

## SUBCHAPTER A—PROCEDURES FOR STATE HIGHWAY SAFETY PROGRAMS

### PART 1200—UNIFORM PROCEDURES FOR STATE HIGHWAY SAFETY PROGRAMS

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AUTHORITY: 23 U.S.C. 402; delegations of authority at 49 CFR 1.48 and 1.50.

SOURCE: 62 FR 34402, June 26, 1997, unless otherwise noted.

#### Subpart A—General

##### § 1200.1 Purpose.

This part establishes uniform application, approval, implementation, and closeout procedures for State highway safety programs authorized under 23 U.S.C. 402.

##### § 1200.2 Applicability.

The provisions of this part apply to highway safety programs conducted by States under 23 U.S.C. 402.

##### § 1200.3 Definitions.

As used in this subchapter—

*Approving Official* means a Regional Administrator of the National Highway Traffic Safety Administration, with the concurrence of a Division Administrator of the Federal Highway Administration as necessary.

*Carry-forward funds* means those funds that a State has obligated but not expended in the fiscal year in which they were apportioned, that are being reprogrammed to fund activities in a subsequent fiscal year.

*Contract authority* means the statutory language that authorizes the agencies to incur an obligation without the need for a prior appropriation or further action from Congress and which, when exercised, creates a binding obligation on the United States for which Congress must make subsequent liquidating appropriations.

*Equipment* means any tangible personal property acquired for use under the State's approved highway safety program.

*FHWA* means the Federal Highway Administration.

*Fiscal year* means the Federal fiscal year, consisting of twelve months beginning each October 1 and ending the following September 30.

*Governor* means the Governor of any of the fifty States, Puerto Rico, the Virgin Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands, the Mayor of the District of Columbia, or, for the application of this part to Indians as provided in 23 U.S.C. 402(i), the Secretary of the Interior.

*Governor's Representative for Highway Safety* means the official appointed by the Governor to implement the State's highway safety program or, for the application of this part to Indians as provided in 23 U.S.C. 402(i), an official of the Bureau of Indian Affairs who is

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duly designated by the Secretary of the Interior to implement the Indian highway safety program.

*NHTSA* means the National Highway Traffic Safety Administration.

*Program area* means a National Priority Program Area identified in §1205.3 of this chapter or a program area identified by the State in the highway safety plan as encompassing a major highway safety problem in the State and for which effective countermeasures have been identified.

*Program income* means gross income received by the State or any of its subgrantees or contractors that is directly or indirectly generated by a Federally-supported project during the project performance period.

*Section 402* means section 402 of title 23 of the United States Code.

*State* means any of the fifty States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or, for the application of this part to Indians as provided in 23 U.S.C. 402(i), the Secretary of the Interior.

### **Subpart B—Application, Approval, and Funding of the Highway Safety Program**

#### **§ 1200.10 Application.**

Each fiscal year, a State's application for funds for its highway safety program shall consist of the following components:

(a) A Performance Plan, containing the following elements:

(1) A list of objective and measurable highway safety goals, within the National Priority Program Areas and other program areas, based on highway safety problems identified by the State during the processes under paragraph (a)(2) of this section. Each goal must be accompanied by at least one performance measure that enables the State to track progress, from a specific baseline, toward meeting the goal (e.g., a goal to "increase safety belt use from XX percent in 19\_\_ to YY percent in 20 \_\_," using a performance measure of "percent of restrained occupants in front outboard seating positions in passenger motor vehicles").

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(2) A brief description of the processes used by the State to identify its highway safety problems, define its highway safety goals and performance measures, and develop projects and activities to address its problems and achieve its goals. In describing these processes, the State shall identify the participants in the processes (e.g., highway safety committees, community and constituent groups), discuss the strategies for project or activity selection (e.g., constituent outreach, public meetings, solicitation of proposals), and list the information and data sources consulted.

(b) A Highway Safety Plan, approved by the Governor's Representative for Highway Safety, describing the projects and activities the State plans to implement to reach the goals identified in the Performance Plan. The Highway Safety Plan must, at a minimum, describe one year of Section 402 program activities (and may include activities funded from other sources, so long as the source of funding is clearly distinguished).

(c) A Certification Statement, signed by the Governor's Representative for Highway Safety, providing assurances that the State will comply with applicable laws and regulations, financial and programmatic requirements, and in accordance with §1200.11 of this part, the special funding conditions of the Section 402 program.

(d) A Program Cost Summary (HS Form 217 or its electronic equivalent), completed to reflect the State's proposed allocations of funds (including carry-forward funds) by program area, based on the goals identified in the Performance Plan and the projects and activities identified in the Highway Safety Plan. The funding level used shall be an estimate of available funding for the upcoming fiscal year.

[62 FR 34402, June 26, 1997, as amended at 64 FR 40764, July 28, 1999]

#### **§ 1200.11 Special funding conditions.**

The State's highway safety program under Section 402 shall be subject to the following conditions, and approval under §1200.13 of this part shall in no event be deemed to waive these conditions:

(a) Responsibility of the Governor—The Governor of the State shall be responsible for the administration of the Section 402 program through a State highway safety agency that shall have adequate powers and be suitably equipped and organized to carry out the program.

(b) Participation by Political Subdivisions—Political subdivisions shall be authorized to carry out local highway safety programs, approved by the Governor, as a part of the State highway safety program, and at least 40 percent of all Federal funds provided under this part shall be used by or for the benefit of political subdivisions, in accordance with the provisions of part 1250 of this chapter.

(c) Access for Persons with Disabilities—Adequate and reasonable access shall be provided for the safe and convenient movement of persons with physical disabilities, including those in wheelchairs, across curbs constructed or replaced on or after July 1, 1976, at all pedestrian crosswalks throughout the State.

(d) Use of Safety Belts—Programs shall be provided (which may include financial incentives and disincentives) to encourage the use of safety belts by drivers and passengers in motor vehicles.

(e) Planning and Administration Costs—Funding and matching requirements for planning and administration costs shall be in accordance with the provisions of part 1252 of this chapter.

(f) Purchase and Disposition of Equipment—Major purchases and dispositions of equipment shall require prior approval by the approving official, in accordance with the provisions of § 1200.21(d) of this part.

#### § 1200.12 Due date.

Three copies of the application documents identified in §1200.10 of this part must be received by the NHTSA regional office no later than September 1 preceding the fiscal year to which the documents apply. The NHTSA regional office will forward copies to NHTSA headquarters and the FHWA division office. Failure to meet this deadline may result in delayed approval and funding.

#### § 1200.13 Approval.

(a) Upon receipt of application documents complying with the provisions of §1200.10 and §1200.11 of this part, the Approving Official will issue a letter of approval to the Governor and the Governor's Representative for Highway Safety.

(b) The approval letter identified in paragraph (a) of this section will contain the following statement:

We have reviewed (STATE)'s \_\_\_\_\_ fiscal year 19\_\_\_\_ Performance Plan, Highway Safety Plan, Certification Statement, and Cost Summary (HS Form 217), as received on (DATE) \_\_\_\_\_. Based on these submissions, we find your State's highway safety program to be in compliance with the requirements of the Section 402 program. This determination does not constitute an obligation of Federal funds for the fiscal year identified above or an authorization to incur costs against those funds. The obligation of Section 402 program funds will be effected in writing by the NHTSA Administrator at the commencement of the fiscal year identified above. However, Federal funds reprogrammed from the prior-year Highway Safety Program (carry-forward funds) will be available for immediate use by the State on October 1. Reimbursement will be contingent upon the submission of an updated HS Form 217 (or its electronic equivalent), consistent with the requirements of 23 CFR 1200.14(d), within 30 days after either the beginning of the fiscal year identified above or the date of this letter, whichever is later.

(c) If approval is withheld, for reasons of non-compliance with §1200.10 or §1200.11 of this part or other applicable law, the Approving Official shall identify in writing the specific area(s) of non-compliance which formed the basis for withholding approval.

[62 FR 34402, June 26, 1997, as amended at 64 FR 40764, July 28, 1999]

#### § 1200.14 Apportionment and obligation of Federal funds.

(a) Except as provided in paragraph (b) of this section, on October 1 of each fiscal year the NHTSA Administrator shall, in writing, distribute funds available for obligation under Section 402 to the States and specify any conditions or limitations imposed by law on the use of the funds.

(b) In the event that authorizations exist but no applicable appropriation

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act has been enacted by October 1 of a fiscal year the NHTSA and FHWA Administrators shall, in writing, distribute a part of the funds authorized under Section 402 contract authority to ensure program continuity and shall specify any conditions or limitations imposed by law on the use of the funds. Upon appropriation of Section 402 funds, the NHTSA Administrator shall, in writing, promptly adjust the obligation limitation, and specify any conditions or limitations imposed by law on the use of the funds.

(c) The funds distributed under paragraph (a) or (b) of this section shall be available for expenditure by the states to satisfy the Federal share of expenses under the approved highway safety program, and shall constitute a contractual obligation of the Federal Government, subject to any conditions or limitations identified in the distributing document.

(d)(1) Notwithstanding the provisions of paragraph (c) of this section, reimbursement of State expenses shall be contingent upon the submission of an updated HS Form 217 (or its electronic equivalent), within 30 days after either the beginning of the fiscal year or the date of the written approval required under § 1200.13 of this part, whichever is later.

(2) The updated HS Form 217 (or its electronic equivalent) required under paragraph (d)(1) of this section shall reflect the State's allocation of Section 402 funds made available for expenditure during the fiscal year, including known carry-forward funds.

[62 FR 34402, June 26, 1997, as amended at 64 FR 40764, July 28, 1999]

## Subpart C—Implementation and Management of the Highway Safety Program

### § 1200.20 General.

Except as otherwise provided in this subpart and subject to the provisions herein, the requirements of 49 CFR part 18 and applicable cost principles govern the implementation and management of State highway safety programs carried out under 23 U.S.C. 402. Cost principles include those referenced in 49 CFR 18.22 and those set

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forth in applicable Department of Transportation, NHTSA, or FHWA Orders.

### § 1200.21 Equipment.

(a) *Title.* Except as provided in paragraphs (e) and (f) of this section, title to equipment acquired under the Section 402 program will vest upon acquisition in the State or its subgrantee, as appropriate.

(b) *Use.* All equipment shall be used for the originally authorized grant purposes for as long as needed for those purposes, as determined by the Approving Official, and neither the State nor any of its subgrantees or contractors shall encumber the title or interest while such need exists.

(c) *Management and disposition.* Subject to the requirement of paragraphs (b), (d), (e) and (f) of this section, States and their subgrantees and contractors shall manage and dispose of equipment acquired under the Section 402 program in accordance with State laws and procedures.

(d) *Major Purchases and dispositions.* All purchases and dispositions of equipment with a useful life of more than one year and an acquisition cost of \$5,000 or more must receive prior written approval from the Approving Official.

(e) *Right to transfer title.* The Approving Official may reserve the right to transfer title to equipment acquired under the Section 402 program to the Federal Government or to a third party when such third party is otherwise eligible under existing statutes. Any such transfer shall be subject to the following requirements:

(1) The equipment shall be identified in the grant or otherwise made known to the State in writing;

(2) The Approving Official shall issue disposition instructions within 120 calendar days after the equipment is determined to be no longer needed in the Section 402 program, in the absence of which the State shall follow the applicable procedures in 49 CFR part 18.

(f) *Federally-owned equipment.* In the event a State or its subgrantee is provided Federally-owned equipment:

(1) Title shall remain vested in the Federal Government;

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(2) Management shall be in accordance with Federal rules and procedures, and an annual inventory listing shall be submitted;

(3) The State or its subgrantee shall request disposition instructions from the Approving Official when the item is no longer needed in the Section 402 program.

### § 1200.22 Changes.

States shall provide documentary evidence of any reallocation of funds between program areas by submitting to the NHTSA regional office an amended HS form 217 (or its electronic equivalent), reflecting the changed allocation of funds, within 30 days of implementing the change.

[62 FR 34402, June 26, 1997, as amended at 64 FR 40764, July 28, 1999]

### § 1200.23 Vouchers and project agreements.

Each State shall submit official vouchers for total expenses incurred to the Approving Official. Copies of the project agreement(s) and supporting documentation for the vouchers, and any amendments thereto, shall be made available for review by the Approving Official upon request.

(a) *Content of vouchers.* At a minimum, each voucher shall provide the following information for expenses claimed in each program area:

- (1) Program Area;
- (2) Federal funds obligated;
- (3) Amount of Federal funds allocated to local benefit (provided mid-year (by March 31) and with the final voucher);
- (4) Cumulative Total Cost to Date;
- (5) Cumulative Federal Funds Expended;
- (6) Previous Amount Claimed;
- (7) Amount Claimed this Period;
- (8) Matching rate (or Special matching writeoff used, *i.e.*, sliding scale rate authorized under 23 U.S.C. 120(a), determined in accordance with the applicable NHTSA Order).

(b) *Submission requirements.* At a minimum, vouchers shall be submitted to the Approving Official on a quarterly basis, no later than 15 working days after the end of each quarter, except that where a State receives funds by electronic transfer at an annualized rate of one million dollars or more,

vouchers shall be submitted on a monthly basis, no later than 15 working days after the end of each month. Failure to meet these deadlines may result in delayed reimbursement.

### § 1200.24 Program income.

(a) *Inclusions.* Program income includes income from fees for services performed, from the use or rental of real or personal property acquired with grant funds, from the sale of commodities or items fabricated under the grant agreement, and from payments of principal and interest on loans made with grant funds.

(b) *Exclusions.* Program income does not include interest on grant funds, rebates, credits, discounts, refunds, taxes, special assessments, levies, fines, proceeds from the sale of real property or equipment, income from royalties and license fees for copyrighted material, patents, and inventions, or interest on any of these.

(c) *Use of program income—(1) Addition.* Program income shall ordinarily be added to the funds committed to the Highway Safety Plan. Such program income shall be used to further the objectives of the program area under which it was generated.

(2) *Cost sharing or matching.* Program income may be used to meet cost sharing or matching requirements only upon written approval of the Approving Official. Such use shall not increase the commitment of Federal funds.

### § 1200.25 Improvement plan.

If a review of the Annual Report required under § 1200.33 of this part or of other relevant information indicates little or no progress toward meeting State goals, the Approving Official and State officials will jointly develop an improvement plan. This plan will detail strategies, program activities, and funding targets to meet the defined goals.

### § 1200.26 Non-compliance.

Where a State is found to be in non-compliance with the requirements of the Section 402 program or with applicable law, the special conditions for high-risk grantees and the enforcement procedures of 49 CFR part 18, or the sanctions procedures of part 1206 of

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this chapter, may be applied as appropriate.

### § 1200.27 Appeals.

Review of any written decision by an Approving Official under this part may be obtained by submitting a written appeal of such decision, signed by the Governor's Representative for Highway Safety, to the Approving Official. Such appeal shall be forwarded promptly to the NHTSA Associate Administrator for State and Community Services or the FHWA Regional Administrator with jurisdiction over the specific division, as appropriate. The decision of the NHTSA Associate Administrator or FHWA Regional Administrator shall be final and shall be transmitted to the Governor's Representative for Highway Safety through the cognizant Approving Official.

### Subpart D—Closeout

#### § 1200.30 Expiration of the right to incur costs.

Unless extended in accordance with the provisions of §1200.31 of this part, the right to incur costs under Section 402 expires on the last day of the fiscal year to which it pertains. The State and its subgrantees and contractors may not incur costs for Federal reimbursement past the expiration date.

#### § 1200.31 Extension of the right to incur costs.

Upon written request by the State, specifying the reasons therefor, the Approving Official may extend the right to incur costs for some portion of the State highway safety program by a maximum of 90 days. The approval of any such request for extension shall be in writing, shall specify the new expiration date, and shall be signed by the Approving Official. If an extension is granted, the State and its subgrantees and contractors may continue to incur costs in accordance with the Highway Safety Plan until the new expiration date, and the due dates for other submissions covered by this subpart shall be based upon the new expiration date. However, in no case shall any extension be deemed to authorize the obligation of additional Federal funds beyond those already obligated to the State,

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nor shall any extension be deemed to extend the due date for submission of the Annual Report. Only one extension shall be allowed during each fiscal year.

#### § 1200.32 Final voucher.

Each State shall submit a final voucher which satisfies the requirements of §1200.23(a) of this part within 90 days after the expiration of each fiscal year, unless extended in accordance with the provisions of §1200.31 of this part. The final voucher constitutes the final financial reconciliation for each fiscal year.

#### § 1200.33 Annual report.

Within 90 days after the end of the fiscal year, each State shall submit an Annual Report. This report shall describe:

(a) The State's progress in meeting its highway safety goals, using performance measures identified in the Performance Plan. Both Baseline and most current level of performance under each measure will be given for each goal.

(b) How the projects and activities funded during the fiscal year contributed to meeting the State's highway safety goals. Where data becomes available, a State should report progress from prior year projects that have contributed to meeting current State highway safety goals.

[62 FR 34402, June 26, 1997, as amended at 64 FR 40764, July 28, 1999]

#### § 1200.34 Disposition of unexpended balances.

Any funds which remain unexpended after final reconciliation shall be carried forward, credited to the State's highway safety account for the new fiscal year, and made immediately available for use under the State's new highway safety program, subject to the approval requirements of §1200.13 of this part. Carry-forward funds must be identified by the program area from which they are removed when they are reprogrammed from the previous fiscal year. Once so identified, such funds are available for use without regard to the program area from which they were carried forward, unless specially earmarked by the Congress.

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**§ 1200.35 Post-grant adjustments.**

The closeout of a highway safety program in a fiscal year does not affect the ability of NHTSA or FHWA to disallow costs and recover funds on the basis of a later audit or other review or the State's obligation to return any funds due as a result of later refunds, corrections, or other transactions.

**§ 1200.36 Continuing requirements.**

The following provisions shall have continuing applicability, notwithstanding the closeout of a highway safety program in a fiscal year:

- (a) The requirements governing equipment, as provided in §1200.21 of this part;
- (b) The audit requirements and records retention and access requirements of 49 CFR part 18.