

Frequently Asked Questions -- Impacts of Public Health Emergency (COVID-19) on NHTSA's  
Highway Safety Grant Program  
May 8, 2020

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**BACKGROUND:**

On April 9, 2020, NHTSA Deputy Administrator James Owens issued a notice of waivers and postponements under the CARES Act (Pub. L. 116-136). The below questions have been updated to reflect that notice.

This guidance is intended to help State Highway Safety Offices (SHSOs) administer the Highway Safety Grant Program during the coronavirus disease 2019 (COVID-19) public health emergency and will remain effective throughout the duration of the public health emergency.<sup>1</sup> NHTSA understands that some SHSOs may be unable to fulfill certain program 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](mailto:nhtsaropdprogramquestions@dot.gov) when sending questions to the Regions).

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

**Answer:** NHTSA has determined that COVID-19 is having a substantial impact on States' ability to carry out certain provisions of the highway safety program statutes and regulations and has provided relief to States as outlined in the notice issued by Deputy

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<sup>1</sup> To the extent the responses relate to the waivers and postponements issued under the CARES Act, those waivers and postponements remain in effect in accordance with the information stated in the NHTSA notice document.

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Administrator James Owens on April 9, 2020.<sup>2</sup> Please refer to the notice document for more information. The waivers and postponements issued cover the following areas:

- High Visibility Enforcement Mobilizations and Crackdowns
- Annual Seat Belt Use Surveys
- Required Program Assessments
- Highway Safety Plan and National Priority Grant Application Deadline
- Maintenance of Effort
- Expenditure Requirements for FY 2016 funds
- Local Benefit/Share to Local

States do not need to request a State-specific waiver for these areas, but should confer with their Regional offices to determine if amendments to the approved highway safety plan are needed.

- 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 personnel performing traffic safety activities during the COVID-19 public health emergency?

**Answer:** Yes; an item that serves a safety function required to protect personnel during performance of a highway safety project is an allowable project expense. So long as the activities performed are in a NHTSA-funded grant agreement, the costs of personal protective equipment for personnel performing those activities are considered reasonable and allocable and thus are reimbursable. Please note this allowance extends to items that are not defined as personal protective equipment under Centers for Disease Control and Prevention guidance (such as cloth masks). States are encouraged to use the existing Federal guidance and recommendations to determine what items should be obtained and used to protect personnel carrying out traffic safety activities.

- 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 Administrator (RA) to seek approval to use NHTSA grant funded equipment for COVID-19 response efforts. The RA will determine,

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<sup>2</sup> See [https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/nhtsa\\_cares\\_act\\_waiver\\_notice-04092020.pdf](https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/nhtsa_cares_act_waiver_notice-04092020.pdf).

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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 temporarily for COVID-19 response. The equipment must be returned to NHTSA grant-funded traffic safety use once the public health 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 the May 2020 National Click It Or Ticket (CIOT) mobilization to November 9-29, 2020.<sup>3</sup> Additionally, the Heatstroke Awareness Campaign previously scheduled to run from May to September will now run from July to September. With the rescheduling of the campaigns to the fall, NHTSA has waived the requirement for States to participate in at least three high visibility enforcement campaigns this fiscal year. States are encouraged to participate in the rescheduled campaigns to the maximum extent possible.

- 6. Question:** As a result of the public health emergency, NHTSA has postponed the CIOT and distracted driving campaigns to FY 2021. Because these campaigns are taking place early in the upcoming fiscal year, States will need to purchase their advertising space during the current fiscal year.

Will NHTSA provide pre-approval for States to purchase the media buy this year although the activity will not take place until next fiscal year?

Will media buys that were previously reimbursed by NHTSA be upheld if the State:

- has been able to move the air dates to coincide with the new campaign dates in early FY 2021?

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<sup>3</sup> Relevant dates for the November 2020 CIOT campaign are:

- Earned media: November 2 – December 10
- Paid media: November 9 – November 29
- Enforcement: November 16 – November 29

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- has been unable to move the air dates and will therefore air the ads as originally planned prior to the public health emergency even though the enforcement activities will not take place?
- incurs cancellation expenses if it cancels the media buy?

**Answer:** NHTSA understands the impact of the postponements on States and their plans to purchase paid media to support the national enforcement campaigns. Using existing authority under 2 CFR 200.458, NHTSA may provide approval for pre-award costs in FY 2020 associated with media buys that will take place during the fall of FY 2021.

If a State wishes to enter into a new agreement to incur costs for media buys that will air in FY 2021, it should submit a written request to the Regional Administrator. The response to that request will be provided in writing. If approved, the State may enter into an agreement for a media buy in FY 2020 and will be reimbursed in FY 2021.

For States that have already received reimbursement for a media buy in FY 2020 that is associated with one of the postponed campaigns, the following guidelines apply:

- In the case of previously reimbursed expenses for media buys that have been postponed to early FY 2021, NHTSA will make no adjustment to those reimbursements as long as the costs for FY 2021 are equal to the amount already reimbursed. If the costs are less, the State must reimburse NHTSA for the difference.
- If a State is unable to move the air dates or chooses not to, the State may proceed with those plans as previously reimbursed by NHTSA.
- If the State cancels the media buy, NHTSA will pay eligible cancellation costs as long as the State demonstrates that the cancellation is due to the public health emergency and that it is unable to recover these costs. States must reimburse NHTSA for any returned funds.

In all cases, States should make amendments as needed to their FY 2020 Highway Safety Plans (HSPs) and include activity that has been postponed to the next fiscal year in their FY 2021 Highway Safety Plans (HSPs).

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

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**Answer:** NHTSA has waived the requirement for States to conduct an annual seat belt survey in calendar year 2020. States may determine whether they are able to conduct a seat belt survey in calendar year 2020. If so, 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 in conjunction with the mobilization. Failure to conduct a seat belt survey in calendar year 2020 will not expose the State to any consequences related to the Section 402 assurance provided in the State's FY 2020 HSP.

If a State does not conduct a survey in calendar year 2020, NHTSA will use the results from the survey conducted by the State in calendar year 2019 to determine designation of high or low seat belt use rate for purposes of applications for a grant under Section 405(b).

- 8. Question:** If a State conducts an observational seat belt survey but opts to not submit it to NHTSA for certification, will NHTSA reimburse the State for the costs associated with the survey? If a State needs to obtain observational use data as part of its problem ID process to help it make informed program decisions, will NHTSA reimburse the State for those costs?

**Answer:** NHTSA Section 402 grant funds may be used to pay for a State-wide observational seat belt survey submitted to NHTSA for certification, provided it conforms to the State's approved survey design and other survey requirements in accordance with 2 CFR Part 1340. If a State conducts this type of survey, but *chooses* not to submit it for certification, NHTSA will not reimburse the costs.

However, if a State incurs costs to plan and conduct pre-survey activities to prepare for a statewide survey in accordance with 2 CFR Part 1340 that is later cancelled as a result of the COVID-19 public health emergency, NHTSA will reimburse the costs of those planning and pre-survey activities. The costs of other traffic-safety-related surveys normally conducted outside of Part 1340 (e.g., to support State problem ID processes) may be reimbursed consistent with existing considerations of allowable costs.

- 9. Question:** What flexibilities are available to States that are forced to cancel or postpone

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contractual agreements with sub-recipients because of COVID-19, including promised projects that are using FY 2016 funds? Will States still need to submit promised projects for any remaining FY 2017 funds?

**Answer:** NHTSA understands the present circumstances and the challenges they present with engaging sub-recipients. NHTSA has issued a waiver that allows States to expend FY 2016 funds for an additional year (through September 2021) if those funds were previously obligated to a promised project. To accomplish this, the State may continue existing project agreements into FY 2021 or may place the funds on alternative projects as long as those projects were obligated by September 30, 2019. If the State opts to place the funds on an alternative project, States should provide copies of the signed project agreements to the Regional office as a precondition for reimbursement and should also amend the highway safety plan to provide project level details prior to implementing the projects.

States should plan to place any uncommitted FY 2017 funds onto promised projects no later than September 30, 2020 and complete those activities by September 30, 2021.

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

**Answer:** States should continuously evaluate their ability to meet the required match and provide updated estimates to their Regional Offices. States also should optimize aggregate match flexibility<sup>4</sup> available under statute to the extent possible.

**11. Question:** Are costs related to cancellation of events, travel, or other activities as a result of the COVID-19 public health emergency 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.

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<sup>4</sup> Available at, [https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/nhtsa\\_guidance\\_for\\_non-federal\\_share.pdf](https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/nhtsa_guidance_for_non-federal_share.pdf).

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States should submit that documentation with any voucher seeking reimbursement of costs associated with cancellations.

Cancellation fees are most likely to occur with respect to costs of travel. If a recipient receives credit for the cancellation (instead of a reimbursement), 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 States can include the charge on a FY 2020 voucher as a cancellation cost due to this public health emergency.

**12. 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), as statutorily permitted under certain NHTSA grant programs, 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 public health emergency, provided that the leave categories are applied consistently to costs from all funding sources, Federal and non-Federal. For example, if SHSO employees have been placed on administrative leave because they are not telework-eligible, NHTSA funds may reimburse those leave costs.

**13. Question:** What flexibility is available to SHSOs that are unable to meet the 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

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is based on a percentage of Sections 402, 154 and 164 expenditures, States may still be able to meet this requirement despite project cancellations and modifications. For States unable to meet this requirement, NHTSA waives the requirement for FY 2020. Section 154 and Section 164 funds are transferred to Section 402 and are therefore included in the waiver. NHTSA will modify the Grants Tracking System to allow States to enter any amount for local benefit in FY 2020.

**14. 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.

**15. 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 issued a waiver to delay the July 1, 2020 deadline to August 1, 2020. Since August 1 falls on a Saturday, highway safety plans and incentive grant applications will be due by Monday, August 3, 2020. Deadlines for HSP approval letters, incentive grant notifications, and web-posting requirements will roll back by one month as a result. In the near future, NHTSA will provide details about the submission process to be used in lieu of the Grant Management Solutions Suite (GMSS).

**16. 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 public health emergency and other factors. Please contact your Regional Office if you expect to need this flexibility.

**17. 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 of protective equipment and other items if needed to safely carry out the State's traffic safety program.

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

**Answer:** Understanding the challenges with performing the necessary pre-work and conducting the assessments, NHTSA has waived the requirement for States that need occupant protection and State traffic safety information assessments for grant applications due in August. NHTSA will work with the affected States to reschedule the assessments during FY 2021.

**19. Question:** What, if anything, do States need to consider when developing their FY 2021 Highway Safety Plans?

**Answer:** All requirements under Sections 402, 405 and 1906 will be in effect. States should consider the changes in the mobilization schedule and to the degree possible, participate in as many as possible. States must meet the minimum participation requirements as agreed to in the certification and assurance documents. The period of performance for the HSP will remain October 1, 2020, through September 30, 2021. For FY 2016 funds properly committed to an approved project, States may extend those projects into FY 2021, if necessary, with a requirement to expend project funding by September 30, 2021.

**20. Question:** With several State "stay-at-home" orders, State monitoring and oversight of subrecipients may be impacted; what flexibilities exist?

**Answer:** States should make every effort to complete their monitoring and oversight plans by deferring these activities to later in the fiscal year and/or using remote methods. States that are unable to complete monitoring and oversight work during the public health emergency should send written notification to their Regional Office documenting which activities are impacted and why. Regional Offices will maintain this information for use in future NHTSA monitoring activities to ensure that the circumstances are taken into account.

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