

agency are eligible costs in accordance with OMB Circular A-87 (available at <http://www.whitehouse.gov/omb/circulars>). This includes State costs incurred for managing or providing technical guidance, consultation or oversight on projects where right-of-way services are performed by a political subdivision or others.

(6) *Property not incorporated into a project funded under title 23 of the United States Code.* The cost of property not incorporated into a project may be eligible for reimbursement in the following circumstances:

(i) *General.* Costs for construction material sites, property acquisitions to a logical boundary, or for eligible transportation enhancement, sites for disposal of hazardous materials, environmental mitigation, environmental banking activities, or last resort housing.

(ii) *Easements not incorporated into the right-of-way.* The cost of acquiring easements outside the right-of-way for permanent or temporary use.

(7) *Uneconomic remnants.* The cost of uneconomic remnants purchased in connection with the acquisition of a partial taking for the project as required by the Uniform Act.

(8) *Access rights.* Payment for full or partial control of access on an existing highway (*i.e.*, one not on a new location), based on elements compensable under applicable State law. Participation does not depend on another real property interest being acquired or on further construction of the highway facility.

(9) *Utility and railroad property.* (i) The cost to replace operating real property owned by a displaced utility or railroad and conveyed to an STD for a highway project, as provided in 23 CFR part 140, subpart I, Reimbursement for Railroad Work, and 23 CFR part 645, Subpart A, Utility Relocations, Adjustments and Reimbursement, and 23 CFR part 646, Subpart B, Railroad-Highway Projects.

(ii) Participation in the cost of acquiring non-operating utility or railroad real property shall be in the same manner as that used in the acquisition of other privately owned property.

(c) *Withholding payment.* The FHWA may withhold payment under the con-

ditions in 23 CFR 1.36 where the State fails to comply with Federal law or regulation, State law, or under circumstances of waste, fraud, and abuse.

(d) *Indirect costs.* Indirect costs may be claimed under the provisions of OMB Circular A-87. Indirect costs may be included on Federal-aid billings after the indirect cost rate has been approved by FHWA.

EFFECTIVE DATE NOTE: At 67 FR 12863, Mar. 20, 2002, §710.203 was amended by revising paragraph (b)(2), effective Apr. 19, 2002. For the convenience of the user, the revised text is set forth as follows:

§ 710.203 Funding and reimbursement.

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(b) * * *

(2) *Relocation assistance and payments.* Usual costs and disbursements associated with the following:

(i) Relocation assistance and payments required under 49 CFR part 24, and

(ii) Relocation assistance and payments provided under the laws of the State that may exceed the requirements of 49 CFR part 24, except for relocation assistance and payments provided to aliens not lawfully present in the United States.

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Subpart C—Project Development

§ 710.301 General.

The project development process typically follows a sequence of actions and approvals in order to qualify for funding. The key steps in this process are provided in this subpart.

§ 710.303 Planning.

State and local governments conduct metropolitan and statewide planning to develop coordinated, financially constrained system plans to meet transportation needs for local and statewide systems, under FHWA's planning regulations contained in 23 CFR part 450. In addition, air quality non-attainment areas must meet the requirements of the U.S. EPA Transportation conformity regulations (40 CFR parts 51 and 93). Projects must be included in an approved State Transportation Improvement Program (STIP) in order to be eligible for Federal-aid funding.