

§ 266.11

results of a title search was performed when the property was purchased by the State, otherwise it shall be valued at the fair market value as established by at least one independent appraisal based on the results of a title search at the time the state proposes to make the property available as in-kind benefit; and

(D) The value of donated real property shall be its fair market value, at the time of donation to the State, as established by at least one independent appraisal based on the results of a title search;

(2) *Eligibility criteria.* To be applied toward the State share, in-kind benefits must:

(i) Be verifiable from the State's records;

(ii) Be necessary and reasonable for proper and efficient accomplishment of the objectives of the Rail Service Assistance Program;

(iii) Be provided for in the approved grant budget; and

(iv) Be approved under paragraph (3) of this paragraph (c).

(v) The State shall submit such information as the Administrator may request to verify the value of in-kind benefits.

(3) *Request for approval.* A request for approval of the in-kind benefits are to be applied and shall include the following:

(i) Full name and principal business address of the contributor if other than grantee;

(ii) Detailed documentation of the in-kind benefits including identification of the kind of in-kind benefits to be provided as well as their estimated value. When in-kind benefits are to be provided by a third party, a copy of the executed agreement between the State and the third party; and

(iii) Certification by the State that the contribution will be used solely for the purposes documented.

§ 266.11 Allowable costs.

Allowable costs include only the following costs which are properly allocable to the work performed: Planning and program operation costs which are allowed under Federal Management Circular 74-4; and costs of projects eligible under § 266.7 of this part. All al-

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lowable costs shall be authorized by a fully executed grant agreement. A State may incur costs prior to the execution of a grant agreement only if the Administrator, based on the State's demonstration of a compelling need to incur costs prior to the execution of a grant agreement, has authorized the costs in writing prior to their incurrence by the State.

§ 266.13 Distribution of funds.

(a) *Formula.* Funds appropriated for or reallocated in any fiscal year (in this section referred to jointly as "funds") are to be distributed to each State as follows:

(1) Two-thirds of the funds will be allocated in the ratio which a State's rail mileage that, in accordance with 49 U.S.C. 10904(d), is either potentially subject to abandonment or is to become the subject of an application for a certificate of abandonment or discontinuance which a carrier plans to submit, but has not yet submitted, bears to the total such rail mileage in all the States;

(2) One-third of the funds will be allocated in the ratio which a State's rail mileage for which the Commission has found within three years prior to the first day of the fiscal year for which the funds are being allocated that the public convenience and necessity permits the abandonment, or the discontinuance, of rail service on such rail mileage, bears to the total such rail mileage in all the States. Until September 30, 1981, such rail mileage includes the rail mileage which was eligible under the Rail Service Assistance Program pursuant to section 402 of the Rail Act, and all rail mileage which, prior to October 1, 1978, had been included for formula allocation purposes. The Administrator will calculate rail mileage under this paragraph as of October 1 of each year; and

(3) The above calculations will be adjusted if necessary so that no State receives less than 1 percent of the funds appropriated for a fiscal year.

(b) *Reallocation.* The Administrator will reallocate among the States funds which have not been granted under an executed grant agreement by the end of the fiscal year for which the funds were appropriated and funds determined by