

Federal Highway Administration, DOT

§ 420.119

being managed and performed satisfactorily and that time schedules are being met.

(b)(1) The STA shall submit performance and expenditure reports, including a report from each subrecipient, that contain as a minimum:

(i) Comparison of actual performance with established goals;

(ii) Progress in meeting schedules;

(iii) Status of expenditures in a format compatible with the work program, including a comparison of budgeted (approved) amounts and actual costs incurred;

(iv) Cost overruns or underruns;

(v) Approved work program revisions; and

(vi) Other pertinent supporting data.

(2) Additional information on reporting requirements for individual RD&T studies is contained in subpart B of this part.

(c) The frequency of reports required by paragraph (b) of this section shall be annual unless more frequent reporting is determined to be necessary by the FHWA; but in no case will reports be required more frequently than quarterly. These reports are due 90 days after the end of the reporting period for annual and final reports and no later than 30 days after the end of the reporting period for other reports.

(d) Events that have significant impact on the work program(s) shall be reported as soon as they become known. The type of events or conditions that require reporting include: problems, delays, or adverse conditions that will materially affect the ability to attain program objectives. This disclosure shall be accompanied by a statement of the action taken, or contemplated, and any Federal assistance needed to resolve the situation.

(e) A provision of the Federal-Aid Project Agreement requires both the preparation of suitable reports to document the results of activities performed with FHWA planning and research funds and FHWA approval prior to publishing such reports. The STA may request a waiver of the requirement for prior approval. The FHWA's approval constitutes acceptance of such reports as evidence of work performed but does not imply endorsement of a report's findings or rec-

ommendations. Reports prepared for FHWA funded work shall include appropriate credit references and disclaimer statements.

(The information collection requirements in §§ 420.117(b) and (c) for metropolitan planning areas have been approved by the OMB and assigned control number 2132-0529.)

§ 420.119 Fiscal procedures.

(a) SPR funds shall be administered and accounted for as a single fund regardless of the category of Federal-aid highway funds from which they are derived.

(b) PL funds shall be administered and accounted for as a single fund.

(c) Optional funds authorized under 23 U.S.C. 104(b)(1), 104(b)(3), and 157(c) used for eligible planning and RD&T purposes shall be identified separately in the work program(s) and shall be administered and accounted for separately for fiscal purposes. The statewide and, if appropriate, metropolitan transportation improvement program provisions of 23 CFR Part 450 must be met for the use of NHS, STP, or minimum allocation funds for planning or RD&T purposes.

(d) The maximum rate of Federal participation with funds identified in paragraphs (a) through (c) of this section shall be as prescribed in title 23, U.S.C., for the specific class of funds; unless, for funds identified under paragraph (a) or (b) of this section, the FHWA determines that the interests of the Federal-aid highway program would be best served without such match in accordance with 23 U.S.C. 307(c)(3) or 23 U.S.C. 104(f)(3). The FHWA also may waive the requirement for matching funds if national or regional high priority planning or RD&T problems can be more effectively addressed if several States and/or MPOs pool their funds. Requests for 100 percent Federal funding must be submitted to the FHWA Division Office for approval by the Associate Administrator for Program Development (for planning activities) or the Associate Administrator Research and Development (for RD&T activities).

(e) The provisions of 49 CFR 18.24 are applicable to any necessary matching of FHWA planning and research funds.

§ 420.121

23 CFR Ch. I (4–1–01 Edition)

(f) Payment shall be made in accordance with the provisions of 49 CFR 18.21.

§ 420.121 Other requirements.

(a) The financial management systems of the STAs and their subrecipients shall be in accordance with the provisions of 49 CFR 18.20(a).

(b) Program income, as defined in 49 CFR 18.25(b), shall be shown and deducted to determine the net costs on which the FHWA share will be based, unless an alternative method for using program income is specified in the Federal-Aid Project Agreement.

(c) Audits shall be performed in accordance with 49 CFR 18.26 and 49 CFR Part 90.

(d) Acquisition, use, and disposition of equipment purchased by the STAs and their subrecipients with FHWA planning and research funds shall be in accordance with 49 CFR 18.32(b).

(e) Acquisition and disposition of supplies acquired by the STAs and their subrecipients with FHWA planning and research funds shall be in accordance with 49 CFR 18.33.

(f) In accordance with 49 CFR 18.34, STAs and their subrecipients may copyright any books, publications, or other copyrightable materials developed in the course of the FHWA planning and research funded project. The FHWA reserves a royalty-free, non-exclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the work for Government purposes.

(g) Procedures for the procurement of property and services with FHWA planning and research funds by the STAs and their subrecipients shall be in accordance with 49 CFR 18.36(a) and, if applicable, 18.36(t). The STAs and their subrecipients shall not use FHWA funds for procurements from persons (as defined in 49 CFR 29.105) who have been debarred or suspended in accordance with the provisions of 49 CFR Part 29, subparts A through E.

(h) The STAs shall follow State laws and procedures when awarding and administering subgrants to MPOs and local governments and shall ensure that the requirements of 49 CFR 18.37(a) have been satisfied. STAs shall have primary responsibility for admin-

istering FHWA planning and research funds passed through to subrecipients, for ensuring that such funds are expended for eligible activities, and for ensuring that the funds are administered in accordance with this part, 49 CFR Part 18, and applicable cost principles.

(i) Recordkeeping and retention requirements shall be in accordance with 49 CFR 18.42.

(j) The STAs and their subrecipients are subject to the provisions of 37 CFR Part 401 governing patents and inventions and shall include, or incorporate by reference, the standard patent rights clause at 37 CFR 401.14, except for § 401.14(g), in all subgrants or contracts. In addition, STAs and their subrecipients shall include the following clause, suitably modified to identify the parties, in all subgrants or contracts, regardless of tier, for experimental, developmental or research work: “The subgrantee or contractor will retain all rights provided for the State in this clause, and the State will not, as part of the consideration for awarding the subgrant or contract, obtain rights in the subgrantee’s or contractor’s subject inventions.”

(k) In accordance with the provisions of 49 CFR Part 29, subpart F, STAs shall certify to the FHWA that they will provide a drug free workplace. This requirement can be satisfied through the annual certification for the Federal-aid highway program.

(l) The provisions of 49 CFR Part 20 regarding restrictions on influencing certain Federal activities are applicable to all tiers of recipients of FHWA planning and research funds.

(m) The nondiscrimination provisions of 23 CFR Parts 200 and 230 and 49 CFR Part 21, with respect to Title VI of the Civil Rights Act of 1964 and the Civil Rights Restoration Act of 1987, apply to all programs and activities of recipients, subrecipients, and contractors receiving FHWA planning and research funds whether or not those programs or activities are federally funded.

(n) The STAs shall administer the transportation planning and RD&T program(s) consistent with their overall efforts to implement section 1003(b)