

Frequently Asked Questions -- Impacts of National Emergency (COVID-19) on NHTSA's
Highway Safety Grant Program
April 2, 2020

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BACKGROUND:

This guidance is intended to help State Highway Safety Offices (SHSOs) administer the Highway Safety Grant Program during the National Emergency declared by the President on March 13¹ and will remain effective throughout the duration of the National Emergency. The Agency understands that some SHSOs may be unable to fulfill certain regulatory requirements, certifications, and assurances. NHTSA will continue to work with States to minimize interruptions in the delivery of critical highway safety programs and will provide updates as the situation evolves.

1. **Question:** What process should States follow to submit questions and concerns relating to administrative relief from requirements under the NHTSA highway safety grant program?

Answer: States should continue to send their questions to their NHTSA Regional Offices. When sending questions, please specify potential areas where relief may be needed. To facilitate resolution of common questions and issues, NHTSA has established a central e-mail box for States to submit questions and concerns (please cc: nhtsaropdprogramquestions@dot.gov when sending questions to the Regions).

2. **Question:** What flexibilities are the agency offering under the additional waiver authority provided under the CARES Act?

Answer: The agency is reviewing its new authority under the CARES Act. Any waivers or postponements granted under the CARES Act² require the agency to determine either that COVID-19 is having a substantial impact on the ability of the States to implement or carry out the program or that the requirements of the waived provision are having a substantial impact on the ability of States to address COVID-19.

3. **Question:** Can a State use NHTSA Highway Safety Grant funds (e.g., Section 402 or 405) to purchase personal protective equipment (e.g., gloves and masks) or disinfecting supplies for law enforcement and/or first responders (e.g., emergency medical service

¹ See <https://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/>.

² Coronavirus Aid, Relief, and Economic Security Act, Pub. L. 116-136, § 22005.

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personnel) that are performing traffic safety activities during COVID-19 National Emergency?

Answer: Yes; so long as the activities described above are in a NHTSA-funded grant agreement, then the costs of personal protective equipment for personnel performing those activities are considered reasonable and allocable and thus are reimbursable.

4. **Question:** Will NHTSA provide any flexibility to allow traffic-safety equipment purchased with NHTSA grant funds, such as BAT mobiles, to temporarily be used as part of a State or local entity's COVID-19 response?

Answer: States should contact their Regional Administrators (RA) to seek approval to use NHTSA grant funded equipment for COVID-19 response efforts. The RA will determine, on a case-by-case basis, whether the equipment is currently needed for highway safety program purposes, which may be dependent on the particular COVID-19-related circumstances the State is facing. If the RA determines that equipment is not currently needed for highway safety program purposes, the State may use the equipment for COVID-19 response. The equipment must be returned to NHTSA grant-funded traffic safety use once the National Emergency is over.

5. **Question:** What flexibilities are available for States unable to participate in national high-visibility enforcement campaigns, including the minimum required three mobilizations to increase seat belt usage and reduce impaired driving?

Answer: NHTSA rescheduled the April 2020 Distracted Driving Month Campaign to October 5-12, 2020, and rescheduled its May 2020 National Click It Or Ticket (CIOT) mobilization to November 9-29, 2020 (media buy date and mobilization dates forthcoming), which we understand both occur after the current fiscal year. Additionally, the Heatstroke Awareness Campaign previously scheduled to run from May to September will now run from July to September. States may choose to conduct their mobilizations at the originally scheduled dates or as rescheduled by NHTSA depending on their own circumstances and needs. NHTSA soon will provide more information about the impacts of these new dates, as well as guidance about the statutory requirement to participate in national mobilizations.

6. **Question:** What flexibilities are available to States unable to meet the requirement to conduct an annual observational seat belt usage survey?

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Answer: States have until December 31, 2020 to complete their calendar year 2020 annual seat belt survey. If possible, States should consider adjusting their plans to conduct the survey later in the year, perhaps following the November 2020 CIOT mobilization. There is no Federal requirement for States to conduct their survey during the time of the mobilization. NHTSA will use any flexibility available under the applicable statutory and regulatory requirements to respond to States' COVID-19-related challenges.

7. **Question:** What flexibilities are available to States that are forced to cancel or postpone contractual agreements with sub-recipients because of COVID-19? Will States receive an extension for the period of availability of funds directly impacted?

Answer: NHTSA understands the present circumstances and the challenges they present with engaging sub-recipients. NHTSA will use any flexibility allowed under statutory and regulatory requirements to respond to your challenges.

8. **Question:** What flexibilities are available to States that are not able to expend FY 2016 funds on Promised Projects by the September 30, 2020 due date because of COVID-19?

Answer: States should communicate problems or project delays to their Regional Offices, which are tracking FY 2016 expenditures. Also, States should continue planning to apply unused FY 2017 funds to projects taking place in FY 2021 and await further instruction from NHTSA.

9. **Question:** What flexibility is available to SHSOs unable to meet match requirements due to canceled or delayed project agreements in FY 2020?

Answer: At the present time, States should evaluate their ability to provide the required match and provide updated estimates to their Regional Offices. States also should optimize aggregate match flexibility³ available under the Fixing America's Surface Transportation Act (FAST Act) to the extent possible.

³ Available at, https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/nhtsa_guidance_for_non-federal_share.pdf.

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10. Question: Are costs related to cancellation of events, travel, or other activities as a result of the COVID-19 pandemic reimbursable by NHTSA grant funds?

Answer: States should make every effort to obtain a refund or, if a refund is not possible, a credit for cancelled activities. As provided in OMB's memorandum (M-20-17), the agency will reimburse costs pertaining to the cancellation of grant-funded activities (e.g., travel, conferences, assessments) associated with the COVID-19 response in situations where the State provides evidence that the vendor will not provide a refund or credit. States should submit that documentation with any voucher request seeking reimbursement of costs associated with cancellations.

Cancellation fees are most likely to occur with respect to costs of travel. Recipients should try to have vendors reimburse canceled ticket(s) in actual funds (i.e., not as a credit). However, if a vendor will only refund the cancellation as a credit, the recipient should follow the instructions below and provide appropriate documentation to the Regional Office:

- The recipient should apply the credit to a future trip for the same project in this fiscal year.
- If that is not possible, the recipient should use the credit for another NHTSA-funded program or project in this fiscal year and reimburse the original program or project with the equivalent dollar amount.
- If it is not possible to use the credit for travel in this fiscal year, NHTSA will approve the charge to the grant in this fiscal year as a cancellation cost, but the recipient should make every possible attempt to use the credit for another NHTSA-funded program or project in the next fiscal year and to reimburse the original program or project with the equivalent dollar amount.
- If none of the above options are possible, then NHTSA will approve the charge to the grant in this fiscal year as a cancellation cost due to this National Emergency.

11. Question: What flexibility is available regarding salary and other compensation costs?

Answer: For positions that are reimbursed as full- or part-time salary costs (i.e., not as compensation for activity hours), NHTSA will reimburse salary and leave costs that are consistent with the States' and sub-recipients' own existing written policies. This includes leave categories that have been newly created as a result of the COVID-19 National Emergency, provided that the leave categories are applied consistently to costs from all funding sources, Federal and non-Federal. For example, if an SHSO employee

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has been placed on administrative leave because they are not telework-eligible, NHTSA funds may reimburse those leave costs.

12. Question: What flexibility is available to SHSOs that are unable to meet local benefit requirement due to canceled or delayed project agreements in FY 2020?

Answer: States should evaluate their ability to meet the local benefit requirement and provide updated estimates to their Regional Offices. Since the local benefit requirement is based on a percentage of Section 402 expenditures, States may still be able to meet this requirement despite project cancellations and modifications. NHTSA currently is reviewing its ability to waive the local benefit requirements under Section 402.

13. Question: What flexibility does NHTSA have in extending indirect cost rates?

Answer: Consistent with OMB Memorandum M-20-17, NHTSA will allow States and sub-recipients to extend for one year currently approved indirect cost rates.

14. Question: What flexibilities exist for States unable to meet the July 1, 2020 Highway Safety Plan (HSP) and incentive grant application deadline?

Answer: States should continue their FY 2021 HSP planning and development to the extent possible. NHTSA will provide additional information soon.

15. Question: What flexibilities exist for States unable to meet the December 31, 2020 annual reconciliation and annual report requirements?

Answer: In Memorandum M-20-17, OMB advises Federal agencies that both requirements can be extended up to 3 months. NHTSA will determine if these deadlines should be extended based on the duration of the National Emergency and other factors. Please contact your Regional Offices if you expect to need this flexibility.

16. Question: What, if any, NHTSA grant funds can be used to reimburse COVID-19 response activities, such as salaries of SHSO personnel shifted to participate in COVID-19-related operations?

Answer: NHTSA grant funds are required by statute to be used to fund highway safety activities approved in the HSP, and may not be used to pay for COVID-19-related

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operations. This includes the cost of SHSO personnel or any sub-recipient activity. However, States may make COVID-19-related purchases if they are needed to carry out the State's traffic safety program.

17. Question: What flexibilities can NHTSA offer to States in need of program assessments required for Section 405 grant applications?

Answer: NHTSA has been working with individual States to identify workable solutions to meet grant application requirements, including required program assessments.

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