FHWA Planning Grant Management Workshop
Orlando, Florida
March 27-28, 2018

Learning Outcomes:
• Identify and explain key terms, concepts, and definitions;
• Understand how FHWA programs are structured and funded;
• Describe the requirements of stewardship and oversight and sub-recipient monitoring;
• Identify FHWA/FTA funding sources used for transportation planning;
• Explain eligible uses of FHWA planning grants;
• Explain State DOT and MPO roles and responsibilities in managing FHWA planning grants;
• Describe how the Uniform Administrative Requirements (2 CFR Part 200) apply to the administration and management of FHWA planning grants (e.g., cost principles, procurement standards, and audits); and
• Apply workshop concepts and principles in classroom exercises.

Agenda

Tuesday, March 27, 2018

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<td>Module 1: Welcome/Introductory Remarks, Workshop Overview, Introductions, and Logistics</td>
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<td>Module 2: Introduction to FHWA Programs</td>
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<td>2:30 PM - 2:45 PM</td>
<td>BREAK</td>
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<td>4:15 PM - 4:30 PM</td>
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8:30 AM - 9:00 AM Re-Cap of "Day 1" and Overview of "Day 2"

Module 8: Grants Management Uniform (2 CFR 200) and Programmatic (23 CFR and 49 CFR) Requirements

9:00 AM - 9:30 AM Module 8A: Introduction to the Uniform Guidance (2 CFR 200)

9:30 AM - 10:15 AM Module 8B: Federal-aid Highway Program Authorization Process and Project Lifecycle

10:15 AM - 10:30 AM BREAK

10:30 AM - 11:30 AM Module 8C: Administrative and Programmatic Standards for Federal-aid Highway Program Projects

11:30 AM - 12:30 PM LUNCH

12:30 PM - 1:00 PM Module 8C (Administrative and Programmatic Standards for Federal-aid Highway Program Projects (continued)

1:00 PM - 2:15 PM Module 8D: Cost Principles (2 CFR 200, Subpart E)

2:15 PM - 2:30 PM BREAK

2:30 PM - 3:15 PM Exercise on Cost Principles, Eligibility, and Regulation Interpretation

3:15 PM - 3:45 PM Module 8E: Audit Requirements (2 CFR 200, Subpart F)

3:45 PM - 4:15 PM Module 9: FHWA Policy Memos and Oversight Activities

4:15 PM - 4:30 PM Module 10: Wrap-Up, Workshop Evaluations, and Adjourn
Module 1: Logistics, Workshop Overview, and Introductions
Workshop Agenda: Day 1

**Agenda Topics**
- Module 1: Logistics, Workshop Overview, and Introductions
- Module 2: Introduction to FHWA Programs
- Module 3: Introduction to Funding in FHWA
- Module 4: Laws, Statutes, Regulations and Policies
- Module 5: Federal-aid Funding for Planning Activities
- Module 6: Overview of 23 CFR Part 420 (Planning and Research Program Administration)
- Module 7: 23 USC 106, Stewardship and Oversight, and Subrecipient Monitoring

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Workshop Agenda: Day 2

**Agenda Topics**
- Re-Cap of “Day 1” and Overview of “Day 2”
- Module 8: Grants Management Uniform (2 CFR 200) and Programmatic (23 CFR, 49, CFR) Requirements
  - 8A: Introduction to the Uniform Guidance (2 CFR 200)
  - 8B: FAHP Authorization Process and Project Lifecycle
  - 8C: Administrative and Programmatic Standards for FAHP Projects
  - 8D: Cost Principles - 2 CFR 200 Subpart E
  - 8E: Audit Requirements - 2 CFR 200 Subpart F
- Module 9: FHWA Policy Memos and Oversight Activities
- Module 10: Course Wrap-up, Workshop Evaluations, and Adjourn

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Logistics

- Important locations in building
- Emergency Exits
- Cell phone and technology courtesy
- Lunch and breaks

Course Structure

- Participatory Class
- Use of the “parking lot” during this course
- Practical application exercises
- 2 day course
- 100% attendance on roster sign-in for certificate of completion
- Knowledge Check
- Course Evaluation
Introductions

- Briefly introduce yourself (name, employer, position)
- Tell us something you do for fun outside of work.

What do you expect to get out of this course?

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Other FHWA Training

- Developing an Indirect Cost Allocation Proposal (ICAP)
- Federal-aid Highways – 101 (NHI#: 310110)
- Highway Program Funding (NHI#: 152072)
- Contract Administration (NHI#: 134077)
- FHWA Planning and Research Grant Administration – three updated NHI Web-based training (WBT) courses available early in calendar year 2018.
- AASHTO Audit Guide Courses
  - Procurement and Administration of A/E Contracts (NHI#: 231028)
  - Development of A/E Indirect Cost Rates (NHI#: 231029)
  - Auditing and Oversight of A/E Consultant Indirect Cost Rates (NHI#: 231030)

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Course Materials

- Participant Workbook
- Reference Material supplemental to the course
- Definitions and Acronyms
- Internet Resources

Definitions

- 2 CFR 200.69 – Non-Federal entity means a state, local government, Indian tribe, institution of higher education (IHE), or nonprofit organization that carries out a Federal award as a recipient or subrecipient.
- 2 CFR 200.93 – Subrecipient means a non-Federal entity that receives a sub award from a pass-through entity to carry out part of a Federal program. A subrecipient may also be a recipient of Federal awards directly from a Federal agency.
Contractor vs. Subrecipient

- 2 CFR 200.23 – Contractor is an entity that receives a contract as defined in §200.22 Contract

- 2 CFR 200.22 – Contract means a legal instrument by which a non-Federal entity purchases property or services needed to carry out the project or program under a Federal award.

- 2 CFR 200.38 – Federal Award means Federal financial assistance that a non-Federal entity receives directly from a Federal awarding agency or indirectly from a pass-through entity.

- 2 CFR 200.92 – Subaward means an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program.

Module 2: Introduction to FHWA Programs

NOTES:
Module 2: Learning Objectives
Participants will be able to:

- Understand the key terminology used in the Federal government to legislate and distribute funding.
- Describe the characteristics of the Federal-aid Highway program.
- Identify the difference between eligible and allowable costs.
- Distinguish the difference between State and Federal responsibilities.
- Identify elements of the current transportation legislation.

Use Correct Terminology
What are the four “A” words and two “O” words used in establishing and funding FHWA programs?

- A-
- A-
- A-
- A-
- O-
- O-
Characteristics of the Federal-aid Highway Program (FAHP)

➢ Federally assisted, State-administered
➢ Requires States to have a highway agency
➢ Funding is tied to specific categories of roads
➢ States pay for maintenance
➢ Matching requirements
➢ Contract Authority

Federal Responsibilities in FAHP

➢ Review and approve State proposals
➢ Develop regulations and guidance
➢ Promulgate standards
➢ Provide technical assistance
➢ Distribute Line of Credit
➢ Pay States for their eligible expenses
State and Local Responsibilities in FAHP

- Conceive, plan, design, initiate and construct projects
- Maintain and operate highways

Purpose of an Authorization Act

- Authorizes Programs
- Sets program-specific requirements
- Authorizes “funds” (line of credit)
- Specifies fund characteristics (formula, match, eligible activities, etc.)
- Typically covers multiple years
Budget Authority

Appropriated Budget Authority (ABA)
- Most Federal programs operate with ABA
- Requires two acts of Congress to implement programs (Authorization and Appropriation)

Contract Authority (CA)
- Most of FHWA programs operate with CA
- Authorized amounts are available without further legislative action
- Requires a provision in the law (23 USC 118(a)) and the program must receive 90% or more of its receipts from a Trust Fund.

Purpose of an Appropriations Act

- Funds Appropriated Budget Authority programs
- Sets an annual obligation limitation for programs with Contract Authority
- Sets an annual limitation for FHWA Admin funding
- Appropriates an amount of liquidating cash from the Trust funds to pay State’s eligible expenses

Note: Most Federal programs are funded through appropriated budget authority, courtesy of an appropriations act. However, as the FAHP operates under contract authority, the appropriations act serves a different function for FHWA.
Fixing America’s Surface Transportation (FAST) Act

- Signed into law Dec. 4, 2015 (P.L. 114-94)
- Highways, highway safety, transit, motor carrier, and railroads
- 5-year Act – FYs 2016-2020
  - $305 B in total authorizations
  - $226 B authorized for FAHP
  - $70 B in transfers to keep HTF solvent

Module 2: Review Lesson Outcomes

- Name three of the A or O words and explain what they mean.
- What are three of the six characteristics of the FAHP?
- Name three of the Federal responsibilities and both State responsibilities in the FAHP.
- How many years does the FAST Act authorize the FAHP?
Module 3: Introduction to Funding the Federal-aid Highway Program

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Module 3: Learning Objectives

Participants will be able to:

- Describe why the Highway Trust Fund (HTF) was established.
- Identify the sources of funding for the HTF.
- Identify the apportioned programs in the FAST Act.
- Explain the difference between apportionments and allocations.
- Describe the characteristics of Obligation Limitation.

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Highway Trust Fund (HTF)

- Federal-aid Highway Act of 1956
  - Provided authorizations for FY 1957 – 1969
  - Established Trust Fund to collect revenues to pay for authorizations, FY 1957 – 1972

- FAST Act
  - Provided authorizations for FY 2016 – 2020
  - Extended Highway Trust Fund through 09/30/2022

Federal Fuel Taxes

- Gas: 15.44¢
- Diesel: 21.44¢
- Gas Tax: 18.4¢ / gallon
- Diesel Tax: 24.4¢ / gallon
- L.U.S.T. Trust Fund
- Highway Account
- Mass Transit Account

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Federal Truck User Taxes

- **Truck Sales**
  - 12% of retail price for trucks over 33,000 lbs. or trailers over 26,000 lbs. GVWR

- **Truck Use**
  - Up to 55,000 lbs. No tax
  - Over 55,000 lbs. $200+$22/1000 lbs. $550 maximum

- **Tires**
  - 9.45 cents for each 10 lbs. exceeding 3500 lbs. maximum rated load capacity (4.725 cents for bias-ply or super single tire)

Effective January 1, 2015

Net Highway Account Income-FY16

- Diesel and Other Fuels - $8.5 B
- Truck Use - $1.2 B
- Truck Sales - $4.3 B
- Truck Tires - $0.5 B
- Gasoline - $21.7 B
- Other - $52.2 B

Total Net = $88.3 Billion
### Funds Distribution in FAHP

**Apportionments**
- Distributed by formula specified in law
- Distributed on October 1st
- Withdrawn only by law
- All States are recipients
- 92% of Highway funds are apportioned

**Allocations**
- No formula in law
- Distributed throughout year
- Discretionary (competitive) grants may be withdrawn by administrative action
- Only some states are recipients
- Can be reserved for FHWA use (e.g. FHWA Admin, R&D)
- 8% of Highway funds are allocated

### FAST Act Apportioned Programs

- National Highway Performance Program (NHPP)
- Surface Transportation Block Grant Program (STBG)
- Congestion Mitigation & Air Quality (CMAQ)
- Highway Safety and Improvement Program (HSIP)
- Metropolitan Planning (PL)
- National Highway Freight Program (NHFP) **NEW**
FAST Act Selected Allocated Programs

- Federal Lands Transportation Program
- Tribal Transportation Program
- Puerto Rico and Territorial Highway Program
- Work Zone Safety Grants
- Highway Use Tax Evasion
- Nationally Significant Freight & Highway Projects
- TIFIA (credit) program
- Nationally Significant Federal Lands & Tribal Projects (ABA)

Innovative Project Financing

- Toll Funding
- Toll Credits
- GARVEE Bonds
- State Infrastructure Banks
- Federal Credit Assistance (TIFIA)
- Public Private Partnerships (P3)
FAST Act Apportionment Formula

- Statutory Formula in 23 USC 104(b)
- MAP-21 simplified the formula process and this was continued in the FAST Act
  - After distribution of NHFP, CMAQ, and PL the formulas are 63.7% for NHPP, 29.3% for STBG, and 7.0% for HSIP.

Obligations

- State Request, Federal Approval
  - Commits State’s line of credit
  - Commits Federal Government to pay Federal share of eligible expenses
- Based on Best Cost Estimate
- Protects funds from lapsing
- Traditional point of budgetary control

NOTES:
Obligation Limitation

What is it?

- A budgetary mechanism to control Federal spending for contract authority programs

Who does it?

- Congress – through legislation

Why?

- To be responsive to current budget policies

Obligation Limitation - Characteristics

Oct 1, 2017 – Sep 30, 2018

- State-by-State limit
- Applies to total program
- Good for 1 year

The obligation limitation is determined by dividing the National Limitation minus amounts reserved from distribution by total apportionments and allocations. The FY17 limitation percentage for States was 92.8% of a State’s apportionment.
“Formula” Limitation is like a Fisherman’s Catch Limit

Catch any fish, but only 18

OR…… any other combination that equals 18

Left for Next FY

NOTES:
Module 3: Review Lesson Outcomes

- Why was the Highway Trust Fund (HTF) established?
- What are the main sources of funding for the HTF?
- Name the six apportioned programs in the FAST Act.
- What are two differences between apportionments and allocations?
- Why is there an obligation limitation in the FAHP?

Module 4: Laws, Statutes, Regulations, and FHWA Policy

NOTES:
Module 4: Learning Objectives
Participants will be able to:

- Describe where to find Highway Law.
- Understand the difference between laws and regulations.
- Identify other Federal laws that apply to the FAHP.
- Explain the concept of Hierarchy of Law.

Where to find Highway Law

Most highway law is compiled and organized (codified) into Title 23, United States Code (Statute)

- Program eligibility
- Federal share
- Apportionment formulas

Some provisions are not codified in Title 23

- Uniform Relocation Act
- Americans with Disabilities Act of 1990
- FAST Act authorization of funds
- Some project delivery provisions

Codified or not, the law is the law – FAST Act is P.L. 114-94
Laws vs Regulations

- Laws are passed by Congress and most provisions of laws are codified in the United States Code.
- After laws are passed, Federal Agencies are required to issue regulations that describe how the law will be implemented. 23 CFR for the FAHP
- Someone violating a regulation is, in effect, violating the law that created it.

Other Applicable Federal Requirements

- 49 CFR – Transportation
  - Nondiscrimination
  - Disadvantaged Business Enterprises (DBE)
  - Uniform Relocation Assistance for Real Property Acquisition
- 2 CFR 200 – Uniform Requirements
- National Environmental Policy Act (NEPA)
- Clean Air Act (CAA)
Uniform Requirements vs Programmatic Requirements

- Uniform Requirements are those regulations identified in 2 CFR 200 and apply to ALL Federal agencies that provide awards and ALL recipients and subrecipients that receive Federal awards/subawards.

- Programmatic Requirements are those regulations that are applicable to the specific program of funds being used. The FAHP programmatic requirements are found in 23 CFR and 49 CFR.

- Both the Uniform and Programmatic requirements must be followed in the FAHP.

Hierarchy of Law

1. U.S. Constitution
2. Federal Laws and Regulations
3. Federal Policy, Procedures and Directives
4. State Constitution and Law
5. State Policy, Procedures and Directives
Module 4: Review Lesson Outcomes

- What title of the U.S. Code is Highway Law codified?
- What is the difference between a law and regulation?
- Name two other Federal laws that apply to the FAHP.
- Explain when a State law would be followed instead of a Federal law.

Module 5: Federal-aid Funding for Planning Activities
Module 5: Learning Objectives
Participants will be able to:

- Identify the applicable legislation and regulations related to transportation planning.
- Identify FHWA/FTA funding sources used for transportation planning.

Applicable Legislation and Regulations

Legislation
- Funding: 23 U.S.C 104, 133, 148, and 505
- Programs: 23 U.S.C 134, 135, and 150

Regulations
- 2 CFR Part 200 (replaced 49 CFR Parts 18 and 19)
- 23 CFR Part 420
- 23 CFR Part 450
What is a Federal Planning and Research Grant?

- In general, a Federal grant is the instrument that provides Federal-aid funds to carry-out a specific purpose authorized by a Federal law.

- A Federal planning and research grant is a Federal-aid award to fund the activities or tasks that benefit the transportation planning and research programs.

- All Federal-aid grants are handled on a reimbursement basis.

FAST Act PL Formula (FY 2016 - FY 2020)

\[
\text{State's FY 2016... Combined Apportionments of NHPP, STBG, HSIP, CMAQ, PL, and NHFP} \times \text{State's FY 2009 Metropolitan Planning Funds} = \text{State's FY 2016 Metropolitan Planning (PL) Funds}
\]
Metropolitan Planning (PL) Funds

- **FEDERAL SHARE:** 80 percent, subject to sliding scale, unless the Secretary determines that the interests of the Federal-aid highway program would be best served by decreasing or eliminating the non-Federal share.

- **PERIOD AVAILABLE:** FY + 3 years

- **FUND:** Highway Trust Fund

- **TYPE OF AUTHORITY:** Contract

- **SUBJECT TO OBLIGATION LIMITATION:** Yes

- **STATUTORY REFERENCES:** 23 U.S.C. 104 and 23 U.S.C. 134

- **CFR REFERENCES:** 23 CFR Part 420 and 23 CFR Part 450


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FAST Act SPR Formula

23 U.S.C. 505

2 percent set-aside of the State’s apportionment:

- NHPP
- STBG
- HSIP
- CMAQ
- NHFP

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NOTES:
State Planning and Research (SPR) Funds

- **FEDERAL SHARE:** 80 percent, unless the Secretary determines that the interests of the Federal-aid Highway Program would be best served by decreasing or eliminating the non-Federal share.
- **PERIOD AVAILABLE:** FY + 3 years
- **FUND:** Highway Account of the Highway Trust Fund
- **TYPE OF AUTHORITY:** Contract
- **SUBJECT TO OBLIGATION LIMITATION:** Yes
- **STATUTORY REFERENCE:** 23 U.S.C. 505
- **CFR REFERENCE:** 23 CFR Part 420

SOURCE: A Guide To Federal-Aid Programs And Projects (FHWA)

NOTES:

Eligible Costs for PL and SPR Funds

Costs will be eligible for FHWA participation provided that the costs:

- Are for work performed for activities eligible under the section of title 23, U.S.C., applicable to the class of funds used for the activities;
- Are verifiable from the State DOT’s or the sub-recipient’s records;
- Are necessary and reasonable for proper and efficient accomplishment of project objectives and meet the other criteria for allowable costs in the applicable cost principles cited in 2 CFR Part 200;
- Are included in the approved budget/work program or any amendments; and
- Were not incurred prior to FHWA authorization.
Tips for Determining Eligibility

- Proposed planning and research activities must be consistent with the statutory and regulatory guidance for the specific funding source.

- Different Federal-aid funding sources have different eligibility requirements and applicable Federal-aid regulations.

What transportation planning and research activities can be funded by Federal-aid grants?

- Proposed activities and tasks must be both eligible for the requested funding and billing costs allowable under Office of Management and Budget (OMB) cost principles per 2 CFR Part 200 (OMB Uniform Administrative Requirements).

- The proposed activity must be eligible for the requested funding per 23 U.S.C. 134, 23 U.S.C. 135, or 23 U.S.C. 505. In general, a proposed activity is eligible if it is consistent with statutory and regulatory guidance for the particular funding source.
What transportation planning and research activities can be funded by Federal-aid grants? (cont’d)

- The proposed billing cost must also be allowable under OMB cost principles per 2 CFR Part 200, Subpart E.

- To be allowable, a billing cost must be necessary and reasonable for proper and efficient accomplishment of the project objectives.

Consolidated Planning Grant (CPG): History

- CPG was first announced in a joint FHWA/FTA “Dear Colleague” letter on October 1, 1996 soliciting States that may be interested in participating in this effort.

- CPG is a program in which FTA and FHWA metropolitan planning funds are combined in a single grant. Statewide planning funds may also be consolidated.
CPG: Purposes

CPG accomplishes three important goals:

- Results in one set of grant applications and a single set of reporting and billing.

- The non-mode-specific nature of a consolidated grant enhances the multimodal approach to transportation planning.

- Moves toward greater process efficiencies. The cooperative effort required for unified delivery reduces duplication of effort and increases FHWA and FTA staff time available for customer service.

CPG: Roles and Responsibilities

- States/MPOs have the option to transfer planning funds to either FTA or FHWA to be awarded and administered for metropolitan or statewide planning purposes.

- States/MPOs will decide whether planning funds will be consolidated for administration under FTA or FHWA. The designated “Lead Grant Agency” will have day-to-day responsibility for grant administration, such as work program changes, allowable cost determination, or audit processing.

- In all cases, the “Lead Grant Agency” will coordinate and solicit input from the other agency on major issues, such as work program approval and grant close-out.
Module 5: Review Lesson Outcomes

- What section of Title 23 covers the SPR program?
- Identify the applicable legislation and regulations related to transportation planning.
- What FHWA/FTA funding sources are used for transportation planning?

Module 6: Overview of 23 CFR Part 420 (Planning and Research Program Administration)
Module 6: Learning Objectives
Participants will be able to:

- Identify the regulation that guides the FHWA Planning Program.
- Explain eligible uses of FHWA planning grants.
- Explain State DOT and MPO roles and responsibilities in managing FHWA planning grants.

Planning and Research Program Administration

23 CFR Part 420

Subpart A: Administration of FHWA Planning and Research Funds.

Subpart B: Research, Development, and Technology Transfer Program Management.
23 CFR 420.101

Purpose of Subpart A

- Identifies the administrative requirements that apply to using FHWA planning and research funds for planning and RD&T activities.
- Identifies other administrative requirements.

23 CFR 420.103

Definitions

**FHWA Planning and Research Funds:**
- State Planning and Research
- Metropolitan Planning
- Surface Transportation Block Grant Program
- Equity Bonus
- Highway Safety Improvement Program
- National Highway Freight Program

Work Program
23 CFR 420.105

FHWA’s Policy on Use of Planning and Research Funds

- Statutory planning requirements.
- Activities of national significance.
- Maximum flexibility.
- State DOTs provide data that support FHWA's responsibilities and authorities.

23 CFR 420.107

Minimum Required Expenditure of SPR Funds for RD&T

- No less than 25 percent of annual SPR funds to be expended on RD&T activities.
- Exception process that includes a formal request and justification to be sent to FHWA Division Administrator for approval by FHWA’s Associate Administrator for Research, Development, and Technology.


23 CFR 420.109

Distribution of Metropolitan Planning (PL) Funds

- All PL funds available to MPOs.
- Formula developed by the State, in consultation with the MPOs, and approved by FHWA.
- Activities that benefit all MPOs.
- Discretionary grants to MPOs.
- State cannot use for grant administration.

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23 CFR 420.109

Distribution of Metropolitan Planning (PL) Funds (cont’d)

- Legislative factors to be considered in formula.
- State notification of allocations.
- Minimum apportionment of PL funds.
- Limited use of PL funds for Statewide planning.

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23 CFR 420.111

Documentation Requirements for Use of FHWA Planning and Research Funds

- Documentation acceptable to FHWA Division Administrator.
- Separate or combined work program(s).
- PL funds used outside of metropolitan planning areas.

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23 CFR 420.113

Eligible Costs

- Activities eligible under Title 23, U.S.C.
- Verifiable from State DOT or sub-recipient records.
- Necessary and reasonable.
- Allowable under the applicable cost principles (per 2 CFR Part 200).
- Included in the approved budget (UPWP or SPR Work Program).
- Not incurred prior to FHWA authorization.
- Indirect costs are allowable if supported by a cost allocation plan and indirect cost proposal.

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**Approvals and Authorizations**

- Prior approval and authorization to proceed.
- Prior approval for budget and programmatic changes.
- Prior approval needed for selected items of allowable costs.
- Federal funds must be available.
- May utilize Advance Construction (AC) provisions.
- Project agreement must be executed.

**Program Monitoring and Reporting**

- Reports of activities performed with FHWA funds.
- FHWA approval prior to publication.
- State may request a waiver of prior approval.
- Acceptance of reports as evidence of work performed, but does not imply endorsement of a report’s findings or recommendations.
- Include appropriate credit references and disclaimer statements.
23 CFR 420.117

Required Minimum Content for Performance and Expenditure Reports

- Comparison of actual performance with established goals;
- Progress in meeting schedules;
- Status of expenditures in a format compatible with the work program, including a comparison of budgeted (approved) amounts and actual costs incurred;
- Cost overruns or underruns;
- Approved work program revisions; and
- Other pertinent supporting data.

23 CFR 420.119

Fiscal Requirements

- Federal share as specified in Title 23, U.S.C.
- Matching in accordance with 2 CFR Part 305.
- Third party in-kind contributions:
  - Must be identified in work program.
  - Work program or project line item basis.
  - FHWA must approve.
  - May not be retroactive.
Fiscal Requirements (cont’d)

Third party in-kind contributions:
- Third party agrees.
- Not paid by other Federal funds or used as match elsewhere.
- Eligible transportation planning or RD&T costs.
- Cost would be allowable.
- Work performed during grant period.
- Verifiable from records.
- Recipient responsible for match.

Fiscal Requirements (cont’d)

- Toll revenue credits as match.
- Waiver of match (SPR and PL) - Pooled Fund.
- STBG funds to be administered and accounted for separately.
- The statewide/metropolitan transportation improvement program provisions must be met for use of NHS, STBG, and HSIP.
- Payment in accordance with 2 CFR Part 200.
- Payment by State to MPOs within 15 business days.
Other Administrative Requirements

- Audits.
- Copyrights.
- Disadvantaged Business Enterprises.
- Drug free workplace.
- Equipment.
- Financial management systems.
- Lobbying (49 CFR Part 20).
- Non-discrimination.
- Patents (37 CFR Part 401).

Other Administrative Requirements (cont’d)

- Procurement (2 CFR Part 1201).
- Program Income.
- Records Retention.
- Managing Subgrants.
- Subgrants to Universities, Hospitals, and Other Non-Profits.
- Suspension and Debarment.
Module 6: Review Lesson Outcomes

- What regulation guides the FHWA Planning program?
- Provide an example of an eligible activity for a FHWA planning grant.
- Name two of the required items for performance and expenditure reports.

Module 7: 23 USC 106, Stewardship and Oversight, and Subrecipient Monitoring
Module 7: Learning Objectives
Participants will be able to:

- Establish a relationship between FHWA law, policy, State DOTs, and 2 CFR 200.
- Understand the concepts of Stewardship and Oversight and how it applies to FHWA and State DOTs.
- Explain the requirements of pass-through entities (2CFR200.331).
- Explain State DOT and MPO roles and responsibilities in managing FHWA planning grants.

Stewardship and Oversight Agreement

- 23 U.S.C. Section 106(c)(3) and FHWA policy require the Stewardship and Oversight Agreement between FHWA/State
- FHWA’s policy addresses the need for the Stewardship and Oversight Agreement
- Documents the extent to which the State assumes the responsibilities of FHWA under Title 23.
Stewardship

- Stewardship involves efficient, effective, and compliant management of public funds.
- Includes the following activities to deliver the FAHP
  - Leadership
  - Technology Deployment
  - Technical Assistance
  - Problem Solving
  - Program Administration
  - Oversight

Stewardship THEME

- State DOTs “Assume responsibilities...to Act on behalf of FHWA”
- Trust BUT Verify
- Risk Based Approach
- Be in Responsible Charge (23 CFR 635.105)
Oversight

- Activities undertaken to help ensure the FAHP is delivered consistently and in compliance with applicable laws and regulations.
- Examples of Oversight Activities
  - Project Inspections
  - Certifications
  - Program and Process Reviews
  - Audits

Legislative Authorizations

FHWA is held accountable by Congress, Federal auditing authorities, and the public for ensuring that highway programs are:

- Effective, efficient, and compliant
- Consistent with laws, regulations, and policies
S & O – Division Office Responsibilities

- Process Reviews
- Financial Integrity Review and Evaluation (FIRE) Program
- Compliance Assessment Program (CAP)
- Project level oversight per State/FHWA Stewardship and Oversight Agreement
- Technical Assistance
- Quality Improvement
- Deployment of state-of-the-art technology

State Oversight Program

23 USC 106(g)(4) – Oversight Program – State Responsibilities

- States are responsive to all areas relating to financial integrity and project delivery of subrecipients
  - Adequate project delivery systems
  - Sufficient accounting controls for proper management of Federal funds
- Requires FHWA to periodically review State monitoring of subrecipients

23 USC 106 (g)(2)(B)(3) require that FHWA ensure states have appropriate Financial Management and Project Delivery Systems.
State Responsibilities

Ensure Federal-aid funds are expended in accordance with applicable Federal laws and regulations

➢ State is not relieved of this responsibility when it designates an LPA to administer Federal-aid funds on a project or phase of project.

Uniform Requirements for Pass-through Entities

➢ 2 CFR 200.74 – Pass-through entity means a non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program

➢ Pass-through entities must follow additional Uniform Requirements (2 CFR 200.331) to ensure Federal Awards are performed in accordance with regulations.
## Requirements for Pass-through Entities

**Must ensure every subaward is clearly identified and includes the following Federal award identification:**

1. Subrecipient Name
2. Subrecipient’s unique ID (DUNS)
3. Federal Award ID Number (FAIN)
4. Federal Award Date
5. Period of Performance Start and End Date
6. Amount of Federal Funds obligated
7. Amount of Federal funds obligated to subrecipient
8. Total amount of the Federal award
9. Total Approved Cost Sharing or Matching where applicable
10. Project description responsive to FFATA
11. Name of Federal Awarding Agency, Pass-through entity and Contact Information
12. CFDA Number and Name
13. Identification of where the award is R&D
14. Indirect Cost rate for the Federal Award

### The Subaward must also include:

- Requirements imposed by pass-through entity including Federal statutes, regulations, and the terms and conditions of the Federal award
- Additional requirements for financial or performance reporting and other pass-through requirements
- An approved indirect cost rate negotiated between subrecipient and Federal government, or between the pass-through entity and subrecipient
Requirements for Pass-through Entities

The Subaward must also include:

- Requirement that pass-through entity and auditors have access to subrecipient records and financial statements
- Terms and conditions for closeout of sub award

Risk Assessment

Evaluate each subrecipient's risk of noncompliance

- Prior experience with the same or similar sub awards
- Results of previous audits and review of Single Audit
- New personnel or new or substantially changed systems
- The extent and results of Federal awarding agency monitoring
2 CFR 200.331

Requirements for Pass-through Entities

Subrecipient Monitoring

- Monitor the activities of the subrecipient
- Ensure sub award is used for authorized purposes
  - Must review financial and performance reports
  - Must follow-up on deficiencies identified in audits, on-site reviews, and other means
  - Must issue a management decision on audit findings pertaining to the Federal award
  - May provide training and technical assistance
  - May perform on-site reviews

NOTES:

2 CFR 200.331

Requirements for Pass-through Entities

Subrecipient Monitoring...cont.

- Verify every subrecipient is audited in accordance with Subpart F – Audit Requirements
- Consider whether the results of audits or reviews indicate conditions that necessitate adjustments to pass-through entity’s own records
- Consider taking enforcement action against noncompliant subrecipients in accordance with 2 CFR 200.338

NOTES:
Module 7: Review Lesson Outcomes

- What section of 23 U.S.C. are the State Responsibilities identified?
- Name two examples of oversight activities.
- What section of 2 CFR 200 describes pass-through entity responsibilities.
- Name the three new data elements that are required in all subaward agreements.

Module 8: Grants Management Uniform (2 CFR 200) and Programmatic (23 CFR, 49 CFR) Requirements
Module 8 Overview

- Module 8A: Introduction to the Uniform Guidance (2 CFR 200)
- Module 8B: FAHP Authorization Process and Project Lifecycle
- Module 8C: Administrative and Programmatic standards for FAHP Projects
- Module 8D: Cost Principles 2 CFR 200 Subpart E
- Module 8E: Audit Requirements 2 CFR 200 Subpart F
Module 8A: Learning Objectives
Participants will be able to:

- Describe why Uniform Guidance was created.
- Explain the organizational content of the Uniform Guidance.
- Identify to whom the Uniform Guidance applies.
- Identify the effective date of the Uniform Guidance.
- Describe where to find U.S. DOT exceptions to 2 CFR 200.

2 CFR 200
An Introduction to the Uniform Guidance

Why Was The Uniform Guidance Created?

- Executive Order 13520 – Reducing Improper Payments
- Presidential Memorandum Feb 2011 – Administrative Flexibility, Lower Costs, and Better Results for State, Local and Tribal Governments
- Council of Financial Assistance Reform (COFAR)
2 CFR 200
An Introduction to the Uniform Guidance

So.. What is the Uniform Guidance?

- **Official Name - Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal awards**
- OMB Uniform Guidance that combines 8 previous Federal grant regulations into ONE comprehensive guidance.
- Codified at 2 CFR 200

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2 CFR 200
An Introduction to the Uniform Guidance

**Administrative Requirements (Formally 49 CFR Part 18 & 19)**

**Cost Principles**
- A-87 State, Local, and Tribal Governments
- A-121 Educational Institutions
- A-122 Non-Profit Organizations

**Audit Requirements**
- A-133 States, Local Governments, and Non-Profit Organizations
- A-50 Audit Follow-up

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NOTES:
2 CFR 200
An Introduction to the Uniform Guidance

To Whom Does the Uniform Guidance Apply?

- to Federal agencies that make Federal awards to non-Federal entities
- To non-Federal entities that receive Federal grant funds.

Yes, the Uniform Guidance applies to FHWA, State DOTs, Local and Tribal Governments!

When Did the Uniform Guidance Become Effective?

The Uniform Guidance's administrative requirements and cost principles applies to new federal awards issued by federal awarding agencies on or after December 26, 2014.

The Uniform Guidance's audit requirements will apply to audits of non-federal entity fiscal years beginning on or after December 26, 2014.

Please Note: FHWA policy and guidance impacted by the Uniform Guidance is currently being developed and updated.
2 CFR 200
An Introduction to the Uniform Guidance

The Uniform Guidance is divided into six parts:
- Subpart A—Acronyms and Definitions
- Subpart B—General Provisions
- Subpart C—Pre-Federal Award Requirements and Contents of Federal Awards
- Subpart D—Post-Federal Award Requirements
- Subpart E—Cost Principles
- Subpart F—Audit Requirements

It also includes 11 appendices. Of particular note to FHWA is:
- Appendix VII—States and Local Government and Indian Tribe Indirect Cost Proposals.

2 CFR 200
Should vs. Must

- Not in definitions
- COFAR: “should” does not signify “must”
- Should indicates a best practice suggestion
2 CFR 200: Subpart A
A Few Essential Definitions

200.18 Cognizant Agency for Audit
✓ The Federal Agency designated to carry out the responsibilities described in Subpart F – Audit. The cognizant agency for audit is not necessarily the same as cognizant agency for indirect costs.

200.19 Cognizant Agency for Indirect Costs
✓ The Federal Agency responsible for reviewing, negotiating, and approving cost allocation plans or indirect costs proposals. The cognizant agency for audit is not necessarily the same as cognizant agency for Audit.

200.37 Federal Awarding Agency
✓ The Federal Agency that provides a Federal award directly to a non-Federal entity.

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2 CFR 200: Subpart B
General Provisions

- 200.100 Purpose

Establish uniform administrative requirements, cost principles, and audit requirements for non-Federal entities

- 200.101 Applicability

The Uniform Guidance applies to Federal agencies that make Federal awards to non-Federal entities

Terms and Conditions flow down to sub-awards to sub-recipients

No additional or inconsistent Requirements

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NOTES:

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2 CFR 200: Subpart B
General Provisions

- **200.102 Exceptions**
  - No EXCEPTIONS for ANY audit requirement
  - Administrative Requirements and Cost Principles Only in unusual circumstances
  - OMB Approval – **2 CFR 1201**
  - More restrictive guidance but no less restrictive (unless required by statute)

2 CFR 200: Subpart B
General Provisions

- **200.111 English Language**
  - Award document written in English and amounts in US Dollars

- **200.112 Conflict of Interest**
  - Agencies must have policy in place

- **200.113 Mandatory Disclosures**
  - Written disclose of violations of law involving fraud, bribery or gratuity violation affecting the award

FHWA already established conflict of interest policy in 23 CFR 1.33
Module 8A: Review Lesson Outcomes

- Why was the Uniform Guidance created?
- How many subparts are included in 2 CFR 200?
- What entities are required to follow the Uniform Guidance?
- What is the effective date of the Uniform Guidance?
- Describe where to find U.S. DOT exceptions to 2 CFR 200.

Module 8B: FAHP Authorization Process and Project Lifecycle

NOTES:
Module 8B: Learning Objectives
Participants will be able to:

- Identify the four types of Federal assistance instruments.
- Explain where to find Project Agreement provisions.
- Understand the concept of Period of Performance.
- Identify the provisions of Advance Construction.
- Explain the project closeout requirements.

2 CFR 200: Subpart C
Pre-Federal Award Uniform Requirements

Federal awarding agencies decide upon the appropriate instrument for the award:

Four instrument Types:
1. Grant Agreement
2. Cooperative Agreement
3. Contract
4. Fixed Amount Award

A cooperative agreement requires substantial involvement in carrying out the activity of the award.

A Fixed Amount Award cannot be used in programs which require a mandatory cost sharing or match. A Fixed Amount Award may not reflect actual costs incurred.

A contract is an instrument by which a non-Federal entity purchases property or services needed to carry out the project or program under the Federal award.
FAHP Project Agreement

- **Title 23 U.S.C. 106(a)(2)** requires States to enter into a formal project agreement with FHWA for each Federal-aid project.

- **23 CFR 630 Subpart A – Project Authorization and Agreements**
  - §630.106(a)(1) – State DOTs must obtain an authorization to proceed from FHWA before beginning work on any Federal-aid project.
  - Authorization is provided only for the phase of work that is ready to proceed
  - §630.106(a)(2) – FHWA will issue authorization to proceed through or after execution of a formal project agreement with the State.

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2 CFR 200: Subpart C
Pre-Federal Award Requirements

**Federal Award Information**

1. Recipient Name
2. DUNS number
3. FAIN Number
4. Federal Award Date
5. Period of Performance Start and End Date
6. Amount of Federal Funds obligated
7. Total amount of Federal Amount Obligated
8. Total amount of the Federal award
9. Budget Approved by the Federal Awarding Agency
10. Total Approved Cost Sharing or Matching where applicable
11. Federal Award Project Description
12. Name of Federal Awarding Agency and Contact Information
13. CFDA Number and Name
14. Identification of where the award is R&D
15. Indirect Cost rate for the Federal Award

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NOTES:
2 CFR 200
Post Federal Award Requirements

Period of Performance

Imposes a period when project cost can be incurred and still be eligible for reimbursement.

FHWA Guidance
Period of Performance: Project Agreement Start Date

Agreement Start Date: The date when FHWA authorizes the project to incur costs for the authorized phase and scope of work.

➤ Each phase should be authorized and funds obligated only when that phase is ready to proceed

Agreement End Date: The final date when the recipient/subrecipient may incur costs on a Federally funded project.

➤ End date should be selected based upon the schedule of the of the scope of work under agreement, not to the completion of the entire “project” if it will be authorized in multiple phases.

➤ Final costs must be billed and all obligations liquidated within 90 days of the agreement end date unless an extension is requested by the State DOT and approved by the FHWA.
Authorization/Obligation Process

State DOT will request project authorization via the Fiscal Management Information System (FMIS), which is the FHWA official project authorization system.

- FHWA Division staff will review project in FMIS
  - Ensures project is in TIP/STIP (if applicable)
  - Verifies appropriate funding eligibility
  - Verifies matching rate and other Federal requirements (NEPA, ROW, etc.)
- FHWA signs the Project Agreement (at least two signatures), which authorizes the project phase and obligates the Federal funding.

23 CFR 630 Subpart G
Advanced Construction (AC)

AC is the process of advancing the construction or authorizing a Federal-aid projects without obligating Federal funds apportioned or allocated to the State.

- State or Local Governments use their own funds for the project.
- Projects are programmed the same as other Federal-aid
- Project is authorized by the FHWA in the same manner as a regular Federal-aid project.
- All Federal provisions must be followed (e.g. NEPA, Uniform Act, etc.)
- The authorization does not constitute any commitment of Federal funds on the project.
- The FHWA will not reimburse the State for expenses until the project is converted.
- Converting an AC project obligates Federal funds

NOTES:
23 CFR 630.106 and 630.110
Project Modifications

When changes are needed to the original project agreement, a modification of agreement shall be prepared.

- 23 CFR 630.106 requires that costs on a project shall be supported by a documented cost estimate that is based on the State's best estimate of costs.
- The State shall maintain a process to adjust project cost estimates.
  - Review project cost estimate when bid is approved
  - Adjust cost to actuals after award
  - Adjust costs when a design change is approved
  - Adjust costs after a project phase is completed
- Costs could be determined ineligible if not obligated prior to incurring the additional costs (23 CFR 1.9(a)).

2 CFR 200: Subpart D
Post Federal Award Requirements

Closeout

- Non-Federal entities:
  - Submit all reports (90 days)
  - Liquidate all obligations
  - Refund any balances
  - Account for property

FHWA may exercise unilateral authority to close projects in FMIS if recipient fails to comply with project closeout requirements.
2 CFR 200: Subpart D
Post Federal Award Requirements

Closeout

- Federal Awarding Agency:
  - Administrative actions and required work has been completed
  - Make prompt payments for allowable reimbursable costs
  - Close out action must be completed within 1 year after receipt and acceptance of all required reports

Record Retention

- Retention Requirements for Records
  - Financial records
  - Supporting documentation, and
  - All other pertinent documents
  - 3 years after final invoice

- Some Exceptions
  - Litigation, claim, or audit until resolved
  - Notification in writing to extend the retention period
  - Real property and equipment retention period is 3 years after final disposition
  - Indirect Cost Allocation Proposals and Central Service Cost Allocation Plans
    - Negotiated rates: 3 years from the submission date
    - Non-negotiated rates: 3 years from the end of FY in which the rate was used
FHWA Guidance
Project Closeout

- Project closeout occurs when the State DOT submits a request to FHWA to close a project in FMIS
  - All required work and deliverables have been completed
  - All applicable administrative actions (e.g. reporting, final billings, etc.) are completed

- Project closeout procedures should be initiated soon after the project has been completed, work is accepted, and final payment has been made
  - Unexpended Federal funds should be deobligated to reflect final costs
  - Obligations should not be kept on a project unless there is a sufficient reason
  - Adjustments to obligations can be made as necessary if eligible and allowable costs or credits to the project are identified

- Record retention is 3 years and begins when the final voucher is submitted and signed in FMIS
  - If a project languishes during the closeout process, loss of documentary evidence is possible
  - If documentation is not available to support a cost, those costs are improper and must be repaid

Module 8B: Review Lesson Outcomes

- What Federal assistance instruments is used in the FAHP?
- What section of 23 CFR are the Project Agreement provisions located?
- How should a State determine the Project End Date?
- True or False...FHWA is committed to pay states for expenses on an Advance Construction project.
- How long must project documents be kept on a project?
Module 8C: Administrative and Programmatic Standards for FAHP Projects

Module 8C: Learning Objectives
Participants will be able to:

- Understand the requirements for ensuring financial integrity and adequate project delivery.
- Describe the various matching provisions that are allowed in the FAHP.
- Understand the provisions for Real Property and Equipment.
- Identify the different methods of procurement.
- Explain the importance of monitoring by the non-Federal entity.
23 USC 106(g)
Oversight Program

FHWA is required to monitor the effective and efficient use of funds to carry out the FAHP.

- Financial Integrity and Project Delivery
  - Financial Management Systems
  - Project Costs
  - Project Delivery Systems

State DOTs are responsible for determining that subrecipients of FAHP funds have:

- Adequate project delivery systems for projects
- Sufficient accounting controls to properly manage Federal funds

2 CFR 200: Subpart D
Post Federal Award Requirements

Financial Management

- Non-Federal entity
  - Follow State laws and procedures
  - Preparation of reports
  - Retention requirements for records
  - Trace funds to the expenditure transaction level
  - Identify adequately Federal awards, authorizations, obligations, unobligated balances, assets, expenditures, income and interest and be supported by source documentation.
  - Written procedures for payments and cost allowability
2 CFR 200: Subpart D
Post Federal Award Requirements

Internal Control

- Non-Federal entity must:
  - Establish and maintain effective internal control
  - Comply with Federal Statutes and Regulations
  - Comply with terms and conditions
  - Evaluate and monitor compliance
  - Take prompt action when noncompliance is identified
  - Take measures to ensure information privacy

2 CFR 200: Subpart D
Post Federal Award Requirements

Payments

- States
  - Treasury/State CMIA Agreements

- Other non-Federal entities
  - Payment methods must minimize the time elapsing between the transfer and disbursement of funds
  - Payment within 30 calendar days after receipt of the billing
Payments to States

Payment Flow
- Contractor does work
- Contractor bills State
- State pays contractor
- State submits voucher to FHWA through FMIS
- FHWA reviews voucher and sends payment request to U.S. Treasury
- Treasury pays State

Once submitted to FHWA, payments are generally received by State within 24-48 hours.

2 CFR 200: Subpart D
Post Federal Award Requirements

Cost Sharing or Matching
- Accepted if contributions are:
  - Verifiable from the non-Federal entity's records;
  - Not included as contributions for any other award;
  - Necessary and reasonable to meet a program’s objectives;
  - Allowable under the cost principles;
  - Not Federally funded under another award, unless authorized by statute; and
  - Provided for in the approved budget.

Cost Sharing or Matching means the portion of a project cost not paid by Federal funds (unless authorized by Federal statute. 2 CFR 200.29
23 USC 120
Federal Share Payable – Base Rate

- NHPP
- STBG
- HSIP
- Rail/Highway Xing
- Metro Plan.
- CMAQ
- SPR
- TA
- Rec Trails
- Fed Lands Access
- Ferry Boats
- Highway R&D
- ITS
- Training & Ed.
- Technology Deploy.
- Puerto Rico Highway Program
- New National Highway Freight Program

100%
- Tribal Trans. Program
- Fed Lands Trans. Program
- Territorial Highway Program
- Tribal HPPs

80-100%
- Emergency Relief Program

23 USC 120
Federal Share Payable – Special Rates

Sliding Scale
- NHPP STBG HSIP CMAQ
- NHFP Metro Planning
- Rec Trails
- TA
- ER
- Fed Lands Access
- Puerto Rico HP
- Maximum 80% for Toll Projects
- Repealed
- Increased Federal Share to improve freight movement

100% for Designated Safety Projects
- NHPP STBG
- NHFP
- CMAQ
- TA

≤100% for Innovative Delivery Methods
- NHPP STBG
- Metro Planning

100% for ADHS Projects
- Apportioned funds designated funds

100% for Workforce Development
- NHPP STBG
- HSIP CMAQ

Up to 100%
- Projects within Indian reservations, national parks & monuments using apportioned funds (Except Metro Planning, SPR, and Rail-Highway Crossing)
Common Matching Fund Sources in FAHP

- State and/or Local funds
- Third-party Cash Donation
- Third-party In-kind Donation
- Credit for donated private property or for land lawfully obtained by State without Federal funds
- Other Federal agencies, if permitted by law
- Federal Lands Highway Program funds for joint FAHP/FLHP projects.

FHWA Non-Federal Matching Requirements

Third party** In-kind Donations

Third party in-kind donations may be used to satisfy the non-Federal match requirements for a project under the FAHP.

- May be incorporated into a Federal-aid project through amendment
- Retroactive approval of costs incurred prior to authorization is prohibited consistent with 23 CFR 630.106(b).
- Total contributions of cash and/or donations from all non-Federal sources plus the Federal funds may not exceed the total cost of the project [23 CFR 630.206(h)(2)].
- Each dollar of excess donations shall reduce a like amount of Federal share.

**A third party is an entity (other than a recipient/subrecipient or Federal Agency) that is not party to a Federal-aid project agreement, but who may have an interest in the project. 2 CFR 200.96.
FHWA Non-Federal Matching Requirements

Tapered Match

Tapered Match allows the non-Federal matching ratio to be applied to the project, rather than individual progress payments.

- Federal reimbursement can range from zero to 100% in the early stages of a project.
- When project is complete, the overall Federal share must not exceed the statutory Federal-aid limit for the project in question.
- Must be approved by Division Administrator when approval would result in one or more of the following:
  - Using tapered match would result in earlier project completion
  - Project costs would be reduced by using tapered match
  - Tapered match would provide for additional non-Federal funds to be leveraged
  - When costs for services are donated by a LPA acting as a third party or incurred by LPA as a subrecipient, or in limited circumstances, a State agency acting as recipient.

2 CFR 200: Subpart D

Post Federal Award Requirements

Program Income – Gross income earned by the non-Federal entity that is directly generated by a supported activity or earned as a result of the Federal award during the PoP. 2 CFR 200.80

- Non-Federal entity
  - Encouraged to earn Program Income to defray current costs
  - Reported net of costs to earn it
  - Earnings from sale of surplus property and taxes are not considered program income
  - May be added to the amount of a grant or used to meet cost sharing requirements (prior approval)
2 CFR 200: Subpart D
Post Federal Award Requirements

Property Standards

- Real Property
- Personal Property
  - Tangible
    - Equipment
    - Supplies
  - Intangible

Real Property means land, including land improvements, structures, and appurtenances thereto, but excludes moveable machinery and equipment. 2 CFR 200.85

NOTES:
2 CFR 200: Subpart D
Post Federal Award Requirements

Personal Property

➢ Tangible
  ▪ Equipment
  ▪ Supplies

➢ Intangible
  ▪ Trademarks
  ▪ Copyrights
  ▪ Patents
  ▪ Loans, notes, other debt agreements
  ▪ Instruments of property ownership

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2 CFR 200: Subpart D
Post Federal Award Requirements

Equipment

➢ Useful life > 1 year
➢ Acquisition cost = or > $5,000
➢ Title rests with non-Federal entity
➢ Proper authorized use
➢ May be used in another activities
➢ Subject to management controls:
  ▪ Maintain property records (minimum requirements)
  ▪ Biennial physical inventory
  ▪ Implement loss prevention program

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2 CFR 200: Subpart D
Post Federal Award Requirements

**Equipment**

- **Title**
  - Remains with non-Federal entity
  - Used for authorized purposes
- **Disposition**
  - Fair Market Value (FMV) = or < $5,000 (retain, sold or dispose with no obligation to Federal awarding agency)
  - Fair Market Value (FMV) > $5,000 (no instructions within 120 days; retain or sold)
  - Non-Federal entity requests disposition instructions

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**FHWA Guidance**

*Buy America*

Project approval cannot be made unless one of the following requirements is met:

- The project includes no permanently incorporated steel or iron materials, or
- If steel or iron are to be used, all manufacturing processes, including application of a coating, must occur in the United States.
- The State elects to include alternate bid provisions for foreign and domestic steel and iron materials. Prior approval from Division Administrator is required.
  - If lowest bid for domestic steel exceeds the lowest bid on foreign steel by > 25%
- Minimal use of steel or iron is allowed, if the cost of such materials does not exceed one-tenth of one percent (0.1%) of the total contract cost or $2,500, whichever is greater.
- Buy America Waiver can be submitted to FHWA HQ through the Division if;
  - The Buy America provisions would be inconsistent with the public interest; or
  - Steel and iron materials/products are not produced in the U.S. in sufficient and available quantities and satisfactory quality.
2 CFR 200: Subpart D
Post Federal Award Requirements

**Supplies**
- Title rests with non-Federal Entity
- Residual inventory < $5,000 (in aggregate value)
  - Retain for other projects
- Residual inventory > $5,000 (in aggregate value)
  - Retain
  - Sell
  - Compensate Federal awarding agency

**Equipment** means all tangible personal property other than those described in 200.33 Equipment 2 CFR 200.93

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2 CFR 200: Subpart D
Post Federal Award Requirements

**Procurement Standards – Non-Federal Entities must:**
- Follow same procurement policies and procedures for non-Federal funds
- Maintain oversight over contractor performance
- Written standards of conduct
- Avoid procurement of unnecessary or duplicate items
- Enter into state and local intergovernmental agreements for procurement
- Use Federal excess and surplus property
- Maintain records
- Take responsibility for any procurement settlement

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2 CFR 200: Subpart D
Post Federal Award Requirements

Competition

- Full and Open Competition

- Some examples of restrictive situations:
  - Placing unreasonable requirements
  - Requiring unnecessary experience
  - Specifying a “brand name” product
  - Geographical Preference

Methods of Procurement

- Micro Purchases < $3,500
- Small Purchase Method $3,500 - $150,000
- Greater than $150,000
  - Sealed bids
  - Competitive Proposals
  - Non-competitive proposals (Sole Source)
  - “Micro-purchase threshold” means $3,500
  - “Simplified Acquisition Threshold” means $150,000
23 CFR Part 172
Consultant Procurement for Engineering and Design (E&D) Services

Procurement of E&D services must use one of three methods

- Competitive Negotiation – Qualifications Based Selection (> $150,000)
  - Solicitation
  - Request for Proposal (RFP)
  - Evaluation, ranking, and selection
  - Negotiate price

- Small Purchase Procurement (< $150,000)
  - A minimum of three consultants are required to satisfy adequate competition
  - If contract modification causes the total contract amount to exceed $150,000, the entire contract becomes ineligible for Federal funding

- Noncompetitive procurement (Sole Source)
  - Service is only available from one source
  - Emergency situation does not permit competitive negotiation
  - After solicitation of a number of sources, competition is determined inadequate

2 CFR 200: Subpart D
Post Federal Award Requirements

Contracting with Small and Minority Business & Women Business Enterprise (WBE)

- Place them on solicitation list
- Use when they are potential sources
- Divide procurement solicitation into smaller tasks to ensure their participation
- Establish delivery schedules to encourage participation

NOTES:
2 CFR 200: Subpart D
Post Federal Award Requirements

Monitoring and Reporting Program Performance

- Monitoring by the non-Federal entity
  - Monitoring activities under the Federal award to assure:
    - Compliance with law, rules and regulations
    - Accomplishment of performance objectives

FHWA Guidance
Project Funds Management and Monitoring

- Project funds management integrates monitoring of obligations and project performance schedules. Monitoring is an internal control component.

- Ongoing monitoring is a primary component of proactively managing obligations to prevent:
  - Obligation from becoming inactive; and
  - Prevent improper payments (errors, fraud, waste, and abuse);

- Divisions and State/Locals are encouraged to maintain Standard Operating Procedures (SOPs) describing the responsibilities associated with monitoring all federally funded projects and the frequency with which these responsibilities are carried out
2 CFR 200: Subpart D
Post Federal Award Requirements

Remedies for noncompliance

The Federal awarding agency or pass-through entity may take one or more of the following actions if noncompliance cannot be remedied by imposing additional conditions:

- Temporarily withhold payment until correction of deficiency
- Disallow all or part of the cost of the activity not in compliance
- Wholly or partly suspend or terminate the Federal award
- Initiate suspension or debarment proceedings (2 CFR Part 180)
- Withhold further Federal awards for the project or program
- Take other remedies that may be legally available.

Module 8C: Review Lesson Outcomes

- What section of 23 USC describes the requirements for Financial Integrity and Project Delivery?
- What is the Federal share for an Emergency Relief (ER) project?
- Identify the different methods of procurement.
- Explain the importance of monitoring by the non-Federal entity.
Module 8D: Cost Principles  
2 CFR 200 Subpart E

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Module 8D: Learning Objectives  
Participants will be able to:

- Describe the general provisions and applicability of the Cost Principles.
- Explain the general criteria for allowability of cost.
- Understand the composition of cost.
- Understand the requirements for claiming indirect costs.
- Identify certain “Selected Items of Cost” and their allowability principles.

United States Department of Transportation
2 CFR 200: Subpart E
Policy Guide

- Non-Federal entities will be responsible for:
  - Administering Federal funds efficiently and effectively
  - Complying with programmatic requirements and other terms of the Federal award
  - Maintaining internal accounting policies consistent with cost principles
  - Support cost charged with adequate supporting documentation
  - Not earning or keeping any profit (unless authorized)

The policy guide explains that, in reviewing, negotiating, and approving IC proposals, the cognizant agency is charged with generally assuring that the non-Federal entity is applying the cost principles on a consistent basis.

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2 CFR 200: Subpart E
Allowability of Cost

Cost must meet the following criteria to be allowable:

- Necessary
- Reasonable
- Allocable
- Authorized
- Consistent
- In accordance with GAAP
- Not Duplicated
- Net of Applicable Credits
- Adequately Documented

2 CFR 200: Subpart E
What is a Reasonable Cost?

- Ordinary/Necessary
- Restraints and Requirements
- Market Prices
- Prudent Acts
- Established Practices
2 CFR 200: Subpart E
Allocable Cost

- Cost benefit relationship
- Appropriate Amount
- Cost Shifting
- Cost Allocation Plan

2 CFR 200: Subpart E
Applicable Credits

- Receipts or reduction-of-expenditure transactions that offset or reduce expense items allocable to Federal awards
- Must be credited to Federal award
- Amounts received by the Federal government to finance activities or service operations of the non-Federal entity should be treated as applicable credits
2 CFR 200: Subpart E
Prior Approval

- The non-Federal entity may seek the prior written approval of the cognizant agency in advance of the incurrence of special or unusual costs.

Items of cost for which prior approval is required for the cost to be allowable is provided in:
2 CFR 200.407

2 CFR 200: Subpart E
Collection of Unallowable Cost

- Payments for unallowable costs must be paid back
- Determination could be made by:
  - Federal Awarding Agency
  - Cognizant Agency for IC
  - Pass-through entity
- Refund is made to Federal government
- Includes interest
2 CFR 200: Subpart E
Classification of Cost - Direct or Indirect?

Direct Cost
Can be traced directly to a cost object such as a Federal Award (a project)
- Direct Labor
- Direct Material
- Equipment
- Travel
- Contracts

Indirect Cost
Cost incurred for common or joint objectives and cannot be readily identified with a particular cost objective
- Depreciation
- Cost of maintaining facilities
- General Administration
- Expenses

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2 CFR 200: Subpart E
Indirect Costs

➢ Use of Indirect Cost Rate

➢ Cost Allocation Plans/Indirect Cost Proposals

➢ "De minimis" rate of 10%
   ▪ Never received a negotiated rate
   ▪ Receives $5 million or less on Federal awards

If an entity neither elects the 10% de minimis rate nor submits a certified rate or plan proposal, the Federal government may either disallow all indirect costs or unilaterally establish a plan or rate. Claiming reimbursement for indirect costs is not mandatory.

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2 CFR 200: Subpart E
General Provisions of Selected Item Costs

- Considerations for Selected Items of Cost
  - List of Selected Items of Cost is not an exhaustive one
  - Apply whether or not an item is direct or indirect
  - Based on treatment provided to similar or related item of cost

Remember that costs must be:
- Allowable
- Allocable
- Reasonable
- Necessary

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NOTES:
2 CFR 200: Subpart E
Selected Items of Costs

Advertising & Public Relations

- Recruitment of personnel
- Procurement of goods and services
- Disposal of scrap or surplus
- Program outreach
- Cost of communicating with public & press

- Cost of meetings, conventions related to other activities of the entity
- Salaries and wages of employees engaged in setting up and displaying exhibits, making presentations and briefings
- Cost of promotional items memorabilia, gifts, and souvenirs
- Cost of advertising and public relations designed solely to promote the non-Federal entity

Advisory Council

- Advisory councils or committees are only allowable as a direct cost where authorized by the Federal awarding agency or as an indirect cost where allocable to Federal awards. Generally they are unallowable.

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2 CFR 200: Subpart E
Selected Items of Costs

Alcoholic Beverages

- Not allowed!

Audit Services

- If required by and performed in accordance with the Single Audit Act
- The cost of agreed-upon procedures engagements to monitor sub-recipients

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2 CFR 200: Subpart E
Selected Items of Costs

**Bad Debt**
- Not allowed!

**Bonding Cost**
- If required pursuant to the terms and conditions of the Federal award
- If required by the non-Federal entity in the general conduct of its operations (as indirect cost)

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2 CFR 200: Subpart E
Selected Items of Costs

**Collection of Improper Payments**
- As either direct or indirect charges incurred to collect improper payments

**Compensation for Personal Services**
- Reasonable, consistent and allocable to Federal award
- Based on records accurately reflecting work performed
- Blended funding
- Hiring of the employee according with entity’s polices and meets applicable Federal requirements
- Budget estimates (interim accounting purposes only)

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NOTES:
2 CFR 200: Subpart E
Selected Items of Costs

**Compensation – Fringe Benefits**
- Reasonable
- Benefits are provided for under established written leave policies
- Costs are equitably allocated
- Accounting basis (cash or accrual) selected for costing each type is consistent

**Conferences**
- Necessary and reasonable for the successful performance of the Federal award
- Cost associated with identifying, but not providing dependent care
- Cost are managed in a manner that minimize cost

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**Contingency Provisions**
- Allowed to include some contingency amounts in budget estimates based on accepted cost methodologies
- No “Rainy day fund” is allowed

**Contributions and Donations**
- **Not allowed, unless:**
  - Used to meet cost sharing or matching requirements
  - Depreciation in donated assets is permitted (if donated property is not counted towards cost sharing or matching requirements)
2 CFR 200: Subpart E
Selected Items of Costs

**Defense and Prosecution**

- Legal expenses required in the administration of a Federal award

- Legal expenses for prosecution of claims against the Federal government

- Costs for the defense in civil, or criminal proceedings are unallowable.

**Depreciation**

- Allowance method eliminated

- GAAP

- May be used to meet cost sharing or matching requirements

- Depreciation in donated assets is permitted (if donated property is not counted towards cost sharing or matching requirements)

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**Employee Health and Wellness Costs**

- Cost for the improvement of working conditions, employer-employee relations, employee health and performance

- **Employee morale cost** are no longer allowable

**Entertainment**

- Costs for entertainment are unallowable except:

  - With a programmatic purpose;

  - Authorized by the Federal awarding agency
2 CFR 200: Subpart E
Selected Items of Costs

Equipment and Other Capital Expenses

- Capital expenditures for general purpose equipment, buildings or lands are not allowed as direct charges.
- Prior approval from the Federal awarding agency must be obtained.
- Costs of disposing or transferring equipment if the Federal awarding agency issues disposal or transfer instructions.

General Cost of Government

- Not allowed!

United States Department of Transportation
2 CFR §§ 200.439 & .444
187

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2 CFR 200: Subpart E
Selected Items of Costs

Idle Facilities

- Not allowed; except when:
  - Necessary to meet fluctuations in workloads.
  - Were necessary at one point and not longer needed due to unforeseen changes (< 1 year).

Interest

- Not allowed; except when:
  - Provided for in Federal regulations.
  - For financing costs associated with constructions (i.e. GARVEE Bond interest).

United States Department of Transportation
2 CFR §§ 200.446 & .449
188

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FHWA Planning Grant Management Workshop Page 94
2 CFR 200: Subpart E
Selected Items of Costs

**Lobbying**
- Not allowed

**Loss on Other Awards or Contracts**
- Not allowed

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2 CFR 200: Subpart E
Selected Items of Costs

**Maintenance and Repair Costs**
- Costs necessary to keep buildings and equipment in efficient operating condition are allowable.
- Costs which add to the permanent value or appreciably prolong the life of the asset shall be treated as capital expenditures.

**Materials and Supplies**
- Material and Supply costs necessary to carry out a Federal Award are allowable
- Computing devices as direct costs if essential and allocable to Federal award

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2 CFR 200: Subpart E
Selected Items of Costs

**Membership and Subscriptions**
- Cost of memberships in business, technical, and professional organizations
- Cost of governmental unit's subscriptions to business, professional and technical periodicals
- Cost of membership in organizations substantially engaged in lobbying
- Country clubs and social organizations

**Plant and Security Costs**
- Necessary and reasonable to protect facilities, personnel, and work products

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2 CFR 200: Subpart E
Selected Items of Costs

**Pre-Award Costs**
- If costs are necessary for the efficient and timely performance of the scope of work.
- Only to the extent that they would have been allowed if incurred after the date of the authorization with prior approval of the Federal awarding agency

**Professional Service Cost**
- If reasonable and meet all of the guidelines

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**2 CFR 200: Subpart E**

**Selected Items of Costs**

**Publication and Printing Costs**

- Publication costs for electronic and print media, including distribution and promotion as indirect cost if not identifiable with a cost objective
- Page charges for professional journal publications if they report the work supported by the Federal government

**Rental Cost of Property and Equipment**

- If rates are reasonable and comparable to market prices
- GAAP provisions must be followed for capital lease determination

**United States Department of Transportation**

2 CFR §200.452 & .465

**United States Department of Transportation**

2 CFR §200.458 & .470

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2 CFR 200: Subpart E
Selected Items of Costs

Training and Education Costs
✓ Training and education costs related to employee development, such as, workshops, textbooks, classes, etc. are allowable.

Transportation Costs
✓ Cost incurred for freight, express, cartage, postage, etc. as direct or indirect.

2 CFR 200: Subpart E
Selected Items of Costs

Travel
✓ Official travel expenses are allowable.
✓ Charges must be consistent with entity's non-Federal program.
✓ In accordance with entities written travel policies and/or Federal Travel Regulation (FTR)
2 CFR 200: Appendix VII
Indirect Cost Proposals

What is an indirect cost again?

Indirect costs are those that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved.
2 CFR 200: Appendix VII
Indirect Cost Proposals

Some basic terms and definitions you need to understand:

- Direct Cost Base
- Base Period
- Cost Objective
- Cognizant Agency
- Indirect Cost Pool
- Indirect Cost Rate
- Indirect Cost Rate Proposal
- Cost Allocation Plan
- Central Services Cost Allocation Plan

2 CFR 200: Appendix VII
Indirect Cost Proposals

Type of Indirect Cost Rates:

- Provisional Rate
- Final Rate
- Predetermined Rate
- Fixed Rate
- De minimis Rate

NOTES:
2 CFR 200: Appendix VII
Indirect Cost Proposals

Allocation of Indirect Costs

Special Rates

- Factors:
  - Physical location
  - Level of administrative support required
  - The nature of the facilities
  - Organizational arrangements used

- Narrative Cost Allocation Methodology

Submission of Indirect Cost Proposals

- An indirect cost rate proposal should be prepared
- Proposal and supporting documentation should be retained for audit
- Must be submitted to cognizant agency when requested
- Pass-through entities are responsible for negotiating and monitoring sub-recipient’s indirect costs.
- Must be developed and submitted within 6 months after end of FY
2 CFR 200: Appendix VII
Indirect Cost Proposals

Fringe Benefits Rates

➢ If not part of the central services cost allocation plan:
  ▪ Reviewed and negotiated and approved
  ▪ Fringe rate computation needed

Module 8D: Review Lesson Outcomes

➢ What are two of the five responsibilities of non-Federal entities related to the Cost Principles?
➢ What are the three main criteria for determining a cost is allowable?
➢ What is the composition of cost formula?
➢ What is the primary method for claiming indirect costs?
➢ What are the two most common methods (indirect and direct) that a State can claim costs associated with Capital Expenditures?
Case Study Activity
Cost Principles, Eligibility, and Regulation Interpretation

Module 8E: Audit Requirements
2 CFR 200 Subpart F
Module 8E: Learning Objectives
Participants will be able to:

- Explain when a non-Federal entity is required to have a Single Audit and how often a Single Audit is required.
- Identify the roles and responsibilities in the audit process.

2 CFR 200: Subpart F
Audit Requirements

- Non-Federal entity that expends $750,000 or more during its FY in Federal awards must have a single or program-specific audit conducted in that year.
- Applies to fiscal years beginning on or after December 26, 2014.
2 CFR 200: Subpart F
Audit Requirements

Frequency of Audits
Annually except when:

- Meet biennial provisions
- By statute or Constitution

Sanctions:

- Inability or unwilling to have an audit conducted
- 2 CFR 200.338 Remedies for Noncompliance
2 CFR 200: Subpart F
Audit Requirements

**Auditee Responsibilities:**
- Prepare financial statements and schedule of expenditures 200.510
- Arrange the audit using procurement standards 200.509
- Ensure audit is performed and submitted when due 200.509
- Follow-up and corrective actions 200.511
- Provide auditor with access to appropriate data

**Auditor Selection:**
- Follow 2 CFR 200.317 Procurement Standards
- High quality audits
- Request peer review report
- Responsiveness to the request for proposal
- Relevant experience
- Availability of Staff
- Qualifications and technical skills
- Price
2 CFR 200: Subpart F
Audit Requirements

Report Submission:

➢ Earlier of:
  ▪ 30 calendar days of receipt
  ▪ 9 months after the end of the audit period
  ▪ If due date falls on Saturday, Sunday or Federal holiday

➢ Available for public inspection
➢ Do not include PII
➢ Data Collection Form
➢ Electronically submit to Federal Audit Clearinghouse

Cognizant Agency for Audit:

➢ A non-Federal entity expending more than 50 million a year in Federal awards must have a cognizant agency for audit.

➢ Must be the Federal awarding agency providing the predominant amount of direct funding

➢ Non-Federal entity’s fiscal years ending in 2009, 2014, 2019 and every fifth year thereafter

➢ Responsibilities may be reassigned to another Federal awarding agency
2 CFR 200: Subpart F
Audit Requirements

Management Decision
- Whether or not the audit finding is sustained
- Expected action
- Reason for the decision
- Due 6 months after acceptance of audit report
- Reference numbers

Module 8E: Review Lesson Outcomes
- When is a non-Federal entity required to have a Single Audit?
- How often a Single Audit is required?
- What are three of the five auditee responsibilities?
Module 9: FHWA Policy Memos and Oversight Activities

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Module 9: Learning Objectives
Participants will be able to:

- Understand the primary points of the Funds Management Policy.
- Identify the factors that would make a payment improper.
- Explain how a project may become inactive.
- Describe the activities that FHWA Division Offices perform as part of their Stewardship and Oversight process.

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FHWA Policy Memos
Funds Management Memo – October 29, 2014 (update coming soon)

The primary points of this guidance include:

- Project authorization must reflect the Federal funds needed based upon the best cost estimate for the phase of work ready to proceed.

- An obligation is proper when supported by a documented binding agreement supporting the amount of Federal funds recorded to reflect FHWA's potential liability.

- Projects must be monitored to ensure Federal funds and project agreement estimates reasonably align with current cost estimates and performance schedule.

- Projects should be closed within a reasonable timeframe after all required work and applicable administrative actions have been completed.

Currently being updated for 2 CFR 200 and will include additional Q & As.

FHWA Funds Management Policy
Proper Obligations and Advance Construction (AC) Authorizations

- Deobligating funds from a recorded obligation solely to free them up, replace them with other funds, or use AC (commonly referred to as “reverse AC”) is not allowed unless authorized by statute (i.e. ER and HPP).

- Examples of unallowable practices include:
  - Deobligating Federal funds solely for the purpose of meeting FHWA's performance goal for inactive obligations, but with anticipated remaining costs (which is considered under-recording of an obligation); or
  - Deobligating Federal funds from projects with no expenditures, but leaving an insignificant obligation of Federal funds (e.g. $1, $100, etc.). This does not reflect the current cost estimate to complete the phase of work.

- When the project does not reflect the total cost under these conditions, costs incurred are unallowable for reimbursement because funds to cover such costs are not properly authorized.
Improper Payments Policy
Improper Payment Elimination and Recovery Improvement Act (IPERIA)

- IPERIA is an annual review performed by external auditors
- Transactions are randomly selected in all states
  - Transactions are selected from project billings in FHWA Current Bill system
  - If State is not in auditor sample, then they will be in FHWA sample
- FY15 & FY16 IPERIA testing resulted in increased focus Agency wide
  - FY15 $479 million in improper payments and 1.08% rate
  - FY16 $111 million in improper payments and 0.26% rate
  - Goals: Less than $100 million and less than 0.25% rate

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Improve Payments Policy
What is an improper payment?

- An improper payment is one that is:
  - made to an incorrect recipient
  - an incorrect amount (Federal share)
  - not in accordance with Federal laws, regulations, or terms and conditions of the Federal award
  - for ineligible, unallowable, or unauthorized goods or services (includes charging to incorrect program code, improvement type/activity)
  - insufficiently documented

NOTES:
FHWA Funds Management Policy
Inactive Obligations

- Inactive Obligation – Projects with no expenditure activity for 12 months or longer
- Performed quarterly in all states
- A review of project inactivity begins when a project has been inactive for 9 months
- States/Locals must demonstrate that the obligation for the tested projects remains proper and the inactivity is beyond the State’s or Local’s control. A justification must be submitted to document the inactivity. Proper inactivity may include delays caused by:
  - Litigation
  - Unforeseen utility relocations
  - Catastrophic events that materially delay the project
  - Unforeseen environmental concerns
- Lack of billings from locals, utility companies, and railroads are NOT proper justifications for inactivity.

FHWA Oversight Activity
Financial Integrity Review & Evaluation (FIRE) Program

- FIRE is a risk-based financial management oversight program that each Office in FHWA is required to execute.
- Supports FHWA’s annual assurances, certifications, and financial reporting
- FIRE components are performed annually:
  - Administrative Self-Assessment
  - Obligation Management Review (Inactive Projects)
  - Improper Payments/Billing Transaction Testing
  - Single Audit Review and Reporting
  - Financial Management Review (Based on Risk)
FHWA Oversight Activity
Compliance Assessment Program (CAP)

The purpose of CAP is to help provide reasonable assurance that Federal-aid highway projects comply with key Federal requirements.

- Implemented each year for a pre-determined population of projects
- Core Question Guide – Required
  - Compliance questions for key regulatory requirements
- Corporate Review Guide – Used if necessary for national review
  - Used when conducting a national review of current or potential risk areas
- Technical Review Guide – Optional
  - Optional guides for program and technical specialist (e.g. Contract Admin, NEPA, ROW)

Module 9: Learning Objectives
Participants will be able to:

- What are two primary points of the Funds Management Policy?
- What are three factors that would make a payment improper?
- How does a project become inactive?
- What are the two main activities that FHWA Division Offices perform as part of their Stewardship and Oversight process?
Module 10: Workshop Wrap-up, Evaluations, and Adjourn

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Workshop Wrap-up

Before you leave today, please complete a Workshop Evaluation Form.
Contact Information:

Follow-up Questions or Assistance:

- Larry Anderson, Transportation Planning Specialist
  FHWA Office of Planning
  Email: larry.anderson@dot.gov
  Phone: 720-376-3786

- FHWA Resource Center, Finance Team
  Email: RC-TST-Finance@dot.gov

- Bob Eatmon, RC Financial Specialist
  Email: robert.eatmon@dot.gov
  Phone: 720-963-3275

- Stephanie Gleason, RC Financial Specialist
  Email: stephanie.gleason@dot.gov
  Phone: 303-704-2271

Adjourn

Thanks for your participation!!
# Acronyms

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<tr>
<th>Acronym</th>
<th>Description</th>
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<tbody>
<tr>
<td>ADHS</td>
<td>Appalachian Development Highway System</td>
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<td>A&amp;E</td>
<td>Architectural and Engineering</td>
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<td>CE</td>
<td>Categorical Exclusion</td>
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<td>CFDA</td>
<td>Catalog of Federal Domestic Assistance</td>
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<td>CFR</td>
<td>Code of Federal Regulations</td>
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<td>CMAQ</td>
<td>Congestion Mitigation and Air Quality Program</td>
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<td>CMIA</td>
<td>Cash Management Improvement Act</td>
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<td>COG</td>
<td>Councils Of Governments</td>
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<td>COSO</td>
<td>Committee of Sponsoring Organizations of the Treadway Commission</td>
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<td>CSCAP</td>
<td>Central Services Cost Allocation Plan</td>
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<td>Disadvantaged Business Enterprise</td>
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<td>Environmental Assessment</td>
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<td>Facilities and Administration</td>
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<td>FAC</td>
<td>Federal Audit Clearinghouse</td>
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<td>Federal-aid Highway Program</td>
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<td>FAR</td>
<td>Federal Acquisition Regulation</td>
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<td>FFATA</td>
<td>Federal Funding Accountability and Transparency Act of 2006 or Transparency Act—Public Law 109-282, as amended by section 6202(a) of Public Law 110-252 (31 U.S.C. 6101)</td>
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<td>FHWA</td>
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<td>Office of Management and Budget</td>
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<td>Right-of-way</td>
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<td>System for Award Management (accessible at <a href="https://www.sam.gov">https://www.sam.gov</a>)</td>
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<td>State Planning and Research</td>
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<tr>
<td>STIP</td>
<td>Statewide Transportation Improvement Program</td>
</tr>
<tr>
<td>STBG</td>
<td>Surface Transportation Block Grant Program</td>
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<tr>
<td>TA</td>
<td>Transportation Alternatives</td>
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<td>TIP</td>
<td>Transportation Improvement Program</td>
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<tr>
<td>TTP</td>
<td>Tribal Transportation Program</td>
</tr>
<tr>
<td>UPWP</td>
<td>Unified Planning Work Program</td>
</tr>
</tbody>
</table>
Glossary

Allocation. An administrative distribution of funds for programs that are not distributed to States by a statutory formula.

Apportionment. The distribution of funds to States as prescribed by a statutory formula.

Appropriated Budget Authority (ABA). A form of Budget Authority that requires both an authorization act and an appropriations act before any funds can be obligated.

Appropriations Act. Action of a legislative body that makes funds available for expenditure with specific limitations as to amount, purpose, and duration. In most cases, it permits money previously authorized to be obligated and payments made, but for the highway program operating under contract authority, the appropriations act specifies amounts of funds that Congress will make available for the fiscal year to liquidate obligations.

Authorization Act. Basic substantive legislation that establishes or continues Federal programs or agencies and establishes an upper limit on the amount of funds for the program(s). The current authorization act for surface transportation programs is the Fixing America’s Surface Transportation (FAST) Act.

Budget Authority. Empowerment by Congress that allows Federal agencies to incur obligations that will result in the outlay of funds. Congress generally provides this empowerment to an agency in the form of an appropriation. However, for most of the highway programs, it is in the form of contract authority.

Budget Resolution. A concurrent resolution passed by Congress presenting the Congressional Budget for each of the succeeding 5 years. A concurrent resolution does not require the signature of the President.

Capital expenditures. Expenditures to acquire capital assets or expenditures to make additions, improvements, modifications, replacements, rearrangements, reinstallations, renovations, or alterations to capital assets that materially increase their value or useful life. (2 CFR §200.13)

Central service cost allocation plan (CSCAP). The documentation identifying, accumulating, and allocating or developing billing rates based on the allowable costs of services provided by a state, local government, or Indian tribe on a centralized basis to its departments and agencies. The costs of these services may be allocated or billed to users. (2 CFR §200.9)

Cognizant Agency for Audit. The Federal Agency designated to carry out the responsibilities described in Subpart F – Audit. The cognizant agency for audit is not necessarily the same as cognizant agency for indirect costs. (2 CFR §200.18)

Cognizant Agency for Indirect Costs. The Federal Agency responsible for reviewing, negotiating, and approving cost allocation plans or indirect costs proposals. The cognizant agency for audit is not necessarily the same as cognizant agency for Audit. (2 CFR §200.19)

Contract. A legal instrument by which a non-Federal entity purchases property or services needed to carry out the project or program under a Federal award. (2 CFR §200.22)

Contract Authority (CA). A form of Budget Authority that permits obligations to be made in advance of appropriations. Most of the programs under the Federal-Aid Highway Program operate under Contract Authority.

Contractor. An entity that receives a contract as defined in §200.22 Contract. (2 CFR §200.23)
End Date. See Period of Performance

Equipment. Tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the non-Federal entity for financial statement purposes, or $5,000. (2 CFR §200.33)

Expenditures. See Outlays.

Federal Award. Federal financial assistance that a non-Federal entity receives directly from a Federal awarding agency or indirectly from a pass-through entity. (2 CFR §200.38) In FHWA, a Federal Award meets the definition of a project.

Federal Awarding Agency. The Federal Agency that provides a Federal award directly to a non-Federal entity. (2 CFR §200.37)

Federal-aid Highway Program (FAHP). An umbrella term, not defined in law, which in general refers to most of the Federal programs providing highway funds to the States. When used in a budgetary context, FAHP specifically refers to highway programs financed by contract authority out of the Highway Account of the Highway Trust Fund (HTF), plus any HTF supplemental appropriations for the Emergency Relief Program. Such authorizations are contained in Titles I (Federal-aid Highways) and VI (Innovation) of Division A of the FAST Act, as well as in acts providing supplemental appropriations.

Federal Highway Administration (FHWA). The Federal agency within the U.S. Department of Transportation that administers the Federal-aid Highway Program.

Fiscal Year (FY). The accounting period for the budget. The Federal fiscal year is from October 1 until September 30. The fiscal year is designated by the calendar year in which it ends. For example, FY 2017 runs from October 1, 2016, through September 30, 2017.

Highway Trust Fund (HTF). An account established by law to hold Federal highway-user taxes that are dedicated for highway and transit related purposes. The HTF has two accounts: the Highway Account and the Mass Transit Account.

Improper Payment. Any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and any payment to an ineligible party, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), any payment that does not account for credit for applicable discounts, and any payment where insufficient or lack of documentation prevents a reviewer from discerning whether a payment was proper. (2 CFR §200.53)

Inactive Project. A project for which no expenditures have been charged against the Federal funds for the past 12 months.

Indirect Costs. Those costs incurred for a common or joint purpose benefitting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved.

Indirect cost rate proposal (ICRP). The documentation prepared by a non-Federal entity to substantiate its request for the establishment of an indirect cost rate as described in Appendix III to Part 200—Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Institutions of Higher Education (IHEs) through Appendix VII to Part 200—States and Local Government and Indian Tribe Indirect Cost Proposals of this part, and Appendix IX to Part 200—Hospital Cost Principles. (2 CFR §200.57)
Internal Controls. A process, implemented by a non-Federal entity, designed to provide reasonable assurance regarding the achievement of objectives in the following categories (2 CFR §200.61):
   a) Effectiveness and efficiency of operations;
   b) Reliability of reporting for internal and external use; and
   c) Compliance with applicable laws and regulations.

Local Public Agency (LPA). Any city, county, township, municipality, or other political subdivision that may be empowered to cooperate with the State transportation department in highway matters.

Non-Federal entity. A state, local government, Indian tribe, institution of higher education (IHE), or nonprofit organization that carries out a Federal award as a recipient or subrecipient. (2 CFR §200.69)

Obligation Authority (OA). The total amount of funds that the Federal government may obligate in a year. For the Federal-aid Highway Program this is comprised of the obligation limitation amount plus amounts for programs exempt from the limitation.

Obligation Ceiling. Identical to obligation limitation.

Obligation Limitation. A restriction, or “ceiling” on the amount of Federal assistance that may be promised (obligated) during a specified time period. This is a statutory budgetary control that does not affect the apportionment or allocation of funds. Rather, it controls the rate at which the funds may be used.

Obligation. The Federal government's legal commitment (promise) to pay or reimburse the States or other entities for the Federal share of a project’s eligible costs.

Outlays. Actual cash (or electronic transfer) payments made to the States or other entities. Outlays are provided as work progresses for the Federal share for approved highway program activities.

Pass-through entity. A non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program. (2 CFR §200.74)

Penalty. An action taken by Federal agencies when the grant recipient does not comply with provisions of the law. For the highway program the imposition of penalties, which are defined in law, may prevent a State from using or receiving its full apportionment or may force a transfer from one program to another.

Period of Performance. The time during which the non-Federal entity may incur new obligations to carry out the work authorized under the Federal award. The Federal awarding agency or pass-through entity must include start and end dates of the period of performance in the Federal award. (2 CFR §200.77)
   - Start Date: The date when FHWA authorizes the project to incur costs for the authorized phase and scope of work.
   - End Date: The final date when the recipient/subrecipient may incur costs on a Federal project.

President’s Budget. A document submitted annually (due by the first Monday in February) by the President to Congress. It sets forth the Administration’s recommendations for the Federal budget for the upcoming fiscal year.

Project. An undertaking by a non-Federal entity 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.

Recipient. A non-Federal entity that receives a Federal award directly from a Federal Agency. (2 CFR §200.86)
**Rescission.** Legislation enacted by Congress that cancels the availability of previously-enacted budget authority before that authority would otherwise expire.

**Sequestration.** The cancellation of budgetary resources provided by discretionary appropriations or direct spending law. The concept is similar to a rescission, but this term is commonly used when discussing broad budget controls.

**Sliding Scale.** The normal Federal share of 80% for non-Interstate projects and 90% for Interstate projects is adjusted upward to no more than 95%, based on a sliding scale, for each State with a large amount of Federal lands (over 5% of the total area of the State).

**Start Date.** See *Period of Performance*

**State.** As defined in chapter 1 of Title 23, U.S.C., any of the 50 States, plus the District of Columbia and the Commonwealth of Puerto Rico. However, the definition of “State” varies in some specific circumstances. For example, highway safety programs under 23 U.S.C. define “State” to also include the Territories (the U.S. Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands) and the Secretary of the Interior (for Indian Reservations). Also, Puerto Rico is not treated as a State for purpose of apportioning Federal-aid highway funds.

**Suballocation.** For purposes of the FAST Act and prior transportation authorizations, the statutory reservation of a portion of a State’s apportioned highway funding for use in one or more specific areas within the State.

**Subaward.** An award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. (2 CFR §200.92)

**Subrecipient.** A non-Federal entity that receives a sub award from a pass-through entity to carry out part of a Federal program. A subrecipient may also be a recipient of Federal awards directly from a Federal agency. (2 CFR §200.93)


**Federal-aid Program Popular Links**

**Consultant Services** – Consultant services funded in whole, or in part, with Federal-aid highway program funds shall be procured and administered in accordance with the requirements of Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR 200). In addition, contracts for engineering and design related services which utilize Federal-aid highway program funds and are directly related to a planned construction project must also comply with the requirements established in 23 U.S.C. §112 and 23 CFR 172. This website provides the statutory and regulatory framework, Federal Highway Administration (FHWA) policies, and supporting guidance and resources.

https://www.fhwa.dot.gov/programadmin/consultant.cfm

**Contract Administration** – This FHWA website provides the link to the FHWA Contract Administration Core Curriculum Manual and provides links and information for the applicable statutes, regulations, policy memos, guidance, and other information related to Contract Administration.

https://www.fhwa.dot.gov/programadmin/contracts/


http://www.ecfr.gov

**Federal Audit Clearinghouse (FAC)** – The FAC operates on behalf of the Office of Management and Budget (OMB). This website is to be used to distribute single audit reporting packages to federal agencies, maintain a public database of completed audits and helps auditors and auditees minimize the reporting burden of complying with Single Audit requirements.

https://harvester.census.gov/facweb/

**Federal-aid Essentials** – Federal-aid Essentials offers a central online library of informational videos and resources, designed specifically for entities that administer FHWA funds. Each video addresses a single topic-condensing the complex regulations and requirements of the Federal-aid Highway Program into easy-to-understand concepts and illustrated examples.

http://www.fhwa.dot.gov/federal-aidessentials/

**The Federal-aid Highway Program Policy and Guidance Center** – The PGC provides a central location of laws, policies, and guidance about the Federal-aid Highway Program (FAHP), including legal documents, links to relevant legislation, memos, directives, and guidance to support the Federal Highway Administration's mission and goals.

http://www.fhwa.dot.gov/pgc/

**Federal-aid Program Guide** – This guide provides basic information about the Federal-Aid programs, projects, and other program characteristics. The guide is intended to provide basic information for FHWA and State personnel involved in the administration of the Federal-Aid Highway Program.

http://www.fhwa.dot.gov/federalaid/projects.cfm

**Federal Register** – Website that lists all notices, proposed rules and final rules. You can browse by agency, topic or current documents. The agency specific page shows documents pending publication, significant regulations, recent articles and a comment period opening and closing section.

Main Page:  https://www.federalregister.gov/
FHWA FR Page:  https://www.federalregister.gov/agencies/federal-highway-administration

**FHWA Order** – Written communication that prescribes or establishes policy, organization, methods, procedures, requirements, guidelines, or delegations of authority. One example is Order 5020.1 on Repayment of Preliminary Engineering Costs when reasonable progress has not been made toward Right-of-way (ROW) acquisition or construction.

http://www.fhwa.dot.gov/legsregs/directives/orders/
FHWA Notices – Normally, a short-term issuance of written communication that provides information essential to the administration or operation of FHWA. Primarily Notices are issued to communicate Annual Apportionments, Obligation Limitation, and other funding tables. Other Notices are issued providing guidelines on pertinent FAHP issues. For example, N4540.12 on Sliding Scale Rates in Public Land States.
http://www.fhwa.dot.gov/legsregs/directives/notices/

FAST Act – Fixing America’s Surface Transportation Act – The first Federal law in over a decade to provide long-term funding certainty for surface transportation infrastructure, planning, and investment.
https://www.fhwa.dot.gov/fastact/

Funding Federal-aid Highways Manual – The Federal Highway Administration (FHWA) prepared a report that describes how the Federal-aid Highway program is funded. This is an updated report from the previous “Financing Federal-aid Highways” manual and is updated for MAP-21 and the FAST Act. This report follows the fiscal process from inception in an authorization act to payment from the Highway Trust Fund and discusses the congressional and Federal agency actions that occur throughout that process.

MAP-21 – Moving Ahead for Progress in the 21st Century Q & As – Up-to-date questions and answers for MAP-21 and changes to the FAHP. Some of these are carried into the FAST ACT
http://www.fhwa.dot.gov/map21/qandas/

U.S. Code – The United States Code is the codification by subject matter of the general and permanent laws of the United States. Look up Highway law in 23 USC and Transportation Law in 49 USC.

USASPENDING.GOV – A publicly accessible, searchable website mandated by the Federal Funding Accountability and Transparency Act of 2006 to give the American public access to information on how their tax dollars are spent.
https://www.usaspending.gov
Federal Share

The maximum share of project costs that may be funded with Federal-aid highway funds (the “Federal share”) varies based upon the Federal-aid program from which the project receives funding. In some cases, this share is also adjusted based on related statutory provisions. The FAST Act made relatively few changes to Federal share; those changes are shown in boldface below.

“Standard” Federal share

23 U.S.C. 120 provides that except as otherwise provided, the Federal share payable shall be—

- 90% for a project on the Interstate System (including a project to add high occupancy vehicle lanes or auxiliary lanes but excluding a project to add other lanes); and
- 80% for any other project.

There are several exceptions and adjustments to the “standard” Federal share. See below (and program-fact sheets) for information about, and the applicability of, these exceptions and adjustments.

Adjustments to Federal Share

Sliding scale

23 U.S.C. 120(a) and (b) authorize an upward adjustment (the “sliding scale”) to the Federal share for a State containing Federal and nontaxable Indian lands. A sliding scale State is eligible for an increased Federal share based upon the location of the project—90-95% for an applicable Interstate project and 80-95% for any other project. The amount of the upward adjustment is based on the percentage of Federal and nontaxable Indian lands in the State.

Other adjustments to Federal share

- **Designated types of projects.** Certain specified types of projects, mostly targeting safety improvements, are eligible to receive a Federal share of 100%. A State may apply this increased Federal share on no more than 10% of its combined apportionment under 23 U.S.C. 104. [23 U.S.C. 120(c)(1)]

- **Innovative project delivery methods.** A project incorporating innovations described in 23 U.S.C. 120(c)(3) is eligible for an increased Federal share of up to 100% if funded by the National Highway Performance Program (NHPP), Surface Transportation Block Grant (STBG) Program, or Metropolitan Planning program. The FAST Act added specific mention of innovative engineering or design approaches and project delivery methods as activities eligible for this increased Federal share. [FAST Act §1408(a)]

- **Workforce development.** Subject to project approval by the Secretary, a State may obligate NHPP, STBG, Highway Safety Improvement Program (HSIP), and Congestion Mitigation and Air Quality Improvement Program (CMAQ) funds for surface transportation workforce development, training, and education at a Federal share of 100%. Activities under the Local Technical Assistance Program limited to a Federal share of 50%. [23 U.S.C. 504(e)]

- **Appalachian Development Highway System (AHDS) projects.** For fiscal years 2012 through 2050 (previously through 2021), a State that uses apportioned funding to construct a highway or access road on the AHDS is eligible for a Federal share of up to 100% on that project. [FAST Act § 1435]

- **Projects within Indian reservations, national parks and monuments.** When an eligible project uses funds from a program apportioned under 23 U.S.C. 104 and that project is located within the boundaries of an Indian reservation, national park, or national monument, the Federal share may be 100%. [23 U.S.C. 120(f)]

- **Toll projects.** A toll project under 23 U.S.C. 129 is eligible for a maximum Federal share of 80% (regardless of whether the project would have qualified for a higher Federal share if advanced as a non-toll facility). [23 U.S.C. 129(a)(5)]

- **[Repealed] Projects to improve freight movement.** Section 1116 of MAP-21 authorized an increased Federal share for certain projects that demonstrably improved freight movement. However, the FAST Act repealed this provision. [FAST Act § 1116(c)]

Increased non-Federal share

23 U.S.C. 120(h) authorizes a State to contribute an amount in excess of the non-Federal share of any project under title 23 U.S.C., thus decreasing the Federal share for the project.

Transfers of funding between FHWA and FTA

Federal-aid highway funds made available for a transit project or transportation planning may be transferred to the Federal Transit Administration (FTA) and administered in accordance with FTA’s requirements (under chapter 53 of title 49). Similarly, Federal transit funding made available for a highway project or transportation planning may be transferred to FHWA and administered in accordance with title 23 requirements. In either case, the transferred funds remain subject to the Federal share that applied to the category from which the funding was derived. [23 U.S.C. 104(f)]
<table>
<thead>
<tr>
<th>Program</th>
<th>Federal Share (%)</th>
<th>Sliding Scale</th>
<th>100% for designated types of projects</th>
<th>Up to 100% for Innovative delivery methods</th>
<th>100% for Workforce Development</th>
<th>Up to 100% for ADHS projects</th>
<th>100% within Indian reservations, national parks, and monuments</th>
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</thead>
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<tr>
<td>National Highway Performance Program</td>
<td>80 / 90</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Surface Transportation Block Grant Program</td>
<td>80 / 90</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
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<tr>
<td>Highway Safety Improvement Program</td>
<td>90</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
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<tr>
<td>Railway-Highway Crossings</td>
<td>90</td>
<td>✓</td>
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<td>✓</td>
<td>✓</td>
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<tr>
<td>Congestion Mitigation &amp; Air Quality Improvement Program</td>
<td>80 / 90</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
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<td>✓</td>
<td>✓</td>
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<tr>
<td>National Highway Freight Program</td>
<td>80 / 90</td>
<td>✓</td>
<td>✓</td>
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<tr>
<td>Metropolitan Planning</td>
<td>80</td>
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<tr>
<td>State Planning and Research</td>
<td>80</td>
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<td>✓</td>
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<tr>
<td>Transportation Alternatives</td>
<td>80 / 90</td>
<td>✓</td>
<td>✓</td>
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<tr>
<td>Recreational Trails Program</td>
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<tr>
<td>Tribal Transportation Program</td>
<td>100</td>
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<tr>
<td>Federal Lands Transportation Program</td>
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<tr>
<td>Federal Lands Access Program</td>
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<td>✓</td>
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<td>Nationally Significant Federal Lands and Tribal Projects Program</td>
<td>Up to 90</td>
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<tr>
<td>Puerto Rico Highway Program</td>
<td>80 / 90</td>
<td>✓</td>
<td>✓</td>
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<tr>
<td>Territorial Highway Program (or any project in the specified territories)</td>
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<tr>
<td>Emergency Relief</td>
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<td>Construction of Ferry Boats &amp; Ferry Terminal Facilities</td>
<td>80</td>
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<tr>
<td>Highway Research &amp; Development Program</td>
<td>80</td>
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<tr>
<td>Technology &amp; Innovation Deployment Program</td>
<td>80</td>
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<tr>
<td>Training &amp; Education</td>
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<td>Intelligent Transportation Systems Program</td>
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<td>Advanced Transportation &amp; Congestion Management Technologies Deployment</td>
<td>Up to 50</td>
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<tr>
<td>Surface Transportation System Funding Alternatives</td>
<td>Up to 50</td>
<td></td>
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</tr>
<tr>
<td>Nationally Significant Freight and Highway Projects</td>
<td>60/80/100</td>
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</table>
The Federal share specified in this column may be subject (as specified) to one or more of the provisions referenced in the subsequent columns. In some circumstances the Federal share may also be modified by the provisions described above related to projects requiring Federal toll authority.

23 U.S.C. 120(a)-(b).

23 U.S.C. 120(c)(1).

23 U.S.C. 120(c)(3), as amended by FAST Act § 1408(a).

23 U.S.C. 504(e).

MAP-21 § 1528(c), as amended by FAST Act § 1435. Increased Federal share applies through FY 2050.


“Standard Federal share” of 90% for a project on the Interstate System (including a project to add high occupancy vehicle lanes or auxiliary lanes but excluding a project to add other lanes) and 80% for any other project or activity. [23 U.S.C. 120(a)-(b)]

With respect to the second fiscal year beginning after the date of establishment of the process for State development of an asset management plan as required by 23 U.S.C. 119(e)(8), the NHPP Federal share for a State that has not developed and implemented an asset management plan will be reduced to 65% until it develops and implements its plan. [23 U.S.C. 119(e)(5)]


The Secretary may increase this share (up to 100%) if he or she determines that this would best serve the interests of the Federal-aid highway program. [23 U.S.C. 505(d)]

23 U.S.C. 206(f) (which cites to 23 U.S.C. 120(b), with some specified exceptions).


FAST Act §1123(g). Federal funds other than those made available under titles 23 or 49 U.S.C. may be used for the non-Federal share.

23 U.S.C. 120(g).

Emergency Relief (ER) funds are typically subject to the standard Federal share: 80%, with 90% on Interstates, in both cases subject to the sliding scale. However, this share may be adjusted as follows:

- Up to 100% for eligible emergency repairs within 180 days of the disaster or catastrophic failure. The Secretary may extend this time period, taking into consideration any delay in the ability of the State to access damaged facilities to evaluate damage and the cost of repair. [23 U.S.C. 120(e)(1) & (3)]
- Up to 90% for eligible permanent repairs to restore facilities to pre-disaster condition if the State’s ER-eligible expenses for the FY exceed the State’s combined NHPP/STP/HSIP/CMAQ/NHFP/Metropolitan Planning apportionment for that FY. [23 U.S.C. 120(e)(4)]

23 U.S.C. 120(e)(2) as amended by FAST Act § 1408(b). Prior to the amendment, eligible Federal Lands Access Transportation Facilities qualified for a Federal share of 100%. Per § 421 of the Department of Transportation Appropriations Act, 2016 (P.L. 114-113, the FAST Act amendment applies to projects to repair or reconstruct facilities damaged as a result of a qualifying natural disaster or catastrophic failure that occurs after October 1, 2015.

23 U.S.C. 147(b).

Except as expressly provided by the FAST Act or otherwise determined by the Secretary, projects and activities funded under Title VI (Innovation) of the FAST Act are subject to a Federal share of 80%. [FAST Act § 6002(c)]. The Federal share of activities carried out under a cooperative research and development agreement entered into under chapter 5 of 23 U.S.C. shall not exceed 80%, except that the Secretary may approve a greater Federal share if there is substantial public interest or benefit. [23 U.S.C. 502(c)(3)]

This share is reduced to 50% for activities carried out by a local technical assistance center and increased to 100% for activities carried out by a tribal technical assistance center. [23 U.S.C. 504(b)(3)]


FAST Act §6020(g).

The standard Federal share is up to 60%, but Federal assistance from other sources may increase this to 80%. Federal funds from sources other than 23 U.S.C. or 49 U.S.C. may be used to pay the non-Federal share of the cost of a project carried out under this program by a Federal land management agency. [FAST Act §1105, 23 U.S.C. 117(j)]
Case Studies

Administration of Federal Planning Grants

Scenario A

Orange City MPO (OCMPO) is in the process of updating its Unified Planning Work Program (UPWP). In discussions with the MPO Policy Board, OCMPO identified several trips for which costs will be included in the upcoming draft UPWP using PL funds (with the necessary non-Federal match).

Are the following trips eligible and/or allowable for Federal/State reimbursement? Why or why not?

- Travel of the MPO Director to Washington, DC to meet with executives from the Association of Metropolitan Planning Organizations (AMPO) to discuss OCMPO’s position related to reauthorization in advance of a session with staffs from the Senate Committee on Environment and Public Works.

- Travel of an OCMPO technical staff member to attend the National Conference of the American Planning Association (APA) to present a case study on how OCMPO is planning to transition its freight network to meet the requirements of the FAST Act. The APA National Conference will be held in Anchorage, Alaska.
Administration of Federal Planning Grants

Scenario B

Pineapple County MPO (PCMPO) is currently in the hiring process for an Executive Director. PCMPO would like to use PL funds (with the necessary non-Federal match) to pay travel expenses for four candidates to interview in-person with the MPO Executive Committee.

PCMPO Executive Committee members will be attending the National Association of Regional Councils (NARC) Annual Conference in Washington, DC, and have requested that the candidates travel to Washington, DC to interview with the PCMPO Executive Committee, as well as participate in a conference session hosted by PCMPO.

Are these expenses eligible and/or allowable? Why or why not?
Administration of Federal Planning Grants

Scenario C

The Sunshine MPO (S-MPO) is interested in using its Consolidated Planning Grant (CPG) funds (with the necessary non-Federal match) to purchase a vehicle to use to carry-out its general transportation planning responsibilities. In submitting its request for pre-approval to FHWA/FTA, S-MPO would like to purchase a new Dodge Grand Caravan to take on day-long and overnight trips, and then drive back and forth from home to work on a daily basis.

How would you address S-MPO’s request?

What considerations would you evaluate to make your decision?
The Peach City MPO (PCMPO) is in the process of moving into a new building. In preparation of the move, the Executive Director has determined that staff is in need of some vital office equipment. The Executive Director would like to purchase the following using PL funds (with the necessary non-Federal match):

- One (1) Concept Map Maker valued at $6,549.
- Five (5) iPads valued at $499 each.
- Twelve (12) ergonomic chairs valued at $800 each.
- One (1) framed motivational poster valued at $200.

Are these eligible and/or allowable costs for Federal/State reimbursement? Why or why not?

If these are eligible and allowable expenses, what is needed for this approval?

What requirements must PCMPO meet for this request to be approved?
Administration of Federal Planning Grants

Scenario E

The Transylvania County MPO (TCMPO) would like to participate in an upcoming luncheon hosted by the local contractors’ group. TCMPO would be presenting on the update to its Metropolitan Transportation Plan, and as a result is being provided two (2) free seats at the luncheon. TCMPO would like to send four (4) additional staff to the luncheon, at a cost of $40 per plate.

Are these eligible and/or allowable expenses?

What factors must be considered in this determination?