



Canadian
Transportation
Agency

Office
des transports
du Canada

Apportionment of Costs of Grade Separations

A Resource Tool



Making Transportation Efficient and Accessible for All

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Canada 

This document and other Canadian Transportation Agency publications are available on our Web site at **www.cta.gc.ca**.

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Introduction

Under the [Canada Transportation Act](#), the Canadian Transportation Agency is responsible for making cost apportionment decisions concerning the construction and reconstruction of grade separations (structures that allow railway and road traffic to cross each other at different elevations), when the parties involved in the project are unable to reach an agreement. The Agency uses this tool in its deliberations for any such decision it is requested to make. It is also designed to assist parties in their negotiations or in the preparation of their submissions to the Agency.

The resource tool considers, among other things, the benefits accruing to each party for the construction and reconstruction of grade separations as well as the responsibility that each party has, as an essential part of Canada's transportation system, to co-exist at crossings.

Consistent with [section 101 of the Act](#), the Agency expects the parties involved in a grade separation project to attempt to come to an agreement on all issues related to the project, including apportionment of costs. Once an agreement has been reached, either party can file that agreement with the Agency. The filed agreement becomes an order of the Agency authorizing the parties to construct and/or maintain the grade separation and apportion the costs, as set out in the agreement.

If the parties cannot agree, the Agency will rule on any outstanding issues. This ruling is based on submissions to the Agency from the parties. A submission can address any of the items outlined in this tool as well as any other relevant matter.

Every case is assessed on its own merits to determine to what extent the tool applies. It should be emphasized that the Agency retains complete discretion, in the case of a dispute, to apportion costs for grade separations. Agency decisions may vary from the resource tool for a particular grade separation project, if appropriate in the circumstances.

Definitions

- *road*: any way or course, whether public or not, available for vehicular or pedestrian use.
- *road crossing*: the part of a road that passes across, over or under a railway line, and includes a structure supporting or protecting that part of the road or facilitating the crossing.
- *established road crossing*: normally one that has been in existence for public use for at least three years.
- *grade separation*: a structure, including its approaches, that allows road and railway traffic to cross each other at different elevations.
- *basic grade separation*: that portion of the work that is required to provide adequate facilities for present-day needs at the time of construction or reconstruction of the grade separation.

- *overhead bridge*: a grade separation that carries a road across and over a railway.
- *subway*: a grade separation that carries a railway across and over a road.
- *road authority*: any authority having jurisdiction to construct and maintain a road.
- *railway company*: a railway company subject to the jurisdiction of the Agency.

Apportionment of costs

The costs of construction and maintenance of a basic grade separation on a new route are normally paid in full by the party deciding to construct the new route.

If an existing grade separation is to be reconstructed for the purposes of the party having exclusive responsibility for that grade separation, the costs of reconstruction and maintenance of the basic grade separation are normally paid in full by that party.

A basic grade separation is required:

1. to eliminate an established road crossing at grade or to divert substantially all highway traffic from that crossing; or
2. to reconstruct an existing grade separation in a situation where both parties have responsibility, or where the reconstruction is for the purposes of the party which has no responsibility.

The **construction costs of the basic grade separation** are normally apportioned as follows:

1. On projects due primarily to road development:
 - a. 85% road authority
 - b. 15% railway company
2. On projects where both road and railway development have contributed largely to the need for the project:
 - a. 50% road authority
 - b. 50% railway company
3. On projects due primarily to railway development:
 - a. 15% road authority
 - b. 85% railway company

The **maintenance costs for an overhead bridge** are normally apportioned as follows:

1. the road authority pays all maintenance costs of the substructure, superstructure and retaining walls of an overhead bridge;
2. the railway company pays all other maintenance costs of an overhead bridge, including the cost of maintaining the railway approaches, track structure, railway drainage and communication facilities.

The **maintenance costs for a subway** are normally apportioned as follows:

1. the railway company pays all maintenance costs of the substructure and the superstructure of a subway; and
2. the road authority pays all other maintenance costs of a subway, including the cost of maintaining the road approaches, retaining walls, road surface, sidewalks, drainage and lighting.

If an existing grade separation is to be reconstructed, the established maintenance responsibilities for the existing grade separation are normally considered in the apportionment of maintenance costs of the basic grade separation.

The costs of construction and maintenance of a basic grade separation are not to include the costs that would otherwise be incurred by the railway company or the road authority if the crossing did not exist.

The costs of construction and maintenance of additional facilities that exceed the costs provided for by the basic grade separation are normally to be paid by the party requesting the additional facilities.

Clearances and pier protection in excess of the following are normally considered to be additional facilities:

1. For overhead bridges:
 - a. a vertical clearance of 7.16 metres above the base of rail for new or reconstructed basic grade separations;
 - b. a lateral clearance of 5.5 metres from the centerline of the nearest track to the nearest pier or abutment in the basic grade separation; and
 - c. pier protection, as per the [American Railway Engineering and Maintenance-of-Way Association](#) specifications.
2. For subways:
 - a. vertical and lateral clearances as per the design standards for grade separations in the province where the grade separation is located.

Application

In the event of a dispute, any of the involved parties may ask the Agency to apportion the costs of the grade separation project.

If you wish to apply to the Agency, please submit your written, signed application:

By mail

Secretary
Canadian Transportation Agency
Ottawa, Ontario
K1A 0N9

By fax

819-997-6727

By courier

Secretary
Canadian Transportation Agency
15 Eddy Street
17th Floor, Mailroom
Gatineau, Quebec
J8X 4B3

In addition, you should send a copy of the application to each of the parties involved.

Process

In any proceeding before it, the Agency ensures that each party has the opportunity to file submissions. In general, the Agency reviews the complaint or application and invites the other party(ies) to comment within 21 days. The applicant then has 7 days to respond. In more complex cases, the time allowed may be increased to 30 and 10 days, respectively.

The Members of the Agency are responsible for issuing decisions and orders. Members consider all the evidence filed, as well as all applicable legislation, regulations and legal principles.

The Agency strives to deal with each of its cases within 120 days. However, it may take more than 120 days to issue a decision due to the complexity or particular circumstances of a case.

For more information, consult the Agency's Process for Making Decisions at:

<http://www.cta.gc.ca/eng/decisions>

Decisions and appeals

An Agency order or decision is binding upon the parties and remains in effect until it is amended or rescinded. However, any order or decision may be:

- reviewed by the Agency if there are new facts or circumstances;
- appealed to the Federal Court of Appeal on a question of law or jurisdiction, within one month of the date of the order or decision; and
- amended or rescinded at any time if a petition is filed with the Governor in Council.

Confidentiality

All documents filed with the Agency become part of the public record unless otherwise ordered by the Agency. A party may make a claim for confidentiality in accordance with the Agency's [General Rules](#).

For more information

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