0 %
Estimated Amount of Utility Cost Participation		A	
Amount Requested of State Participation 2125 (Total Adjustment Costs minus Estimated Eligibility Ratio)	\$0.00		

A. Engineering percentage will be auto-calculated

Enter the amounts in the blue boxes

eligibility and betterment ratio

A. These will be auto-calculated

B. Select the correct boxes to indicate qualification. (continued page 3)

C. Provide an explanation as to how you meet this requirement.

Section IV - Qualifications

To request relocation reimbursement, the utility must make a written request to the department and submit:

- (1) documentation that the utility, because of an existing financial condition, would be unable to pay the cost of relocation in full or in part at the time of relocation or that the utility's ability to operate or provide essential services to its customers would be adversely affected by such a payment made at that time; and
- (2) documentation:
 - (A) on the utility's ability to obtain a state infrastructure bank loan under Texas Administrative Code (TAC) §8.11 (relating to State Infrastructure Bank) and its ability to obtain other financings for the relocation, including relevant financial information described in §8.23 of this title (relating to Application Procedure); or
 - (B) that the utility is a political subdivision, or owned or operated by a political subdivision, that has a population of less than 5,000 and is located within a county that has been included in at least five disaster declarations made by the president of the United States of America in the six-year period preceding the proposed date of the relocation; or
 - (C) is a water supply, or sewer service corporation organized and operating under Chapter 87, Water Code.
- (3) any other information or documentation requested by the department.

B

1) Payment for all or a part of the relocation of the utility from the State Infrastructure Bank is less than \$10 million for the relocation of utilities authorized under Section 203.082(a-4) in any law.

AND

B

2) Utility is a Political Subdivision or owned by a Political Subdivision or is a water supply, or sewer service corporation organized and operating under Chapter 87, Water Code.

Explanation:

C

AND



Form ROW-9-SP2125 (Rev. 06/23)
Page 3 of 4

3) A financial condition would prevent the utility from being able to pay the cost in full or in part, and the payment would adversely affect the utility's ability to operate or provide essential services to its customers.

Explanation:

C

AND

4A) The utility would not be able to receive a state infrastructure bank loan to finance the cost of the relocation and is otherwise unable to finance that cost.

Explanation:

C

OR

4B) The utility is owned or operated by a political subdivision, that has a population of less than 5,000 and that is located in a county that has been included in at least five presidential disaster declarations in the six-year period preceding the proposed date of the relocation.

Explanation:

C

#	Declaration ID	Year
1		
2		
3		
4		
5		

B. Select the correct boxes to indicate qualification.

C. Provide an explanation as to how you meet this requirement.

List the Disaster Declarations here.

D. Select items that are provided, list debts, list other financial agreements within this section.

SECTION V - Required Documentation

Please check off each section once completed/addressed.

- Submit a preliminary cost estimate of the relocation reviewed by the TxDOT District. The preliminary cost estimate should be broken down by unit price, units, and quantities.
- Submit a set of plans and/or map layout to indicate the location of the project and the existing facility in conflict.
- List all outstanding existing debt payable from all revenue sources (Please attach documentation.)
- List of all other outstanding financial agreements with TXDOT, for example, SIB loans, advance funding agreements, pass-through tolls, and right-of-way agreements.
- Please attach bond rating letters from Moody's, Standard & Poor's, or Fitch, if any. Submit a resolution from governing board authorizing the application.
- Submit a financial feasibility study. (A financial feasibility study should, at minimum, include an analysis of the entity's current and future financial condition and how the proposed relocation cost or anticipated debt service cost of a SIB loan would affect the entity's financial condition.)
- Submit 5 years of audited financial statements related to the source of repayment. If the files are located online, provide the link in place of the actual files. Submit a copy of the most recent budget.



Form ROW-U-SP2125 (Rev. 04/23)
Page 4 of 4

Section VI - Acknowledgment and Certification

I have completed the preliminary requirements as specified by the Texas Administrative Code Title 43, Part 1, Chapter 21, Subchapter B, Rule 21.25; State Participation in the Relocation of Certain Publicly-Owned Utility Facilities, and will comply with all applicable state and federal regulations and requirements.

To the best of my knowledge, all information contained in this application is valid and accurate and the governing body of the undersigned jurisdiction has authorized the submission of this application.

Signature of authorized official _____ Date _____
Printed Name _____ Title, Jurisdiction _____

The Texas Department of Transportation maintains the information collected through this form. With few exceptions, you are entitled on request to be informed about the information that we collect about you. Under Sections 552.021 and 552.023 of the Government Code, you also are entitled to receive and review this information. Under section 559.004 of the Government Code, you are also entitled to have us correct information about you that is incorrect.

District Only

Reviewer Name: _____ Cost estimate and plans reviewed: Yes No
District Recommends Approval: Yes No

Comments: _____

ROW Division Only

Reviewer Name: _____
ROW Division Recommends Approval: Yes No N/A

Comments: _____

PFD Division Only

Reviewer Name: _____ Recommended Approval Amount: _____
Does Utility Qualify for the SIB Loan? Yes No N/A
The utility has shown financial conditions would affect paying for this relocation. Yes No N/A

Comments: _____

Utility Owner to sign, date, print name, state title

District to sign, check appropriate boxes, and provide comments to their review.

ROW Division to sign, enter the SP2125 amount, check the appropriate box, and provide comments for their review.

PFD Division to sign, check the appropriate box, and provide comments to their review.



Summary





- SP2125 program refers to the TAC Rule 21.25 enacted by Senate Bill 1512, amended by Senate Bill 2601
- Financial Hardship: SP2125 program
 1. A type of reimbursement program for financial hardship situations
 2. Partial or no Compensable Interest
- Utilities submit an application through the Districts
- Funding availability is contingent on remaining capacity per FY
- Utility has 1 year to submit billing after the relocation completion date

S U M M A R Y



- SP2125 application review is not a SIB application, but an analysis of how/if a SIB loan can be received based on the financials of the applicant.
- SP2125 Program is to help with “financial hardships”
- If the financial review determines the entity can receive a SIB loan, PFD can assist with the SIB loan application process.



Information





1

Information in the Utility Accommodation Toolkit:

<https://www.txdot.gov/business/resources/utility-accommodations/forms-publications.html>

2

Next call for projects:
March 2024
July 2024



Contact Information





Contact us if you need assistance,
we're here to help!

ROW_UtilityRequests@txdot.gov

- ❖ Wayne Robinson, Utility Portfolio Section Director - Wayne.Robinson@txdot.gov
- ❖ Corinna Clark, Lead Utility Specialist - Corinna.Clark@txdot.gov
- ❖ Chrissy Melder, Utility Specialist - Christina.Melder@txdot.gov
- ❖ Hazel Zepeda, Utility Specialist - Hazel.Zepeda@txdot.gov
- ❖ Juan Barron, Utility Specialist - Juan.Barron@txdot.gov
- ❖ Leo Tovar, Utility Specialist - Leonel.Tovar@txdot.gov
- ❖ Paul Fierro, Utility Specialist - Paul.Fierro@txdot.gov





Thank You!



We will Resume
at 2:30 PM