

Approved:



Department of Transportation

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Office: Comptroller

Topic No: 350-020-305-h

PARTIAL UTILITY REFUND / TENTATIVE ACCEPTANCE AGREEMENT

AUTHORITY:

Sections 20.23(3)(a) and 334.048(3), Florida Statutes

STATEMENT OF POLICY:

This procedure establishes the review and approval process of a ***Tentative Acceptance Agreement*** to refund a Utility Agency Owner (UAO) for an overestimated deposit for a utility project.

SCOPE:

This procedure is applicable to Construction Offices, Estimates Offices and the Office of Comptroller, General Accounting Office (OOC-GAO). These offices are charged with the responsibility of documenting and verifying tentative final pay quantities related to the utility project and processing appropriate documentation to refund any excess funds on deposit from the UAO.

REFERENCES:

Sections 339.135(6)(a) and 337.403, Florida Statutes

Procedure No. 350-020-300, Locally Funded Agreements Financial Provisions and Processing

Topic No. 700-000-000, Construction Project Administration Manual (CPAM)

Topic No. 700-050-005, Review and Administration Manual

ABBREVIATIONS:

CEA: Construction, Engineering and Administration

DUO: District Utility Office

LFA: Locally Funded Agreement

MOB: Mobilization

MOT: Maintenance of Traffic

OOC-GAO: Office of Comptroller, General Accounting Office

TAA: Tentative Acceptance Agreement

UAO: Utility Agency Owner

Allowances: Includes CEA, MOB, and MOT

BACKGROUND:

In order to expedite roadway construction projects, the Department may let utility projects within its contract. The UAO's are required to deposit their share of the estimated cost of doing the utility work by the Department's contractor with the Department prior to awarding the construction contract. Historically, refunds of any excess deposit (deposited amount less recorded costs of the utility work including allowances) to the UAO did not usually occur until completion of the entire construction contract (longer in duration than the time required for the utility work). This procedure establishes the steps which will allow the partial refund of the UAO's portion of any excess deposit before completion of the entire construction contract.

PROCEDURE:

The following steps must be followed to complete the ***Tentative Acceptance Agreement Utility Installation by DOT Contractor (TAA), Form No. 350-020-04***. If any of the Department offices noted below do not approve and sign the ***TAA***, for any reason, no refund will be processed. The disapproving office will document on the agreement, "NOT APPROVED" by the appropriate signature block and will forward the disapproved agreement to the Department's DUO, along with an explanation. The DUO will send a copy to the UAO, OOC-GAO LFA Section, keep a copy for their records (if desired) and will forward the original to the Construction Office.

1. UTILITY AGENCY OWNER (UAO)

Ninety (90) days or more after completion and the UAO's acceptance of the utility work, the UAO may request a refund of a portion of the excess deposit from the Department. The UAO is responsible for initiating the process by requesting an account analysis from the OOC-GAO LFA Section and then completing and signing the **TAA**. The UAO is to send the form with a cover letter to the Department's DUO and a copy to the Project Engineer and the OOC-GAO LFA Section. The cover letter will include the following information relative to the request:

Amounts Deposited:	
Deposits	\$ _____
Interest earned to date (if applicable)	\$ _____
Total funds available:	\$ _____
Deductions:	
Costs incurred to date (Includes allowances)	\$ _____
Cost contingency (10% of costs incurred to date)	\$ _____
Unresolved claims	\$ _____
Total deductions	\$ _____
Amount that may be refunded:	\$ _____

Note: The OOC-GAO LFA Section will add any eligible interest earned on the account, if applicable, to the refund amount.

2. DISTRICT UTILITY OFFICE (DUO) AND DEPARTMENT'S PROJECT ENGINEER

Upon completion and acceptance of the Utility work as called for in the Utility agreement, the Department's DUO will determine if the tentative final cost to the UAO is less than the advanced payment on deposit with the Department. If the cost is determined to be less than the deposit, a portion of the excess deposit may be refunded to the UAO prior to final payment to the Department's Construction Contractor. The DUO will then forward the **TAA** to the Department's Project Engineer. The Project Engineer must verify the quantities and ensure all unresolved claims and all outstanding supplemental agreements are listed on the UAO's transmittal letter. After quantities are verified, the Project Engineer will sign the **TAA** that was received from the DUO and forward the **TAA** and a copy of the utility agreement with all supporting documentation as called for in the **Construction Project Administration Manual (CPAM) No. 700-000-000**, to the Department's District Final Estimates Engineer for review and approval.

3. DEPARTMENT'S DISTRICT FINAL ESTIMATES ENGINEER

After the receipt of all necessary documentation, an audit will be performed by the District Final Estimates Engineer in accordance with the ***Review and Administration Manual, Topic No. 700-050-005***. After quantities and prices are verified, if approved, the Department's District Final Estimates Engineer will sign the **TAA** and forward the agreement and a copy of the latest tentative monthly estimate to the Department's DUO.

4. DISTRICT UTILITY OFFICE (DUO)

Upon completion of the above, the Department's DUO must review all documentation again to ensure that nothing has changed pertaining to the account. If the DUO concurs, the DUO will forward the original **TAA**, the UAO's cover letter, and a copy of the tentative monthly estimate to the OOC-GAO LFA Section for review and approval.

5. OFFICE OF COMPTROLLER (OOC)

The OOC-GAO LFA Section will review all supporting documentation and submit the information including the **TAA** to the Comptroller or designee for approval. The UAO may be refunded the total amount of deposits less appropriate deductions. Appropriate deductions are the tentative total amount of costs incurred to date plus ten percent (10%) of that amount. Below is an example of how the refund amount due to the participant is determined:

Amounts Deposited:	
(\$100,000 estimate plus 10% contingency, plus additional deposits, if any)	\$110,000
Interest earned to date * (if applicable)	<u>1,750</u>
Total funds available:	\$111,750
Deductions:	
Costs incurred to date (project cost plus allowances)	\$90,000
Cost contingency (10% of costs incurred to date)	9,000
Unresolved claims	<u>0</u>
Total deductions	<u>99,000</u>
Amount that may be refunded:	\$12,750

*Eligibility for earning interest is described in ***Procedure No. 350-020-300, Locally Funded Agreements Financial Provisions and Processes***. The Department's Comptroller or designee will make a determination of whether to approve the partial refund. The determination will be based on the following:

- Amounts due from the UAO on other projects with the Department

- Percentage of completion of the utility project
- Outstanding supplemental agreements related to the utility project
- Amount on deposit with the Department
- Unresolved claims on this project

After the Department's Comptroller or designee has verified the items above, the Comptroller or designee may approve the refund. If approved, the Department's Comptroller or designee will sign the **TAA** and process the refund. In addition, the OOC-GAO LFA Section will notify all the parties involved via email when the refund has been processed.

If the amount of the approved refund is different than the amount listed on the **TAA**, an explanation of the difference will be noted on the agreement. If not approved, the OOC-GAO LFA Section will forward a letter to the UAO with an explanation for the disapproval. All Department offices that had previously approved the **TAA** and the District Utility Office will be copied on any of the above noted responses.

6. TRAINING

Training will be provided as needed, or as requested.

7. FORMS

The following form is available from the Department's Forms Library:

Form No. 350-020-04, Tentative Acceptance Agreement, Utility Installation by DOT Contractor