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## DEPARTMENT OF TRANSPORTATION

### CFDA 20.106 AIRPORT IMPROVEMENT PROGRAM

#### I. PROGRAM OBJECTIVES

The objective of the Airport Improvement Program is to assist sponsors, owners, or operators of public-use airports in the development of a nationwide system of airports adequate to meet the needs of civil aeronautics.

#### II. PROGRAM PROCEDURES

States, counties, municipalities, U.S. Territories and possessions, and other public agencies, including Indian tribes or Pueblos (sponsors) are eligible for airport development grants if the airport on which the development is required is listed in the National Plan of Integrated Airport Systems (NPIAS). Applications for grants must be submitted to the appropriate Federal Aviation Administration (FAA) Airports Office. Primary airport sponsors must notify FAA by January 31 or another date specified in the *Federal Register* of their intent to apply for funds which they are entitled to under Pub. L. No. 97-248 (49 USC Chapter 31). A reminder is published annually in the *Federal Register*. Other sponsors are encouraged to submit early in the fiscal year and to contact the appropriate FAA Airports Office for any local deadlines. Sponsors must formally accept grant offers no later than September 30 for grant funds appropriated for that fiscal year.

#### Source of Governing Requirements

This program is authorized by 49 USC Chapter 471.

#### Availability of Other Program Information

Additional program information is provided in FAA Order 5100.38A, *Airport Improvement Program Handbook* (available on the Internet at [www.faa.gov/arp/510home.htm](http://www.faa.gov/arp/510home.htm)) and FAA Advisory Circulars in the 150/5100 series (available on the Internet at [www.faa.gov/arp/150acs.htm](http://www.faa.gov/arp/150acs.htm)). The FAA also maintains an Airports *Federal Register* Notice page available on the Internet at [www.faa.gov/arp/fedreg.htm](http://www.faa.gov/arp/fedreg.htm).

Program related questions may be directed to Ken Ball, FAA Airports Financial Assistance Division, at 202-267-7436 (direct) and 202-267-3831 (main) or by e-mail at [Kendall.Ball@faa.dot.gov](mailto:Kendall.Ball@faa.dot.gov). Questions related to the revenue diversion requirement may be directed to Lyle Fjermedal, FAA Airport Compliance Division at 202-267-5879 (direct) and 202-267-3446 (main) or by e-mail at [Lyle.Fjermedal@faa.dot.gov](mailto:Lyle.Fjermedal@faa.dot.gov).

### III. COMPLIANCE REQUIREMENTS

**In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.**

#### A. Activities Allowed or Unallowed

##### 1. Activities Allowed

Grants can be made for planning, constructing, improving, or repairing a public-use airport or portion thereof and for acquiring safety or security equipment. Eligible terminal building development is limited to nonrevenue-producing public-use areas that are directly related to the movement of passengers and baggage in air carrier and commuter service terminal facilities within the boundaries of the airport. Eligible construction is limited to items of work and to the quantities listed in the grant description and/or special conditions (49 USC 47110).

##### 2. Activities Unallowed

a. In general, Federal funds cannot be expended for:

- Passenger automobile parking facilities, buildings to be used as hangars, and portions of terminals that are revenue-producing or not directly related to the safe movement of passengers and baggage at the airports, and
- Costs incurred before the execution of the grant agreement, unless such costs are for land, necessary costs in formulating a project, or costs covered by a letter of intent. However, an airport designated by the FAA as a primary airport may use passenger entitlement funding made available under 49 CFR 47114(c) for costs incurred: (1) prior to the execution of the grant agreement; (2) in accordance with the airport layout plan approved by the FAA; and (3) according to all statutory and administrative requirements that would have applied had work on the project not commenced until after the grant agreement had been executed (49 USC 47110(b)(2)(C)).

b. The following are examples of items for which FAA funds cannot be expended (FAA Order 5100.38A, *Airport Improvement Program Handbook*, and FAA Advisory Circulars in the 150/5100 series.)

- Fuel farms.
- Emergency planning.

- Decorative landscaping, sculpture, or art works.
- Communication systems, except those used for safety/security.
- Training facilities, except those included in an otherwise eligible project as an integral part of that project and that are of a relatively minor or incidental cost, i.e., less than 10 percent of the project cost. An example of an exception would be a training room included as part of a new Aircraft Rescue and Firefighting (ARFF) facility. Interactive training systems and "live fire" ARFF training facilities are eligible.
- Roads of whatever length, exclusively for the purpose of connecting public parking facilities to an access road.
- Roads serving solely industrial or non-aviation-related areas or facilities.
- General aviation terminals.
- Equipment that is used by air traffic controllers such as Airport surface detection systems (ASDE).
- Maintenance/service facilities except for those allowed to service required ARFF equipment.
- Office/administrative equipment, including data processing equipment, computers, recorders, etc.
- Projects for the determination of latitude, longitude, and elevation except as an incidental part of master planning.

### **3. Exception**

For a non-hub airport (one that accounts for less than 0.05 percent of total U.S. passenger boardings), the FAA may approve as allowable costs the expenses of terminal development in a revenue-producing area and construction, repair, and improvement of parking lots (49 USC 47110(d)(2)).

### **F. Equipment and Real Property Management**

Under this program, FAA is authorized by 49 USC 47107(c), as amended, to allow recipients to reinvest the proceeds from the disposition of real property acquired with Federal awards for noise compatibility or airport development purposes.

**G. Matching, Level of Effort, Earmarking****1. Matching**

The shares of allowable costs for a particular grant-supported project to be borne by FAA and by other parties are established in the grant agreement.

**2. Level of Effort - Not Applicable****3. Earmarking - Not Applicable****L. Reporting****1. Financial Reporting**

a. SF-269, *Financial Status Report* - Applicable

b. SF-270, *Request for Advance or Reimbursement* - Applicable

c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Applicable

d. SF-272, *Federal Cash Transactions Report* - Applicable

e. FAA Form 5100-125, *Operating and Financial Summary (OMB No. 2120-0557)*

Sponsors of commercial service airports are required to submit this report, which captures revenues and expenditures at the airport, including revenue surplus.

f. FAA Form 5100-126, *Financial Government Payment Report (OMB No. 2120-0557)*

This report captures amounts paid and services provided to other units of government. This reporting requirement technically applies to all sponsors of Federally-assisted airports who accepted grants with assurance no. 26(d)(I)(ii); however, FAA is currently requiring submission only from commercial service airports. Commercial service airports are the airports most likely to generate excess revenue that could be diverted to non-airport uses.

**2. Performance Reporting - Not Applicable****3. Special Reporting - Not Applicable**

## N. Special Tests and Provisions

### 1. Revenue Diversion

**Compliance Requirement** - The basic requirement for use of airport revenues is that all revenues generated by a public airport must be expended for the capital or operating costs of the airport, the local airport system, or other local facilities which are owned or operated by the owner or operator of the airport and are directly and substantially related to the actual air transportation of passengers or property. The limitation on the use of revenue generated by the airport shall not apply if the governing statutes controlling the owner's or operator's financing, that was in effect before September 3, 1982, provided for the use of any revenue from the airport to support not only the airport but also the airport owner's or operator's general debt obligations or other facilities (49 USC 47107(b)).

*Policies and Procedures Concerning the Generation and Use of Airport Revenue*, issued February 16, 1999 (64 FR 7695), contains definitions of airport revenue and unlawful revenue diversion; provides examples of airport revenue; and describes permitted and prohibited uses of airport revenue. The policy can be obtained from FAA's Airports *Federal Register* Notices Page on the Internet ([www.faa.gov/arp/fedreg.htm](http://www.faa.gov/arp/fedreg.htm)).

Penalties imposed for revenue diversion may be up to three times the amount of the revenues that are used in violation of the requirement (49 USC 4603(a)(5)).

**Audit Objective** - Determine whether the airport revenues were used for required or permitted purposes.

#### Suggested Audit Procedures

- a. Review the policy for using airport revenue.
- b. Perform tests of airport revenue generating activities (e.g., passenger facilities charges, leases, and telephone contracts) to ascertain that all airport generated revenue is accounted for.
- c. Test expenditures of airport revenue to verify that airport revenue is used for permitted purposes.
- d. Perform tests of transactions to ascertain that payments from airport revenues to the sponsors, related parties, or other governmental entities are airport-related, properly documented, and are commensurate with the services or products received by the airport.
- e. Perform tests to assure that indirect costs charged to the airport from the sponsor's cost allocation plan were allocated in accordance with the FAA policy on cost allocation.

#### IV. OTHER INFORMATION

The Federal Aviation Reauthorization Act of 1996, Section 805 (49 USC 47107(m)) requires public agencies that are subject to the Single Audit Act Amendments of 1996 (Act) that have received Federal financial assistance for airports to include as part of their single audit a review and opinion of the public agency's funding activities with respect to their airport or local airport revenue system. In the February 16, 1999, *Federal Register* (64 FR 7675) the FAA issued a notice titled *Policy and Procedures Concerning the Use of Airport Revenue*. This notice provides that the opinion required by 49 USC 47107(m) is only required when the Airport Improvement Program (AIP) is audited as major program under Circular A-133 and that the auditor reporting requirements of Circular A-133 satisfy the opinion requirement. However, the notice provides that the AIP may be selected as a major program based upon either the risk-based approach prescribed in Circular A-133 §\_\_\_ .520 or the FAA designating the AIP as a major program under §\_\_\_ .215(c).

**DEPARTMENT OF TRANSPORTATION**

**CFDA 20.205      HIGHWAY PLANNING AND CONSTRUCTION (Federal-Aid Highway Program)**

**CFDA 23.003      APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM**

**I.      PROGRAM OBJECTIVES**

The objectives of the Highway Planning and Construction Cluster are to: (1) assist States in the planning and development of an integrated, interconnected transportation system important to interstate commerce and travel by constructing and rehabilitating the National Highway System (NHS), including Interstate highways and most other public roads; (2) provide aid for the repair of Federal-aid highways following disasters; (3) foster safe highway design, and replace or rehabilitate structurally deficient or functionally obsolete bridges; and (4) to provide for other special purposes. This cluster also provides for the improvement of roads in Puerto Rico, Guam, the Virgin Islands, American Samoa, the Northern Marina Islands, the Alaskan Highway, and the Appalachian Development Highway System (ADHS). The objective of the ADHS program is to provide a highway system which, in conjunction with other Federally-aided highways, will open up areas with development potential within the Appalachian region where commerce and communication have been inhibited by lack of adequate access.

**II.      PROGRAM PROCEDURES**

Federal-aid highway funds are generally apportioned by statutory formulas to the States and generally restricted to use on Federal-aid highways (i.e., roads open to the public and not functionally classified as local). Exceptions to the use on Federal-aid highways include planning and research activities, bridge and safety improvements which may be on any public road, and the Federal Lands Highway Program. Some categories of funds may be granted directly to Local Public Agencies (LPAs), such as cities, counties, tribal governments, Metropolitan Planning Organizations (MPOs), and other political subdivisions. States also may pass apportioned funds through to such agencies. Federal-aid funds may be used for surveying, engineering, right-of-way acquisition, and relocation assistance for capital improvement projects classified as new construction, reconstruction, improvements for functional, geometric, or safety reasons, and 4R projects (restoration, rehabilitation, resurfacing, and reconstruction); planning; research, development, and technology transfer; intelligent transportation systems projects; roadside beautification; wetland and natural habitat mitigation; traffic management and control improvements; improvements necessary to accommodate other transportation modes; development and establishment of transportation management systems; billboard removal; construction of bicycle facilities and pedestrian facilities; fringe and corridor parking; car pool and van pool projects; and transportation enhancements, such as scenic and historic highway improvements. These funds generally cannot be used for routine highway operational activities, such as police patrols, mowing, snow plowing, or maintenance, unless it is preventative maintenance. Also, authorizations for the Surface Transportation Program (STP) and Congestion Mitigation and Air Quality (CMAQ) Improvement Program, may be used for capital improvements to mass transit; CMAQ funds are for projects and programs in air quality, non-attainment and maintenance areas for ozone, carbon monoxide, and small particulate matter,

which reduce transportation related emissions. ADHS projects are subject to the same standards, specifications, policies, and procedures as other Federal-aid highway projects.

Eligibility criteria for the programs differ, so program guidance should be consulted. Projects in urban areas of 50,000 or more population must be based on a transportation planning process carried out by the MPOs in cooperation with the State and transit operators, and be included in metropolitan plans and programs. Projects in nonmetropolitan areas of a State must be consistent with the State's Transportation Plan. All projects must also be included in the approved Statewide transportation improvement program (STIP) and are developed as part of the required Statewide transportation planning process.

In the case of the ADHS program, the Appalachian Regional Commission determines if the State approved project is eligible within an approved Appalachian Highway Plan and notifies FHWA of centerline approval. The FHWA determines if the project satisfies all Federal requirements, administers the grants, and disburses the funds.

### **Source of Governing Requirements**

The primary sources of program requirements are 23 USC (Highways). Implementing regulations are found in 23 CFR (Highways).

### **Availability of Other Program Information**

The Federal Highway Administration maintains a Website that provides program laws, regulations, and other general information ([www.fhwa.dot.gov](http://www.fhwa.dot.gov)).

## **III. COMPLIANCE REQUIREMENTS**

**In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.**

### **A. Activities Allowed or Unallowed**

1. Federal funds can be used only to reimburse costs that are: (1) incurred subsequent to the date of authorization to proceed, except for certain property acquisition costs permitted under 23 USC 108; (2) in accordance with the conditions contained in the project agreement and the plans, specifications, and estimates (PS&E); (3) allocable to a specific project; and, (4) claimed for reimbursement subsequent to the date of the project agreement (23 CFR sections 1.9, 630.106, 630.205, and 630.303).
2. Federal funds can be used to reimburse for administrative settlement costs incurred in defending contract claim proceedings before arbitration boards or State courts only if approved by FHWA for Federal-aid projects. If special



counsel is used, it must be recommended by the State Attorney or State DOT legal counsel and approved in advance by FHWA (23 CFR section 140.505).

3. Costs incurred by the State DOT or MPO for highway planning and research work are subject to prior approval by FHWA (23 CFR section 420.111).
4. STP funds may be used by the State for the cost of tuition and direct educational expenses (excluding salaries) of State and local transportation agency employees (23 USC 504(a)(4)).

## **F. Equipment and Real Property Management**

The State shall charge, at a minimum, a fair market value for the sale, lease, or use of real property acquired with Federal assistance from the Highway Trust Fund (other than the Mass Transit Account) for the non-transportation purposes and shall use such income for projects eligible under 23 USC. Exceptions may be granted when the property is used for social, environmental or economic purposes (23 USC 156).

## **G. Matching, Level of Effort, Earmarking Requirements**

### **1. Matching**

- a. The State is generally required to pay a portion of the project costs. Portions vary according to the type of funds authorized and are stated in project agreements.
- b. A State's matching share for a project may be credited by certain toll revenues used to build or improve highways, bridges and tunnels (23 USC 120(j)).
- c. Donations of funds, materials, and services may be credited towards a State's matching share. Donated materials and services must meet the eligibility requirements of the project. However, donations of services by units of local government cannot be credited against the State share of the project (23 USC 323(c) and (e)).
- d. The fair market value of land provided by State or local governments for highway purposes is eligible for matching share on a project. The fair market value of donated land shall not include any increase or decrease in value of donated land caused by the project. The fair market value of donated land shall be established as of the earlier of (1) the date on which the donation becomes effective or (2) the date on which equitable title to the land vests in the State (23 USC 323(b)).
- e. For transportation enhancement (TE) projects, funds from Federal agencies (except U.S. DOT) may be used for the non-Federal share of the project. Credit for the value of donations of funds, materials, land, or

services (including the value of local and State government services, materials and land applied to the project and the cost of preliminary engineering prior to project approval) may be credited toward the non-Federal share (23 USC 133(e)(5)(C)).

- f. Funds appropriated to any Federal land management agency may be used to pay the non-Federal share of any Federal-aid highway project funded under 23 USC 104 (23 USC 120(k)).
- g. Federal Lands Highway Program funds may be used to pay the non-Federal share of Federal-aid highway projects which provide access to or within Federal or Indian lands (23 USC 120(l)).

**2. Level of Effort** - Not Applicable

**3. Earmarking** - Not Applicable

**J. Program Income**

State and local governments may only use the Federal share of net income from the sale, use, or lease of property previously acquired with Federal funds if the income is used for projects eligible under 23 USC (23 USC 156).

**L. Reporting**

**1. Financial Reporting**

- a. SF-269, *Financial Status Report* - Not Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Not Applicable
- e. PR-20, *Voucher for Work Under Provisions of the Federal-Aid and Federal Highway Acts, as Amended (OMB No. 2125-0507)*

**2. Performance Reporting** - Not Applicable

**3. Special Reporting** - Not Applicable

## N. Special Tests and Provisions

### 1. Use of Other State or Local Government Agencies

**Compliance Requirement** - A State may use other public land acquisition organizations or private consultants to carry out the State's authorities under 23 CFR 710.201(b) in accordance with a written agreement (23 CFR 710.201(h)).

**Audit Objective** - Determine whether other public land acquisition organizations or private consultants are carrying out the State's authorities under 23 CFR 710.201(b) in accordance with their agreements with the State.

#### Suggested Audit Procedures

- a. Examine records and ascertain if other agencies were used for right-of-way activities on Federal-aid projects.
- b. Review a sample of right-of-way agreements with other agencies.
- c. Perform tests of selected right-of-way activities to other agencies to verify that they comply with the written agreement.

### 2. Replacement of Publicly Owned Real Property

**Compliance Requirement** - Federal funds may be used to reimburse the reasonable costs actually incurred for the functional replacement of publicly-owned and publicly-used real property provided that FHWA concurs that it is in the public interest. The cost of increases in capacity and other betterments are not eligible except: (1) if necessary to replace utilities; (2) to meet legal, regulatory, or similar requirements; or (3) to meet reasonable prevailing standards for the type of facility being replaced (23 CFR 710.509).

**Audit Objective** - Determine whether the functional replacement of real property was accomplished within FHWA requirements.

#### Suggested Audit Procedures

- a. Ascertain if there were any functional replacements of publicly-owned real property.
- b. Verify that FHWA concurred in the State's determination that the functional replacement is in the public interest.
- c. Review a sample of transactions involving functional replacements and verify that the transactions were consistent with the FHWA requirements.

### 3. Project Extensions

**Compliance Requirement** - FHWA must approve extensions affecting project costs or the amount of liquidated damages, except those for projects administered by the State DOT under 23 USC 106(c) which allow the State DOT to assume the responsibilities for design, plans, specifications, estimates, contract awards and inspection of progress (23 USC 106(c); 23 CFR section 635.121).

**Audit Objective** - Determine whether proper FHWA approvals were obtained for contract extensions affecting project costs and the amount of liquidated damages assessed.

#### Suggested Audit Procedures

- a. Review the systems for monitoring and controlling contract time and review project files to determine if there were project extensions.
- b. Verify that FHWA approval was obtained for time extensions affecting project cost and, where applicable, the amount of liquidated damages assessed.

### 4. Sampling Program

**Compliance Requirement** - A State DOT or LPA must have a sampling and testing program for projects to ensure that materials and workmanship generally conform to approved plans and specifications (23 CFR section 637.205).

**Audit Objective** - Determine whether the State is following a quality assurance program that meets FHWA's requirements.

#### Suggested Audit Procedures

- a. Obtain an understanding of the recipient's sampling and testing program.
- b. Review documentation of test results on a sample basis to verify that the proper number of tests are being taken in accordance with the program.

### 5. Contractor Recoveries

**Compliance Requirement** - When a State recovers funds from highway contractors for project overcharges due to bid-rigging, fraud, or anti-trust violations or otherwise recovers compensatory damages, the Federal-aid project involved shall be credited with the Federal share of such recoveries (Tennessee v. Dole 749 F.2d 331 (6th Cir. 1984); 57 Comp. Gen. 577 (1978); 47 Comp. Gen. 309 (1967)).

**Audit Objective** - Determine whether the proper credit was made to the Federal share of a project when recoveries of funds are made.

**Suggested Audit Procedures**

- a. Determine the extent to which the State has recovered overcharges and other compensatory damages on Federal-aid projects through appropriate interviews and a review of legal, claim, and cash receipt records.
- b. Review a sample of cash receipts and verify that appropriate credit is reflected in billings to the Federal Government.

**6. Project Approvals**

**Compliance Requirement** - Construction projects administered under standard procedures cannot be advertised nor force account work commenced until FHWA: (1) approves the plans, specifications, and estimates; and (2) authorizes the State DOT to advertise for bids or approves the force account work (23 CFR sections 630.205(c), 635.112(a), 635.204, and 635.309). Construction cannot begin until after FHWA concurs in the contract award (23 CFR section 635.114). This requirement does not apply to construction projects administered by the State DOT under 23 USC 106(c) which allow the State DOT to assume the responsibilities for design, plans, specifications, estimates, contract awards, and inspection of progress (23 USC 106(c)).

**Audit Objective** - Determine whether project activities are started with required Federal approvals.

**Suggested Audit Procedures**

- a. Review a sample of projects and identify dates of the necessary approvals, authorizations, and concurrences.
- b. Identify dates that projects were advertised and contract or force account work was initiated and compare to FHWA's approval dates.

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**DEPARTMENT OF TRANSPORTATION**

- CFDA 20.500**      **FEDERAL TRANSIT -- CAPITAL INVESTMENT GRANTS  
(Capital Grants)**
- CFDA 20.507**      **FEDERAL TRANSIT -- FORMULA GRANTS (Urbanized Area  
Formula Program)**

**I. PROGRAM OBJECTIVES**

The objectives of the Federal Transit -- Capital Investment Grants (49 USC 5309) and Federal Transit -- Urbanized Area Formula Grants (49 USC 5307) programs are to assist in financing the planning, acquisition, construction, preventative maintenance, and improvement of facilities and equipment in mass transportation services. Operating expenses are also eligible in urbanized areas with populations of less than 200,000.

**II. PROGRAM PROCEDURES**

Grants are awarded to public agencies on approval of applications for specific programs or projects submitted to the Federal Transit Administration (FTA). FTA monitors the progress of those projects through on-site inspections, telephone contacts, correspondence, and quarterly progress and financial status reports. FTA provides funds based on a project's progress.

**Source of Governing Requirements**

The programs in this cluster are authorized by 49 USC 5307 and 5309. Program regulations are at 49 CFR parts 601 through 665.

**Availability of Other Program Information**

Additional information is available on FTA's web site at [www.fta.dot.gov](http://www.fta.dot.gov). FTA is required to perform reviews and evaluations of 49 USC 5307 grant activities at least every three years. FTA Order 9010.1B, "Triennial Reviews," dated April 5, 1993, provides guidance to FTA staff and recipients on the conduct of triennial reviews. These reviews are conducted with specific reference to compliance with statutory and administrative requirements and consistency of actual program activities with (1) the approved program of projects, and (2) the planning process required under 49 USC 5303. Copies of these triennial reviews are available from the regional offices. Regional office addresses and phone numbers are available on FTA's web site listed above.

**III. COMPLIANCE REQUIREMENTS**

**In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.**

**A. Activities Allowed or Unallowed**

The activities allowed are specified in the grant agreement.

**F. Equipment and Real Property Management**

Any disposition of equipment before the end of its useful life is subject to prior FTA concurrence in the method of disposition. Unless otherwise determined in writing by FTA, the fair market value for rolling stock removed from service before the end of its useful life is the FTA share of the unamortized value of the remaining service life, based on straight line depreciation of the original purchase price, based upon the date the equipment was removed from revenue service rather than the date of disposal. FTA standards for the useful life of vehicles are contained in FTA Circular 9030.1C, *Urbanized Area Formula Program: Grant Application Instructions*, Chapter V, Paragraph 9, Buses; and FTA Circular 9300.1A, *Capital Program: Grant Application Instructions*, Chapter III, Paragraph 8, Requirements Related to Bus Purchases. These circulars are available on the FTA National Transit Library page on the Internet (<http://www.fta.dot.gov/ntl/index.html>). Recipients, with FTA approval, are allowed to sell, transfer, or lease property, equipment, or supplies acquired with Federal transit funds that is no longer needed for transit purposes. The proceeds must be used to reduce the gross project costs of another Federally funded capital transit project (49 USC 5334(g)(4) and 49 CFR section 18.32).

**G. Matching, Level of Effort, Earmarking Requirements****1. Matching**

The share of allowable costs for a particular grant is established in the grant agreement.

**2. Level of Effort - Not Applicable****3. Earmarking - Not Applicable****I. Procurement and Suspension and Debarment**

1. *Buy America* - The FTA may obligate no funds for a grant project unless all steel, iron, and manufactured products used in the project are manufactured in the U.S., as demonstrated by a Buy America certificate, or the recipient has obtained a waiver pursuant to one of the following provisions.

a. The Secretary may grant specific waivers following case-by-case determinations that: (1) applying the requirement would be inconsistent with the public interest; (2) the goods are not produced in the U.S. in a sufficient and reasonably available quantity and of satisfactory quality; or (3) the inclusion of the domestically produced material will increase the

overall project cost by more than 25 percent (49 CFR sections 661.7(b) through (d)).

- b. Program regulations provide for a permanent waiver for certain procurements of rolling stock. The Buy America requirements are satisfied for rolling stock purchases if the cost of components and subcomponents produced in the U.S. is more than 60 percent of the cost of all components and subcomponents, and final assembly of the vehicle takes place in the U.S. (49 CFR section 661.11).
- c. Appendix A to 49 CFR section 661.7 provides permanent, self-executing waivers for the following items:
  - (1) Those articles, materials, and supplies exempted from the Buy America Act of 1933 as listed in 48 CFR section 25.104 ;
  - (2) The U.S. final assembly requirements for 15 passenger Chrysler vans and wagons;
  - (3) Microcomputer equipment, including software; and
  - (4) All "small purchases" (under \$100,000) made by FTA recipients.

A recipient that purchases rolling stock for transportation of fare-paying passengers must conduct, or cause to be conducted, a pre-award audit before entering a formal contract for the purchase of rolling stock, and that a post-delivery audit is complete before title to the rolling stock is transferred. Pre-award and post-delivery audits verify the accuracy of the Buy America certification, purchaser's requirements certification, and certification of compliance with or inapplicability of Federal motor vehicles safety standards (49 CFR part 663).

- 2. *Disadvantaged Business Enterprises (DBE)* - Recipients shall require that each transit vehicle manufacturer certify that it has complied with the requirements of 49 CFR section 26.49, as a condition to bid on a transit vehicle procurement in which FTA funds are involved. Recipients may, with FTA approval, establish project-specific goals for DBE participation in the procurement of transit vehicles that a transit vehicle manufacturer must meet (49 CFR section 26.49(d)).
- 3. *Procurement of Vehicles and Facilities* - In prohibiting discrimination in the provision of transportation services against persons with disabilities, the Americans with Disabilities Act of 1990 (ADA) requires that vehicles purchased or leased after August 25, 1990, and new and altered facilities designed and constructed (as marked by the notice to proceed) after January 25, 1992, must comply with the applicable standards of accessibility in 49 CFR parts 37 and 38 (42 USC 12101-12213).



## L. Reporting

### 1. Financial Reporting

- a. SF-269A, *Financial Status Report (Short Form)* - Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Not Applicable

### 2. Performance Reporting - Not Applicable

### 3. Special Reporting

- a. *Report of DBE Awards and Commitments (OMB No. 2105-0510)* - Based on the level of FTA funding, exclusive of transit vehicle purchases, recipients are required to implement a DBE program. To monitor the progress of the DBE program, the recipient is required to submit quarterly reports based on a recordkeeping system (49 CFR section 26.11).

## N. Special Tests and Provisions

### 1. Environmental Review

**Compliance Requirement** - The National Environmental Policy Act (NEPA) (42 USC 4321 *et seq.*) and the FTA implementing rule (23 CFR part 771) require that the environmental effects of proposed mass transportation projects be documented and that environmental protection be considered before a decision is made to proceed with a project. Additionally, if there is no feasible or prudent alternative to avoid the effects, all reasonable steps must be taken to minimize adverse environmental effects, in accordance with Section 4(f) of the Department of Transportation Act of 1966, as amended. It is the policy of FTA that, among other matters, measures necessary to mitigate adverse impacts be incorporated into any proposed transportation improvement (49 USC 303).

Environmental mitigation measures are described in NEPA environmental documents, when required. For projects requiring an Environmental Impact Statement (EIS), mitigation measures are summarized in a Record of Decision. For projects requiring an Environmental Assessment, mitigation measures are summarized in a Finding of No Significant Impact (FONSI). For categorically excluded projects, any mitigation measures will be documented in the FTA approval memorandum for the project. In all cases, environmental mitigation measures should be referenced in the construction grant agreement with the recipient (23 CFR part 771).

**Audit Objective** - Determine whether environmental mitigation measures associated with FTA assisted construction were implemented as referenced in the construction grant agreement.

### **Suggested Audit Procedures**

- a. Identify any FTA assistance provided for construction and review copies of the grant agreement and EIS or FONSI to identify mitigation measures specified.
- b. For sample of mitigation measures, compare the status of implementation with the commitments made in the environmental documents or grant agreement.

## **2. Charter Service**

**Compliance Requirement** - As part of the annual certifications and assurances required by the FTA, a recipient must execute an agreement with the FTA which provides that neither the recipient nor any of its subrecipients will provide charter service that uses equipment or facilities acquired with FTA funds, unless: (a) there are no willing and able private charter service operators; or (b) one or more of the exceptions listed in 49 CFR part 604 are met and the charter service is incidental to the provision of mass transportation. Charter service is defined as transportation, using buses or vans (funded in whole or in part by FTA), of a group of persons pursuant to a common purpose, under a single contract at a fixed charge for the vehicle or service, which has acquired the exclusive use of the vehicle or service to travel together under an itinerary either specified in advance or modified after leaving the place of origin. This definition includes the incidental use of FTA-funded equipment for the exclusive transportation of school students, personnel and equipment, and the housing of charter vehicles in FTA-funded facilities. Incidental charter service is defined as service which does not: (a) interfere with or detract from the provision of the mass transportation service for which the facilities or equipment were funded under the Act; or (b) shorten the mass transportation life of the equipment or facilities (49 CFR part 604).

**Audit Objective** - Determine whether the use in charter service of equipment and facilities acquired with FTA funds conformed to 49 CFR part 604.

### **Suggested Audit Procedures**

- a. Ascertain if the recipient provides charter service with FTA-funded equipment by: (1) obtaining written representation from the recipient and (2) reviewing revenue accounts for indications of charter bus revenue statements.
- b. Review the recipient's policies and procedures for charter, rental, or lease of its transit equipment.

- c. Test transactions which meet the definition of charter service and ascertain if:
- (1) FTA-assisted equipment or facilities (e.g., parking lots and maintenance garages) were used;
  - (2) Documentation was available evidencing the absence of a willing and able private operator or an exception provided in 49 CFR part 604;
  - (3) Documentation was available evidencing a charter fee that recovers the entire operating and capital costs of equipment used; and
  - (4) Inventory records were adjusted to extend the useful life of the FTA subsidized transit equipment by the amount of charter service.

### 3. School Bus Operation

**Compliance Requirement** - As part of the annual certifications and assurances required by FTA, a recipient must enter into an agreement with the FTA Administrator stating that the recipient will not engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operators, unless it demonstrates to the FTA Administrator any one of the exceptions listed in 49 CFR section 605.11 and the Administrator concurs. However, all recipients can operate "Tripper Service," which is defined as regularly scheduled mass transportation service that is open to the public, and designed or modified to accommodate the needs of school students and personnel, using various fare collections or subsidy systems. Buses used in "Tripper Service" are required to be clearly marked as open to the public and should not carry designations such as "school bus" or "school special" (49 CFR part 605).

**Audit Objective** - Determine whether school bus service provided with FTA funded equipment was approved by FTA or that FTA-assisted equipment and facilities used to accommodate students conformed to the definition of "Tripper Service."

#### Suggested Audit Procedures

- a. Ascertain if the recipient operates any transit service exclusively for school children through: (1) a review of bus schedules, published fares, and service contracts; and (2) discussions with recipient officials.
- b. Ascertain if FTA-funded equipment (e.g., buses or vans) or facilities (e.g., bus maintenance garages) were used to provide school service by reviewing inventory records, maintenance logs, parking sites, names on bus and van destination signs, school facilities, or by performing other appropriate procedures.

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- c. If exclusive school bus service is identified:
- (1) Review documentation that the service was approved by the FTA, or
  - (2) Through a review bus schedules and published fares during school season and inquiries of recipient officials ascertain if the service conformed to the definition of "Tripper Service."

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**DEPARTMENT OF TRANSPORTATION**

<b>CFDA 20.600</b>	<b>STATE AND COMMUNITY HIGHWAY SAFETY</b>
<b>CFDA 20.601</b>	<b>ALCOHOL TRAFFIC SAFETY AND DRUNK DRIVING PREVENTION INCENTIVE GRANTS</b>
<b>CFDA 20.602</b>	<b>OCCUPANT PROTECTION</b>
<b>CFDA 20.603</b>	<b>FEDERAL HIGHWAY SAFETY DATA IMPROVEMENTS INCENTIVE GRANTS</b>
<b>CFDA 20.604</b>	<b>SAFETY INCENTIVE GRANTS FOR USE OF SEATBELTS</b>
<b>CFDA 20.605</b>	<b>SAFETY INCENTIVES TO PREVENT OPERATION OF MOTOR VEHICLES BY INTOXICATED PERSONS</b>

**I. PROGRAM OBJECTIVES**

The objective of the State and Community Highway Safety Program is to provide a coordinated national highway safety program to reduce traffic accidents, deaths, injuries, and property damage.

**II. PROGRAM PROCEDURES**

Funds are provided to the States, following submission of their highway safety plans, in accordance with a predefined formula and incentive grants. All funding is administered as one combined program.

**Source of Governing Requirements**

This program is authorized under 23 USC Chapter 4 (Highway Safety). Implementing regulations are 23 CFR parts 1200, 1225, 1240, 1250, 1252, 1313, 1335, and 1345.

**Availability of Other Program Information**

The National Highway Traffic Safety Administration maintains a Website that provides program laws, regulations, and other general information ([www.nhtsa.dot.gov](http://www.nhtsa.dot.gov)).

**III. COMPLIANCE REQUIREMENTS**

**In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.**

**A. Activities Allowed or Unallowed**

Funds must be expended as specified in the grantee's highway safety plan. Certain specific costs which will not be approved or that require prior approval have been identified in Highway Safety Grant Funding Policy for the National Highway Traffic

Safety Administration (NHTSA)/ Federal Highway Administration (FHWA) Field-Administered Grants and are listed below (23 CFR section 1200.20).

1. The following costs are allowable or allowable with specific conditions:
  - a. Equipment - Major equipment (tangible, nonexpendable, personal property having a useful life of more than one year and an acquisition cost of \$5000 or more per unit) purchases for new and replacement equipment must be pre-approved.
  - b. Installation - The purchase and installation of regulatory and warning signs and supports and field reference markers are allowable for roads off the Federal aid system.
  - c. Travel - Travel for out-of-state individuals benefitting the host State's highway safety program is allowable.
  - d. Training - The cost of training personnel and the development of new training curricula and materials are allowable. However, training costs for Federal employees, with the exception of Department of the Interior personnel assigned Section 402 responsibility, are unallowable.
  - e. Program Administration - The costs for consultant services, promotional activities, alcoholic beverages to support police "sting" operations, and meetings and conferences are allowable.
  - f. Public Communications - Advertising space.
2. The following costs are unallowable:
  - a. Facilities and Construction: highway construction, maintenance or design, construction or reconstruction of permanent facilities, highway safety appurtenances, office furnishings and fixtures, and land.
  - b. Equipment: truck scales, traffic signal preemption systems.
  - c. Training: individual's salary, and training employees of Federal agencies, excepted as noted above.
  - d. Program Administration: research costs, expenses to defray activities of Federal agencies, and commercial drivers' compliance requirements.

**G. Matching, Level of Effort, Earmarking****1. Matching**

- a. *State and Community Highway Safety* (CFDA 20.600 and CFDA 20.604) - The State shall pay at least 20 percent, or the applicable sliding scale rate, as stated in the grant award, of the total cost of the program. The State shall pay at least 50 percent of the costs for planning and administration (23 USC 120(b) and 402(d); 23 CFR section 1252.4).
- b. *Special Incentive Programs* (CFDA 20.601, 20.602, and 20.603) - The Highway Safety Act requires States qualifying under Section 410 (CFDA 20.601) Alcohol Incentive, Section 405 (CFDA 20.602) Occupant Protection Incentive, and Section 411 (CFDA 20.603) Highway Safety Data Improvements; to match Federal funds at 25 percent the first and second years, 50 percent the third and fourth years, and 75 percent the fifth and sixth years (23 USC 405, 410, and 411; 23 CFR sections 1313.4(b), 1335.10, and 1345.4(a)).
- c. *Special Incentive Program* (CFDA 20.605) - Grants under Section 163, Safety Incentives to Prevent Operation of Motor Vehicles by Intoxicated Individuals, are 100 percent Federally funded (23 USC 163 and 23 CFR section 1225.4(b)(3)).
- d. Additional matching requirements may be specified in the grantee's highway safety plan to limit the maximum Federal share of an ambulance, helicopter, or aircraft to 25 percent.

**2. Level of Effort - Not Applicable****3. Earmarking***State and Community Highway Safety (CFDA 20.600)*

- a. At least 40 percent of Federal funds apportioned to a State under CFDA 20.600 for any fiscal year shall be expended by or for the political subdivisions of the State in carrying out local highway safety programs (23 CFR section 1250, 23 USC 402(b)(1)(C)).
- b. The costs for planning and administration under CFDA 20.600 shall not exceed 10 percent of the funds received by the State (23 CFR section 1252.4).

**L. Reporting****1. Financial Reporting**

- a. SF-269, *Financial Status Report* - Not Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Not Applicable
- e. HS-217, *Highway Safety Plan Cost Summary (OMB No. 2127-0003)*
- f. *Federal-Aid Reimbursement Voucher (OMB No. 2127-0003)*

**2. Performance Reporting - Not Applicable****3. Special Reporting - Not Applicable**