

NHTSA

Regional Operations and Program Delivery

Grant Management and Oversight Guidance

Guidance	Maintenance of Effort
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Revisions	

Signature _____ Date _____
Associate Administrator, Regional Operations and Program Delivery

Citation:

Maintenance of effort (MOE) requirements ensure that States maintain their own expenditures as a condition of receiving grant funds. As longstanding features of some NHTSA grant programs, the FAST Act continued MOE requirements for Occupant Protection, State Traffic Information System Improvements, and Impaired Driving Countermeasures (23 U.S.C § 405(b), (c), and (d)). The FAST Act requires the lead State agency to maintain its aggregate expenditures at or above the average level of such expenditures in fiscal years 2014 and 2015. Aggregate expenditures refer to the amount spent by the lead State agency in the specified program.

Lead State Agency Designation:

States must identify the lead State agency for each program. In the final grant rule (23 CFR Part 1300), NHTSA declined to designate the State highway safety office as the lead State agency in all States, as some commenters requested. NHTSA explained that making that designation would ignore the diversity of approaches and assignment of responsibility among the States. NHTSA also noted that some State highway safety offices are funded exclusively with Federal grant funds and do not have any “aggregate expenditures” in the subject area—selecting a solely Federally-funded State agency with an MOE level of \$0, when another agency exists that has substantial direct expenditures, would not be reasonable. However, if a State can show that it has made a reasonable attempt to identify direct State-level expenditures in the program and cannot identify a lead State agency with substantial expenditures, it can select the lead State agency based on other reasonable criteria and report a MOE baseline of \$0. The preamble to the final grant rule stated that identifying the lead State agency based on State expenditures, program involvement, and overall leadership would be considered reasonable.

Maintenance of Effort Calculation:

States are responsible for performing the necessary baseline calculations to identify the level of expenditures that must be maintained during the grant year. MOE calculations should be completed by March 31 of each year, with the associated documentation supporting the calculations available for review upon request. States must maintain aggregate expenditures by the lead State agency from State level sources (as defined below) at or above the average level of such expenditures in fiscal years 2014 and 2015 in the relevant traffic safety program—occupant protection, traffic safety information system improvements, and/or impaired driving countermeasures. The expenditures during these fiscal years are averaged to create an expenditure baseline that must be met by the lead State agency during each grant year. Highway

NHTSA

Regional Operations and Program Delivery

Grant Management and Oversight Guidance

safety activities that must be counted toward each of the three MOE requirements include anything listed as an eligible use of grant funds under these FAST Act programs.

In the MOE calculation, the lead State agency **must** include the following:

- Direct State expenditures, State expenditures through contract, and State expenditures as a result of providing grant(s) to a local subdivision of the State
- Related indirect expenditures such as office personnel, accounting or human resources personnel, office space, supplies, and utilities
- FAST Act eligible expenditures
- Allowable costs compliant with 2 CFR Part 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards)

In the MOE calculation, the lead State agency **must not** include the following:

- Other Federal awards
- Costs reimbursed with NHTSA grant funds
- Local funds
- Expenditures that are not FAST Act eligible
- Expenditures based on indirect methods of inferring effort or cost, rather than direct expenditures (e.g., estimates based on the number of traffic tickets issued)

Assuming a reasonable selection of lead State agency, baseline calculations may not be changed during the authorization period (as they establish the level of effort the State must maintain). However, as described in the preamble to the final grant rule, a State should not select a lead State agency without any expenditures if there are other State agencies with substantial direct expenditures. If it does so, it must select a different lead State agency. Similarly, if it includes ineligible activity costs in its baseline calculations, it must refigure the baseline calculations to include only direct expenditures or related indirect expenditures in the program.

Certification/Documentation:

States must certify in their grant application that the lead State agency responsible for the program will maintain its aggregate expenditures at or above the identified baseline level. States must retain adequate documentation supporting the certification for audit and oversight purposes, and make such documentation available to the Regional Administrator upon request.

Waiver:

NHTSA has statutory authority to waive the MOE requirement for not more than one fiscal year in each program area. Waivers may only be granted in *exceptional* or *uncontrollable* circumstances. A waiver request must be submitted by the Governor's Representative for Highway Safety in writing to the Regional Administrator, who will forward it to the Office of Grants Management and Operations. The Associate Administrator for Regional Operations and Program Delivery will respond in writing, granting or denying the waiver.