

## SUBCHAPTER A—GENERAL MANAGEMENT AND ADMINISTRATION

### PART 1—GENERAL

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AUTHORITY: 23 U.S.C. 315; 49 CFR 1.48(b).

SOURCE: 25 FR 4162, May 11, 1960, unless otherwise noted.

#### § 1.1 Purpose.

The purpose of the regulations in this part is to implement and carry out the provisions of Federal law relating to the administration of Federal aid for highways.

#### § 1.2 Definitions.

(a) Terms defined in 23 U.S.C. 101(a), shall have the same meaning where used in the regulations in this part, except as modified herein.

(b) The following terms where used in the regulations in this part shall have the following meaning:

*Administrator.* The Federal Highway Administrator.

*Advertising policy.* The national policy relating to the regulation of outdoor advertising declared in title 23 U.S.C. 131.

*Advertising standards.* The "National Standards for Regulation by States of Outdoor Advertising Signs, Displays and Devices Adjacent to the National System of Interstate and Defense Highways" promulgated by the Secretary (part 20 of this chapter).

*Federal laws.* The provisions of title 23 U.S.C., and all other Federal laws,

heretofore or hereafter enacted, relating to Federal aid for highways.

*Latest available Federal census.* The latest available Federal decennial census, except for the establishment of urban area.

*Project.* An undertaking by a State highway department for highway construction, including preliminary engineering, acquisition of rights-of-way and actual construction, or for highway planning and research, or for any other work or activity to carry out the provisions of the Federal laws for the administration of Federal aid for highways.

*Secondary road plan.* A plan for administration of Federal aid for highways on the Federal-aid secondary highway system pursuant to 23 U.S.C. 117.

*Secretary.* The Secretary of Transportation.

*State.* Any State of the United States, the District of Columbia and Puerto Rico.

*Urban area.* An area including and adjacent to a municipality or other urban place having a population of five thousand or more, as determined by the latest available published official Federal census, decennial or special, within boundaries to be fixed by a State highway department, subject to the approval of the Administrator.

[25 FR 4162, May 11, 1960, as amended at 35 FR 18719, Dec. 10, 1970]

#### § 1.3 Federal-State cooperation; authority of State highway departments.

The Administrator shall cooperate with the States, through their respective State highway departments, in the construction of Federal-aid highways. Each State highway department, maintained in conformity with 23 U.S.C. 302, shall be authorized, by the laws of the State, to make final decisions for the State in all matters relating to, and to enter into, on behalf of the State, all contracts and agreements for projects and to take such other actions on behalf of the State as may be necessary

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to comply with the Federal laws and the regulations in this part.

### § 1.5 Information furnished by State highway departments.

At the request of the Administrator the State highway department shall furnish to him such information as the Administrator shall deem desirable in administering the Federal-aid highway program.

### § 1.7 Urban area boundaries.

Boundaries of an urban area shall be submitted by the State highway department and be approved by the Administrator prior to the inclusion in a program of any project wholly or partly in such area involving funds authorized for and limited to urban areas.

### § 1.8 [Reserved]

### § 1.9 Limitation on Federal participation.

(a) Federal-aid funds shall not participate in any cost which is not incurred in conformity with applicable Federal and State law, the regulations in this title, and policies and procedures prescribed by the Administrator. Federal funds shall not be paid on account of any cost incurred prior to authorization by the Administrator to the State highway department to proceed with the project or part thereof involving such cost.

(b) Notwithstanding the provisions of paragraph (a) of this section the Administrator may, upon the request of a State highway department, approve the participation of Federal-aid funds in a previously incurred cost if he finds:

(1) That his approval will not adversely affect the public,

(2) That the State highway department has acted in good faith, and that there has been no willful violation of Federal requirements,

(3) That there has been substantial compliance with all other requirements prescribed by the Administrator, and full compliance with requirements mandated by Federal statute,

(4) That the cost to the United States will not be in excess of the cost which it would have incurred had there been full compliance, and

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(5) That the quality of work undertaken has not been impaired.

(c) Any request submitted under paragraph (b) of this section shall be accompanied by a detailed description of the relevant circumstances and facts, and shall explain the necessity for incurring the costs in question.

[38 FR 18368, July 10, 1973]

### § 1.11 Engineering services.

(a) *Federal participation.* Costs of engineering services performed by the State highway department or any instrumentality or entity referred to in paragraph (b) of this section may be eligible for Federal participation only to the extent that such costs are directly attributable and properly allocable to specific projects.

(b) *Governmental engineering organizations.* The State highway department may utilize, under its supervision, the services of well-qualified and suitably equipped engineering organizations of other governmental instrumentalities for making surveys, preparing plans, specifications and estimates, and for supervising the construction of any project.

(c) *Railroad and utility engineering organizations.* The State highway department may utilize, under its supervision, the services of well-qualified and suitably equipped engineering organizations of the affected railroad companies for railway-highway crossing projects and of the affected utility companies for projects involving utility installations.

(d) [Reserved]

(e) *Responsibility of the State highway department.* The State highway department is not relieved of its responsibilities under Federal law and the regulations in this part in the event it utilizes the services of any engineering organization under paragraphs (b), (c) or (d) of this section.

[25 FR 4162, May 11, 1960, as amended at 53 FR 18276, May 23, 1988; 57 FR 60728, Dec. 22, 1992; 66 FR 58666, Nov. 23, 2001]

### § 1.23 Rights-of-way.

(a) *Interest to be acquired.* The State shall acquire rights-of-way of such nature and extent as are adequate for the