

Frequently Asked Questions -- Impacts of Public Health Emergency (COVID-19) on NHTSA's FY 2021 Highway Safety Grant Program

The contents of this document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

BACKGROUND:

On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security Act (CARES) Act authorized the Secretary to waive or postpone certain statutory and regulatory requirements if the Secretary determines that COVID-19 has a substantial impact on the States' or Secretary's ability to carry out the highway safety program. On April 9, 2020, the National Highway Traffic Safety Administration (NHTSA) issued its first CARES Act notice waiving and postponing specific statutory and regulatory grant requirements for the State highway safety programs in FY 2020. On December 27, 2020, Congress extended the waiver and postponement authority it provided to NHTSA under the CARES Act through the Federal Fiscal Year (FY) 2021. On April 29, 2021, NHTSA provided continued relief to States as outlined in the [Notice Announcing Waiver of Certain FY 2021 Requirements For State Highway Safety Grant Programs](#) issued by Acting Administrator Dr. Steve S. Cliff.

In the April 29, 2021, notice, NHTSA determined that the COVID-19 public health emergency continues to substantially impact States' ability to carry out the maintenance of effort and local benefit/share to local provisions of the highway safety program statutes and regulations, and issued a blanket waiver covering those two requirements covering all States in FY 2021.

This supplemental guidance is intended to help State Highway Safety Offices (SHSOs) administer the Highway Safety Grant Program in FY 2021 during the COVID-19 public health emergency. This guidance remains in effect until September 30, 2021.

1. **Question:** Do States need to request a State-specific waiver for maintenance of effort and/or local benefit/share to local requirements in FY 2021?

Answer: No, under the CARES Act Waiver Notice issued April 29, 2021, States do not need to request a State-specific waiver for the maintenance of effort and local benefit/share to local requirements. However, States should consult with their Regional offices to determine if amendments to the approved FY 2021 highway safety plan are needed.

2. **Question:** Will NHTSA consider issuing any additional waivers in FY 2021?

Answer: Yes, NHTSA will consider additional waivers for FY 2021 as we're made aware of specific difficulties that States are facing or as circumstances evolve. NHTSA continues to assess State and local safety partners' needs. States should submit FY 2021 waiver requests to NHTSA on or before Friday, July 30, 2021.

3. **Question:** What process should States follow to request an additional waiver?

Answer: States should email their request for consideration to nhtsaropdprogramquestions@dot.gov (please cc: your Regional office). The request must identify the grant program requirement for which the State seeks a waiver and describe how the current COVID-19 situation substantially impacts that States' ability to comply with that requirement.

Please allow ample time for NHTSA and other Department of Transportation authorities to review the waiver request. States should not assume that the waiver request will be granted and should plan accordingly.

4. **Question:** What process should States follow to submit other 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 the resolution of common questions and issues, NHTSA has established a central email box for States to submit questions and concerns (please cc: nhtsaropdprogramquestions@dot.gov when sending inquiries to the Regions).

5. **Question:** What flexibility is available to SHSOs that are unable to meet the local share requirement due to canceled or delayed project agreements in FY 2021?

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 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 waived the requirement for FY 2021 in the CARES Act Waiver Notice issued April 29, 2021. 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 2021.

6. **Question:** What flexibility is available to SHSOs unable to maintain aggregate State level expenditures at or above the average level of spending in fiscal years 2014 and 2015 for Occupant Protection, State Traffic Safety Information System Improvements, and Impaired Driving programs in FY 2021?

Answer: NHTSA waived the Maintenance of Effort requirement for FY 2021 in the CARES Act Waiver Notice issued April 29, 2021.

7. **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 the performance of a highway safety project is an allowable project expense. So long as the activities performed are in an 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 that this allowance extends to include items beyond solely those 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.

8. **Question:** Will NHTSA provide any flexibility to allow traffic safety equipment purchased with NHTSA grant funds, such as Breath Alcohol Testing 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, 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.

9. **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.

10. **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 COVID19-related operations?

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

11. **Question:** With some continued precautions in place, 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, including using remote methods and, if necessary, deferring the aspects of these activities until later in FY 2021. States that cannot 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 stand ready to assist States in identifying ways to complete the required monitoring and oversight activities remotely to the fullest extent possible. NHTSA will maintain this information for use in future monitoring activities to ensure that the circumstances are taken into account.