Chapter II

Planning

|  |  |
| --- | --- |
| II. Planning | 2-3 |
| A. Overview and Eligible Fund Uses | 2-3 |
| B. Highway Safety Performance Plan Development Process and Calendar | 2-5 |
| i. NHTSA Review, Approval and Appeal Procedures | 2-5 |
| ii. HSP Development Process Calendar | 2-6 |
| Table 1. HSP Development Process Calendar | 2-6 |
| C. Coordination with the State Strategic Highway Safety Plan | 2-7 |
| D. Governors Highway Safety Association HSP Guidance | 2-8 |
| E. Identification of State and Local Problems (Data Analysis Procedure) | 2-9 |
| Table 2. Categories of Traffic Safety Data | 2-9 |
| Table 3. Questions to Help with Data Analysis and Problem Identification | 2-10 |
| Table 4. Information that May Be Applied to Problem Analysis | 2-10 |
| F. Key Program Areas, Targets, Strategies and Planned Activities | 2-11 |
| i. Description of Target Setting Processes | 2-11 |
| ii. Performance Targets | 2-11 |
| iii. Evidence-Based Countermeasure Strategies | 2-12 |
| iv. Evidence-Based Traffic Safety Enforcement Program | 2-13 |
|  v. National Mobilizations | 2-13 |
|  vi. Submission of Project Agreement Information | 2-13 |
| G. Performance Measures | 2-15 |
| H. Section 405 Application Information and Section 1906 | 2-18 |
| i. Maintenance of Effort | 2-18 |
| ii. Planning and Administration (P&A) Costs | 2-18 |
| iii. Eligible Uses of Section 405 Funds and Section 1906iv. NHTSA Section 405 Award Determinations and Appeals | 2-182-20 |
| v. Racial Profiling Data Collection Grants | 2-21 |
| I. Performance Report | 2-22 |
| J. Teen Traffic Safety Program  | 2-23 |
| K. Public Outreach | 2-24 |
| L. Funding  | 2-25 |
| i. Highway Safety Improvement Program Funds and Other Funding Sources | 2-25 |
| ii. Planning and Administration Program Area | 2-25 |
| iii. Automated Traffic Enforcement Systems Prohibition and Survey | 2-25 |
| iv. Motorcycle Checkpoint and Survey Funding Prohibition | 2-26 |
| v. Apportionment and Obligation of Federal Funds | 2-26 |
| M. Benefit to Locals  | 2-27 |
| N. Transfer Funds | 2-28 |
| O. Advertising | 2-29 |
| P. Certifications and Assurances-Appendix A  | 2-30 |
| Q. Three Years Plus One Federal Obligation Restriction | 2-31 |
| R. Fund Liquidation | 2-32 |
| S. Delegation of Authority | 2-33 |
| Table 5. Delegation of Signature Authority  | 2-33 |
| T. Federal Spending TransparencyU. Buy America Act | 2-342-35 |
|  |  |

# II. Planning

Chapter II describes the Highway Safety Office (HSO) planning process for development of the Federal Highway Safety Plan (HSP) and funding of traffic safety related projects at the local and statewide levels.

# A. Overview and Eligible Fund Uses

This section provides an overview of the highway safety planning development process used by the HSO to develop the annual HSP.

Each Federal fiscal year (October 1 – September 30) the HSO shall develop an HSP to qualify for Federal highway safety funding. The HSP is prepared and submitted by the HSO to the *[insert division/bureau name]* for review and comment. Upon approval, the HSP is forwarded by the HSO to the *[insert title].* After all Department approvals have been obtained, the HSO forwards the HSP to the National Highway Traffic Safety Administration (NHTSA) for approval. Federal approval of the HSP is in the form of a letter acknowledging that the State’s submission of the performance plan, highway safety plan, certificates and assurances and cost summary complies with all Federal requirements. The HSP is due on July 1 annually and is submitted to NHTSA. The NHTSA Regional Office provides submittal instructions. A consolidated application process for the Section 402 program and seven National Priority Safety Programs is codified into a single section as the Section 405 program. The newest Section 405 program, Nonmotorized Safety, was established by the Fixing America’s Surface Transportation (FAST) Act effective with FY2017.

At the beginning of the HSP development process, the HSO considers a number of factors in determining project priorities and areas of emphasis. These factors are:

* Federal legislation and regulations
* State statutes
* Federal and national priorities and goals
* State and local problems

Other influences can be Federal and State legislative bodies, community-based organizations, local and national interest groups, State and local traffic safety related non-profit organizations and local governments. Planned activities and projects can be proposed by members of any of these organizations, directly or indirectly. The key goal is to assure that all planned activities and projects in the HSP are data driven as required by Federal law.

From time to time, Congress designates or earmarks Federal highway safety funds for specific purposes and uses. Planned activities developed in response to these earmarked funds must be data driven as well, with the earmarked funds dedicated to the areas of the State with the greatest threat to public safety.

Uniform Guidelines promulgated by the U.S. DOT Secretary list the eligible program uses:

* Speeding
* Occupant protection
* Alcohol or drug impaired driving
* Motorcycle,
* School bus safety
* Aggressive, fatigued and distracted driving
* Law enforcement services
* Driver awareness of commercial motor vehicles (FY17)
* Driver performance
* Bicycle and pedestrian safety
* Traffic records
* Emergency medical services (EMS).

The NHTSA interim regulations under MAP-21 eliminated the national priority areas. States may use grant funds more broadly in accordance with an HSP approved by NHTSA to address their traffic safety problems. These program areas then form the framework for providing detailed descriptions of the selected traffic safety planned activities and projects**.**

For FY 17 and beyond the FAST Act allows States to use Section 402 funds for *research* projects.

# B. Highway Safety Plan Development Process and Calendar

This section describes the process used by the HSO annually to develop the HSP. A twelve-month calendar of the major planning activities is included. HSP planning is a continuous process throughout the year. When the HSP is completed, planning for the following fiscal year’s HSP typically begins.

The HSP is required by the U.S. Department of Transportation (U.S. DOT), NHTSA regulations. The federal regulations outline the required contents of the HSP: planning process, performance report, performance plan, program area problem identification, strategies and planned activities, teen traffic safety program (if applicable), certifications and assurances, and the Section 405 and Section 1906 grant application.

The HSP describes the processes used to identify the State's traffic safety problems, establish performance measures and propose the planned activities the State plans to implement to reach its performance targets. Performance measures for each target track progress from a baseline toward meeting the target by the specified date.

The HSP development process consists of a number of stages:

* Problem identification
* Planning to select and prioritize targets and countermeasure strategies
* Identification of performance measures
* Participation from traffic safety related partners
* Development of funding priorities and planned activities
* Issuance of Requests for Proposal (RFP)
* Review, negotiation and preliminary approval of project agreements
* Submission of project agreements as HSP amendments to the Regional Administrator
* Implementation

The HSO HSP is produced annually and is developed through discussions and meetings coordinated by the HSO. The HSO works with inter-agency groups, State and local government agencies, community coalitions and many others to develop the annual HSP. The initial planning meetings are attended by HSO staff only. These initial meetings allow for the review of prior year comments on prior activities (by Federal, State and local partners), the assignment of staff to draft the HSP program areas, the development of an initial budget and the production of rough drafts for each program area. Once an initial draft is produced, the HSP development meetings may be expanded to include other HSO traffic safety partners for solicitation of comments and input on potential strategies. Regional NHTSA and divisional FHWA representatives should be invited to meet with the HSO during the planning process to provide input and make recommendations early in the planning process.

**i. NHTSA Review, Approval and Appeal Procedures**

The HSO is required to submit the HSP to NHTSA no later than **July 1** preceding the fiscal year to which the HSP applies. The deadline is **FIRM.** NHTSA must approve or disapprove the HSP within 45 days. NHTSA may need to request additional information from the HSO regarding the contents of the HSP to determine whether the statutory requirements have been met. To ensure that the HSP is approved or disapproved, the HSO must respond promptly to any requests from NHTSA. NHTSA will issue a letter of approval/disapproval to the State’s GR and may specify conditions. If the HSP is disapproved, the reasons will be specified. The HSO is then required to resubmit the HSP with the necessary modifications. NHTSA will notify the HSO within 30 days of receipt of the revised HSP, via a letter, whether the HSP is approved or disapproved. The decision of the Regional Administrator (RA) may be appealed by submitting a letter. The letter will be forwarded by the RA for consideration by the Associate Administrator, Regional Operations and Program Delivery, at NHTSA Headquarters. If the State’s plan is not approved, NHTSA shall reduce the Section 402 funds by 20% of the amount that would otherwise be apportioned. The funds can either later be apportioned to the State when the plan is approved, or, if not approved, the funds will be apportioned to the other States.

The Section 405 grant application is consolidated with the HSP. NHTSA notifies States in writing, and specify any conditions or limitations, of Section 405 grant qualification before the start of the fiscal year of the grant and to notify States of grant award amounts early in the fiscal year. The decision of the NHTSA Administrator is final – there is no appeal process. Because the calculation depends on the number of States meeting the qualifications, States must respond promptly to NHTSA’s requests for additional information. Failure to provide requested information may delay approval and funding of the State’s Section 402 grant or disqualification from receiving Section 405 or racial profiling data collection grants, see 23 CFR 1300.12.

**ii. HSP Development Process Calendar**

The following table illustrates a twelve-month planning calendar for the HSO HSP development process.

**Table 1. HSP Development Process Calendar *[SAMPLE]***

|  |  |
| --- | --- |
| November-December | * Debrief the previous year’s programs, crash data, State and national priorities, update problem identification, review annual attitudes survey results and set performance targets with HSO staff.
* Coordinate data and problem identification with the State’s SHSP.
 |
| January -February  | * Host an annual planning conference with partners to obtain input.
* Review program data and targets to determine funding distribution and overall direction of program.
* Consider the NHTSA regional response to the prior year’s Annual Report and HSP approval letter, and any applicable Management Review or Assessment comments.
 |
| March  | Determine revenue estimates, establish draft budget and review internally. |
| April-May  | Convene program area sessions with current and prospective subrecipients to create specific plans and planned activities within each program area. |
| June  | * Draft the HSP with the Section 405 and racial profiling data collection grant application for review by appropriate officials, NHTSA and program area experts.
* Post subrecipient RFP application on HSO web site.
 |
| July - August | * Review and submit the HSP for NHTSA review and approval. Respond promptly to any requests for additional information.
* Develop HSO in-house grants or other form of in-house program documentation.
* Invite HSO Grant Advisory Review Team to review selected project proposals.
 |
| September | * Print, distribute and post the approved HSP.
* Start implementation and gain approval for grants and contracts from the appropriate officials. Review project proposals and make selections.
* Notify successful applicants, conduct pre-award risk assessments and develop final grant agreements.
* Obtain approval for grants and contracts from the appropriate Department official
* Submit HSO in-house grants for Department approval.
* Finalize HSP budget.
 |
| October - November | * Implement grants and contracts.
* Issue Notice To Proceed to selected grantees.
* Obligate funds to GTS.
* Establish and implement monitoring schedule for the year.
* Begin work on the Annual Report.
 |
| December 31 | * Closeout fiscal year and prepare final cost summary.
* Submit Annual Report to NHTSA Regional Office.
 |

# C. Coordination with the State Strategic Highway Safety Plan

This section describes the process used by the HSO to coordinate the State Strategic Highway Safety Plan (SHSP) targets and strategies with development of the annual HSP.

The HSO is structurally located within the [*agency and department name]*. The *[agency and department name]* is responsible for the development of the State’s SHSP.

The HSO shall coordinate closely with the State staff responsible for development of the SHSP to maximize integration and utilization of data analysis resources, fully represent driver behavior issues and strategies, and utilize any statewide safety committees to obtain input from State and local traffic safety partners for the HSO HSP. The HSO shall ensure that the targets and objectives contained in the SHSP are considered in the annual development of the HSP and incorporated to the fullest extent possible. The HSO shall review the SHSP and HSP to identify any gaps in addressing driver behavior issues and eliminate any redundancy to ensure the maximum use of resources.

The State is required to include in the HSP a description of the efforts made by the State to coordinate the HSP, and the outcomes of the coordination, data collection and information systems with the State SHSP. Examples of outcomes might include the joint use of the same databases, common targets in the HSP as derived from the SHSP or the creation of joint teams to collaboratively develop countermeasure strategies. See 23 CFR Part 1300.4 (c) (11).

This information can be provided within the HSP in a number of ways. Some States include a description of their State’s SHSP process while highlighting the specific interaction between the SHSP and the HSP planning processes. A link to the State’s SHSP can also be included in the HSP. Another method is to include relevant segments of the SHSP within the HSP, such as listing the SHSP emphasis areas or strategies and targets or inserting the relevant SHSP information in the corresponding program section of the HSP.

The HSP performance targets are required to be identical to the State DOT targets for the three common performance measures (fatalities, fatality rate and serious injuries) reported in the State Highway Safety Improvement Program (HSIP) annual report, as coordinated through the State’s SHSP. These performance measures are based upon a 5-year rolling average. See 23 CFR Part 1300.11 (c) (2) (iii).

The SHSP is required to be updated at least every five years.

# D. Governors Highway Safety Association HSP Guidance

This section describes the planning tool provided by the Governors Highway Safety Association (GHSA) to assist the HSO in developing the annual HSP.

**DISCLAIMER: The GHSA HSP Guidance has been updated to the NHTSA Final Rule issued January 25, 2018. The GHSA HSP Guidance does not contain any information regarding the use of the NHTSA Grant Management Solutions Suite (GMSS).**

**The basic planning and process principles contained in the GHSA HSP Guidance may still be used as a general guide to overall planning and the federal regulations.**

To assist the States, the GHSA developed guidance, see, [GHSA Guidance for Developing Highway Safety Plans](http://www.ghsa.org/resources/shso-guidance). The Guidance describes the elements of the HSP as well as providing suggested processes for problem identification, data analysis, setting performance targets and developing and selecting performance measures.

The GHSA HSP Guidance is located on the GHSA web site in the Resources/Planning page. This page on the site also contains the [GHSA Annual Report Guidance](http://www.ghsa.org/resources/shso-guidance) .

# E. Identification of State and Local Problems (Data Analysis Procedure)

This section describes the procedures and the data analysis process used by the HSO to identify State and local problems for the annual HSP.

A description of the data sources and processes used by the State to identify its highway safety problems is required in the HSP. The State is also required to identify the participants involved (committees, stakeholders, constituent groups, etc.). The information and all data sources utilized in these processes must be listed. The Core required performance measures should be examined as part of this initial problem identification process, see Sections F. and G. for information and further guidance.

The purpose of the HSP problem identification and assessment process is to:

* Understand the scope of the State’s traffic crash problem and causation factors
* Develop effective countermeasures to reduce or eliminate the problems
* Design evaluation mechanisms to measure changes in problem severity
* Manage influencing factors by using statistical crash data to highlight a particular problem in order to obtain the necessary support for instituting an effective countermeasure

The problem identification process used by the HSO includes analysis of traffic safety data from established statewide sources. The process is completed by *[insert position title or agency name]* by [*insert date]* annually and provided to the HSO staff for review. The statistics analyzed are historical data collected over time through a uniform process. These statistics include the:

* State traffic crash database - crash, vehicle, and person data
* Data on average daily traffic counts and vehicle miles traveled
* Federal Fatality Analysis Reporting System (FARS)
* Vehicle and Driver Information - the State’s driver license, vehicle registration, and citation/conviction files
* Trauma Registry *[if applicable]*, Injury data and EMS databases
* Census and demographic data from the *[insert agency name]*

The result of the HSO problem identification process is the establishment of the major traffic safety program areas in which to focus the State’s efforts.

Data elements fall into three general categories: people, vehicles, and roadway. These categories may be broken down into subgroups and assigned relevant characteristics, as shown in the following table.

**Table 2. Categories of Traffic Safety Data**

|  |  |  |
| --- | --- | --- |
| **Data Category** | **Subgroups** | **Notes:** |
| People | Drivers, occupants, pedestrians | Age, gender, blood alcohol level, driver’s education experience and training |
| Vehicles | Passenger cars, trucks, buses, motorcycles, bicycles, etc. | Sedans, SUVs, convertibles, airbags, anti-lock brakes, electronic stability control |
| Roadway | Interstate, primary, secondary | Political subdivisions, lighting conditions, surface conditions |

Data subgroups should be reviewed to determine over-representation. Such over-represented subgroups indicate traffic safety problems. A good example is the high percentage of crashes among teenage drivers compared to the lower percentage of crashes among all drivers. Further analysis should focus on identifying subgroup characteristics (for example, increased severity) or any other specific factors suggested by the data when asking the traditional “who, what, where, why and how” questions.

Over-represented factors can be determined by comparing the rate of crashes for a subgroup or characteristic within the jurisdiction to the same rate in a comparable or larger jurisdiction. The rate may be expressed either as a percentage or a ratio.

***Percentage Example:*** If the percentage of adult vehicle occupants that do *not* use seat belts within a jurisdiction is greater than the statewide percentage, then that characteristic is over-represented.

***Ratio Example:*** Dividing night time (10 p.m. to 6 a.m.) crashes by the total number of crashes for the jurisdiction within a given time frame produces a ratio. If that ratio is higher than the statewide ratio, a driving while impaired (DWI) problem may be indicated since typically many night time crashes are DWI related.

Asking the following questions may help with data analysis and ultimately problem identification.

**Table 3. Questions to Help with Data Analysis and Program Identification**

|  |  |
| --- | --- |
| **Question** | **Examples** |
| Are high crash incidence locations identified? | Specific road sections, highways, streets, and intersections |
| What appears to be the major crash causation? | Alcohol, other drugs, speed, other traffic violations, weather, road condition |
| What characteristics are over-represented or occur more frequently than would be expected in the crash picture? | Number of crashes involving 16- to 19-year-olds versus other age groups, or, number of alcohol crashes occurring on a particular roadway segment as compared with other segments |
| Are there factors that increase crash severity which are or should be addressed? | Non-use of occupant protection devices (seat belts, motorcycle helmets, etc.) |

The following table shows an array of information that may be applied in the analysis of a crash problem.

 **Table 4. Information That May Be Applied to Problem Analysis**

|  |  |  |
| --- | --- | --- |
| Causal Factors: | Crash Characteristics: | Factors Affecting Severity: |
| * driving violations
 | * time of day
 | * occupant protection non-use
 |
| * loss of control
 | * day of week
 | * position in vehicle
 |
| * weather
* alcohol involvement
 | * age of driver
* gender of driver
 | * roadway elements (markings, guardrail, shoulders, surface, etc.)
 |
| * roadway design
 |  |  |

HSO staff should be alert to the following factors that may impede effective problem identification and make appropriate adjustments when they appear:

* Data access restrictions
* Inability to link automated data systems
* Poor data quality
* Reporting threshold fluctuations (variations among jurisdictions in the minimum damage or crash severity they routinely report)
* Insufficient data (property damage only, non-reportable crashes, near misses, bicycle crashes, etc.)

# F. Key Program Areas, Targets, Strategies and Planned Activities

This section describes the process for identifying program areas, targets, strategies and planned activities for inclusion in the HSP.

Using the data and information gathered through the problem identification process, the HSO then selects key program areas for emphasis and coordinates the development of priority traffic safety performance targets, performance measures, countermeasure strategies and planned activities for each program area using a planning process documented in the HSP. See Section A. Overview. for a list of the eligible program uses.

## i. Description of Target Setting Processes

The HSP is required to include a brief description of the *processes* used by the State to define its highway safety targets and develop planned activities to address its problems and achieve its targets. The description of the process followed should be thorough and complete. In describing these processes, the State shall list the information and identify all data sources consulted. The State process for setting targets must be based on data trends and a resource allocation assessment. The HSO is required to identify all participants, agencies and organizations involved in the process and the manner in which they were involved must be described. Collaboration strategies should be included.

**ii. Performance Targets**

The HSP includes a performance report, see Section I. Performance Report. Then the performance plan, organized by program area, is required to list the performance measures and data-driven targets the State plans to implement in the new fiscal year. At least one performance measure and performance target that is data driven is required for each program area that enables the HSO to track progress toward meeting the target (e.g., a target to increase seat belt use to X percent in Year \_\_\_\_,'' using a performance measure of percent of restrained occupants in front outboard seating positions in passenger motor vehicles''). See Section G. Performance Measures below.

Targets should be data-driven, realistic and attainable and should guide program investments. Selected targets should, whenever reasonable, represent an improvement from the current status rather than a simple maintenance of the current number or rate.

For performance targets that are common across DOT agencies, the planned activities that will be deployed to achieve those targets may be a combination of those contained in the HSO’s HSP and other State and local plans. If so, it is required that the funds used to carry out the program area strategies from those other sources, including Federal, State, local and private sector funds, be identified in the HSP.

The 12 Minimum outcome and behavior performance measures were developed by NHTSA in collaboration with GHSA and others. The initial process is described in Traffic Safety Performance Measures for States and Federal Agencies, (DOT HS 811 025) and are a minimum in developing the State’s performance measures and targets. 23 CFR Part 1300.11 (c) (2) (iii) requires that the HSP performance targets for the three common performance measures (fatalities, serious injuries and fatality rate) with the State DOT HSIP annual report be based on 5-year rolling averages (only). Serious injury baselines should use 5 years of the latest *State* data. The method for calculating 5-year rolling averages is explained in the FR. For the remaining Minimum performance measures and any additional performance measures, the State may select the method for establishing performance measures: annual period, 3 year or 5 year rolling average. For the 3 Minimum *activity* measures, States are not required to set targets but are required to report the measures annually. State crash data sources may also be used.

A template for developing clear and concise performance target statements was developed by GHSA in conjunction with NHTSA for the Minimum performance measures. All States are encouraged to use the template. The template includes a sample target statement for the Minimum measures which must be used as a minimum in developing the State’s performance measures and targets developed by NHTSA in collaboration with GHSA. The template includes the display of baselines which was eliminated as a requirement in the HSP by the FR although baselines remain a critical element in setting targets.

The [Uniform Guidelines for State Highway Safety Programs](http://www.nhtsa.dot.gov/nhtsa/whatsup/tea21/tea21programs/index.htm) promulgated by NHTSA describe the guidelines with which each State's programs must comply. The overall State goal is to reduce traffic safety related crashes, deaths and injuries.

The most recent update of the HSP targets occurred in *[insert year]*. Within the HSO, responsibility for development and review of the annual key program areas, targets, measures, strategies and planned activities is assigned to the [*insert position(s)]*.

**[NOTE: TAILOR LANGUAGE TO SPECIFIC STATE PROCESS - *For the most part the HSP development is an internal activity conducted within the HSO under the leadership of the HSO Administrator. Input and information collected throughout the year from Federal, State and local traffic safety sources and partners are considered by the HSO. In some cases, the HSO may specifically solicit input from selected partners or others with experience in a selected program area. This process ensures that State and local agencies, as well as public and private organizations, using the program areas, targets and strategies developed by the HSO, can then propose projects that directly support and implement those strategies.***

***This guidance is provided to subrecipients annually in the “General Information about HSO Grants” section of the HSO annual RFP publication. This section includes a synopsis of the State data and the selected funding priorities, key problem areas, targets and emphasis areas and proven strategies.]***

**iii. Evidence-Based Countermeasure Strategies**

This section of the HSP should be organized by program area and can be organized in the same order that the performance measures and targets are listed in the Performance Plan. Although it is not necessary to restate the performance measures and targets, the SHSO may choose to do so.

Each program area countermeasure strategy that will help the State complete its program and achieve their specific performance targets must be identified. At a minimum the description must include:

* an assessment of the overall projected traffic safety impacts of the strategies chosen and of the planned activities to be funded, and,
* a description of the linkage between program area problem identification data, performance targets, identified countermeasure strategies and allocation of funds

A description of each planned activity to support the countermeasure strategies to address its problems and reach the identified performance target(s) must also be provided, see 23 CFR Part 1300.11(d) (2) (ii). This must include at a minimum identification of a list and description (answering Who, What, Where and When) of the planned activities to support the chosen countermeasure strategy, and, for each planned activity (i.e. types of projects):

* A description including intended subrecipients (a list of specific subrecipients is *not* needed),
* Federal funding sources,
* Eligible use of funds (formerly referred to as program funding codes)
* Estimates of funding amounts,
* Amount for estimated match, (if applicable),
* Local benefit (if applicable),

The rationale for selecting the countermeasure strategy and the funding allocation for each planned activity must be provided. Information on the cost effectiveness of the proposed countermeasure strategy may be included if available, see 23 CFR Part 1300.11 (d) (3). If an innovative countermeasure is selected, the justification supporting the strategy must also be provided including research, evaluation and/or substantive anecdotal evidence that supports the potential of the proposed strategy, see 23 CFR Part 1300.11 (d) (4).

When aggregated, strategies should lead logically to overall statewide performance and be linked to the anticipated success of the countermeasures or strategies selected and funded, see 23 CFR 1300.11(d). In selecting the strategies and planned activities, HSOs should be guided by the data and data analysis supporting the effectiveness of the proposed countermeasures. There are a number of resources which may be helpful for accomplishing this task. See [Countermeasures That Work: A Highway Safety Countermeasure Guide for Highway Safety Offices](http://www.ghsa.org/resources/countermeasures2015), a biennially-updated reference guide to help HSOs select effective, science-based countermeasures for major highway safety problem areas. The GHSA web site contains the latest version. The AASHTO Strategic Highway Safety Plan is supported by the NCHRP 500 guidebooks covering a variety of countermeasures. The guidebooks contain the recent scientific research and knowledge regarding countermeasures effectiveness. The guides are posted at this web site <http://safety.transportation.org> which contains other tools developed for the implementation of the plan.

**iv. Evidence-Based Traffic Safety Enforcement Program**

The HSP must include a description of the planned activities that collectively constitute an evidence-based (data driven) traffic safety enforcement program (TSEP) to prevent traffic violations, crashes, and crash fatalities and injuries in areas most at risk for such incidents. The requirements of the TSEP are: (i) an analysis of crashes, crash fatalities, and injuries in areas of highest risk; (ii) an explanation of the deployment of resources based on that analysis; and (iii) a description of how the State plans to monitor the effectiveness of enforcement activities, make ongoing adjustments *warranted by data*, and update the countermeasure strategies and planned activities in the HSP, as applicable. A cross-reference can be made to existing planned activities in the HSP. The SHSO must specifically describe within this section(s) the SHSO’s planned process for ensuring that there will be continuous follow up and adjustment of the enforcement plan(s) by the SHSO during the fiscal year, see 23 CFR Part 1300.11 (d) (5).

**v. National Mobilizations**

The HSP is required to include a list and detailed description of the HSO’s three planned high visibility enforcement (HVE) strategies to support each of the national mobilizations, see 23 CFR Part 1300.11 (d) (6). The FAST Act requires participation in not less than three HVE campaigns in each fiscal year to reduce alcohol-impaired or drug-impaired operation of motor vehicles and increase use of seatbelts by motor vehicle occupants. In addition to the May Click It or Ticket and August Impaired Driving campaigns, the third mobilization is in December. Beginning with FY19, information regarding the national mobilization participation metrics (e.g. participating and reporting agencies, enforcement activity, citation information, paid and earned media information) is required to be provided to NHTSA in the Annual Report, see 23 CFR Part 1300.35. In addition to participating in national mobilizations, States may coordinate additional mobilizations that are driven by State-specific data.

**vi. Submission of Project Agreement Information**

Beginning with FY2020, the SHSO may optionally submit project agreement details with the HSP but only for project agreements which have been signed. For all others, following the approval of the HSP by NHTSA, the HSO shall “amend” the HSP prior to beginning project performance to provide the following information about each signed project agreement in which it plans to enter:

1. Project agreement number (a unique *State-generated* identifier)
2. Subrecipient
3. Amount of Federal funds, and,
4. Eligible use of funds

States must also update this information when it changes. NHTSA guidance has been issued to assist the States in understanding these requirements. See the [NHTSA Highway Safety Grants Resources Guide](https://www.nhtsa.gov/highway-safety-grants-program/resources-guide) under NHTSA Guidance.

Amendments (and changes to the HSP) are subject to the approval of the NHTSA Regional Administrator (RA). The RA *must have approved* any changes to the HSP *before* approval of vouchers for payment. The RA will disapprove changes and projects that are inconsistent with the HSP or that do not constitute an appropriate use of Federal funds. See 23 CFR Part 1300.32.

# G. Performance Measures

This section describes the required establishment of performance measures in the performance plan section of the HSP required for traffic safety grants.

The performance plan of the HSP must state a performance measure for each HSO target to track progress toward meeting the target by the specified date using absolute numbers, percentages or rates. Performance measures are reviewed and updated each year, when necessary. The purpose of measuring performance is to determine whether programs are working and to what extent.

In the State’s performance plan section of the HSP, each target is required to be accompanied by at least one performance measure that enables the State to track progress toward meeting the quantifiable annual target (e.g., a goal to ''increase seat belt use to XX by 20XX,'' using a performance measure of ''percent of restrained occupants in front outboard seating positions in passenger motor vehicles''), see 23 CFR Part 1300.11 (c). The most recently released State and FARS data shall be used by the State.

**Minimum Performance Measures**

Beginning with MAP-21, 12 Minimum performance outcome and behavior measures developed by NHTSA in collaboration with GHSA and others, described in [Traffic Safety Performance Measures for States and Federal Agencies](http://www.ghsa.org/resources/performance-measures) (DOT HS 811 025) are required to be used as a minimum in developing the State’s performance measures and targets. Therefore, it is essential to examine each of these measures as part of the initial problem identification process. There are also three activity measures which must be reported annually. The measures are:

OUTCOME AND BEHAVIOR MEASURES

1. Fatalities (actual-FARS)
2. Number of serious injuries (State crash file)
3. Fatality rate per 100M VMT (FARS, FHWA)
4. Number of unrestrained passenger vehicle occupant fatalities, all seating positions (FARS)
5. Number of fatalities involving driver or motorcycle operator with .08 BAC or above (FARS)
6. Number of speeding-related fatalities (FARS)
7. Number of motorcyclist fatalities (FARS)
8. Number of unhelmeted motorcyclist fatalities (FARS)
9. Number of drivers age 20 or younger involved in fatal crashes (FARS)
10. Number of pedestrian fatalities (FARS)
11. Number of bicyclist fatalities (FARS) (FY15)
12. Percent observed belt use for passenger vehicles – front seat outboard occupants (State survey)

ACTIVITY MEASURES

1. Number of seat belt citations issued during grant-funded enforcement activities (grant activity reports)
2. Number of impaired driving citations issued and arrests made during grant-funded enforcement activities (grant activity reports)
3. Number of speeding citations issued and arrests made during grant-funded enforcement activities (grant activity reports)

Program areas outside of the GHSA-NHTSA Minimum performance measures may be included if sufficient justification for addressing those issues has been established in the problem identification process. Performance measures (and corresponding performance targets) are required to be developed for each program area that receives funding by the HSO. If the HSO intends to fund programs outside the Minimum measures, for each of these other programs, performance measures are required as well as: (i) quantifiable annual performance targets and (ii) justification for each performance target that explains why the target is appropriate and data driven.

A performance measure is an indicator to express the activity that will be used to establish a performance target and must be directly aligned to the target(s) of a project. Performance measures when combined with the performance target provide the basis for determining the degree of achievement of established targets. Acceptable activity levels or outputs shall be established as part of each grant agreement.

There are two common types of performance measures: direct and proxy. *Direct measures* are preferred. Examples of direct measures include: number of crashes, citations, people trained, units purchased, etc. Sometimes it is impossible to obtain direct measures. If such is the case, a proxy measure might be used. *Proxy measures* are indicators that provide an indirect assessment of desired activity. An example is a self-reporting survey conducted among a statistically valid sample of the population to determine behavioral change (recognition of public service announcements on television or radio, seat belt usage, impaired driving issues, etc.).

The characteristics of a good performance measure are that it is:

* Quantifiable where possible
* Directly linked to objectives
* Accurate and clearly defined
* Understandable
* Objective
* Practical

For a more detailed explanation of the measures, see, [GHSA-NHTSA Frequently Asked Questions on Performance Measures](http://www.ghsa.org/resources/performance-measures)

States began conducting an annual attitudes survey in FY 2010. The survey contains nine recommended (or equivalent) questions on occupant protection, impaired driving and speeding that States may use. See the following on the GHSA web site: [Survey Recommendations for the NHTSA-GHSA Working Group](http://www.ghsa.org/resources/performance-measures). Additional related resources are available on this page. The results of the annual attitudes survey should be summarized in the data section of the following year’s annual HSP and the complete findings reported in the following year’s Annual Report. Many States have found the surveys highly effective in evaluating their media campaigns as well as assisting with decisions regarding the use of grant funding. While conducting the surveys is not required, States are strongly urged to continue doing them. The data is important to help the states and also NHTSA.

[Model Performance Measures for State Traffic Records Systems, DOT HS 881 441](http://www.ghsa.org/resources/performance-measures) is a collection of 61 voluntary model measures to help HSOs monitor and improve the quality of the data in their traffic records systems. It covers all six traffic records systems: crash, driver, vehicle, roadway, citation/adjudication, and EMS/injury surveillance; and provides basic definitions for the six critical performance attributes: timeliness, accuracy, completeness, uniformity, integration, and accessibility. The measures are intended for use by Federal, State, and local governments to monitor the development and implementation of traffic record data systems, strategic plans, and data improvement grant processes. They have been grouped by performance attributes across the six core State traffic record data systems: crash, vehicle, driver, roadway, citation/adjudication, and emergency medical services (EMS)/injury surveillance. These common performance measures and the attendant guidance on their application are expected to help stakeholders quantify systemic improvements to their traffic records systems. The model performance measures are intended to help States monitor and improve the quality of the data in their traffic record systems. States can use these measures to develop and track performance targets in their Traffic Records Strategic Plans, Traffic Records Assessments, and Highway Safety Plans; establish data quality improvement measures for specific traffic records planned activities and projects; and support data improvement goals in the Strategic Highway Safety Plan. See the [MMUCC](https://www.nhtsa.gov/mmucc) web site for guidance. MMUCC is a minimum, standardized data set for describing motor vehicle crashes and the vehicles, persons and environment involved.

Within the HSO, responsibility for development and review of the annual performance measures is assigned to the [*insert position title]*.

# H. Section 405 Application Information and Section 1906

This section describes the requirements for inclusion in the HSP of the required Section 405 application information.

# There is a single application deadline for all highway safety grants including the traditional Section 402 program and incentive grant programs. The National Priority Safety Programs, or incentive grant programs, are codified in a single section, 23 CFR 405 and referred to as Section 405. These programs include: Occupant Protection, State Traffic Safety Information Systems (Traffic Records), Impaired Driving Countermeasures, Motorcyclist Safety, Distracted Driving, State Graduated Driver Licensing and beginning in FY17 a new program, Nonmotorized Safety.

# The specific qualification requirements are detailed in 23 CFR Part 1300.20-.28 for States applying for any of the Section 405 or Section 1906 grant programs. Information is available from NHTSA for the requirements of Appendix B. As part of the Section 405 application, the State is required to provide specific information which varies depending on the National Priority Safety Program incentive grant(s) for which the State wishes to receive funding consideration.

The Section 402 application is reviewed by the NHTSA Regional Office. The program portion of the Section 405 application is reviewed by a NHTSA Team and the legal requirements are reviewed by the NHTSA legal counsel. The GMSS will require that the HSP indicate if a planned strategy also addresses a Section 405 requirement.

**i. Maintenance of Effort**

MAP-21 mandated maintenance of effort (MOE) when States receive Section 405 funding for occupant protection, State traffic safety information systems and impaired driving countermeasures grant programs. As of FY18, the HSO shall certify in the HSP that the lead State agency designated by the GR as responsible for those traffic safety programs is maintaining aggregate expenditures at or above the average level of such expenditures in fiscal years 2014 and 2015. For FY18 the HSO submitted to NHTSA for approval the lead state agencies which cannot be changed for the duration of the reauthorization. Effective August 13, 2019, NHTSA issued revised [NHTSA MOE Guidance](https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/nhtsa_moe_fast_act_guidance.pdf) which allows the SHSO to submit a change in lead state agency to their Regional Office based on the revisions to that Guidance but no later than October 1, 2019. By March 31 annually, the HSO shall have available the MOE comparison report for review by NHTSA. WAIVER: The FAST Act provides for a one-time exception for the HSO to request a MOE waiver for exceptional or uncontrollable circumstances which is typically fiscal or natural disasters. For additional information on MOE requirements, see the [GHSA MOE Advisory](https://www.ghsa.org/resources/shso-guidance).

**ii. Planning and Administration (P&A) Costs and Local Benefit**

No P&A costs are allowed from Section 405 grant funds. The 40 percent share for local benefit requirement does not apply to projects paid with Section 405 funds used for Section 402 purposes.

**iii. Eligible Uses of Section 405 Funds and Section 1906**

The eligible uses of funds awarded under Sec. 405, and Sec. 1906, depends upon the program and fiscal year for which funds are awarded and shall be limited to the following, see 23 CFR Part 1300.21 - 27:

| **Section 405 Program** | **Eligible Uses and Limitations** |
| --- | --- |
| Occupant Protection (OP) §1300.21Lower Use States cannot use Section 405 funds for OP Assessments. High Use States can use Section 405(b) funds for Section 402 activities which could include OP Assessment costs. | * High Use States: 100% for FY17 and beyond for any project or activity eligible for funding under 23 USC 402 and the balance for the OP purposes below.
* Lower Use States – only the following:

- High-visibility enforcement mobilizations including paid media that emphasizes publicity for the program and law enforcement- Training OP safety professionals, police, fire and EM personnel, educators and parents concerning all aspects of the use of child restraints and OP- Educating the public on the proper use and installation of child restraints including related equipment and information systems- Providing community CPS services including programs on proper seating positions for children and how to reduce the improper use of child restraints- Establishing and maintaining information systems containing data concerning OP including the collection and administration of CPS and OP surveys, and,- Purchasing and distributing child restraints to low-income families provided not more than 5% of the funds received in a fiscal year are used for such purpose |
| Traffic Records §1300.22 | 100% to make quantifiable, measurable progress improvements in the accuracy, completeness, timeliness, uniformity, accessibility or integration of data in a core highway safety database |
| Impaired Driving §1300.23For formula grant States (identified as low, mid or high range) Section 405 funds cannot be used for any AL Assessments.  | * All States:

- High-visibility enforcement (HVE) efforts- Hiring a full-time or part-time alcohol, drugs or combined coordinator- Court support of HVE efforts, training and education of CJ professionals to assist in handling impaired driving cases, hiring traffic safety resource prosecutors, hiring judicial outreach liaisons and establishing DWI courts- Alcohol ignition interlock programs- Improving BAC testing and reporting- Paid and earned media in support of HVE of impaired-driving laws and conducting SFST training, ARIDE training and DRE training for law enforcement, equipment and related expenses used in connection with impaired driving enforcement- Training on the use of alcohol and drug screening and brief intervention- Training for and implementation of impaired driving assessment programs for persons convicted of alcohol, drug or combined offenses to determine recidivism or mental health/substance abuse treatment- Developing impaired driving information systems- Costs associated with 24 – 7 sobriety programs * Low-Range State: In addition to the above: Programs designed to reduce impaired driving based on problem ID, and, Up to 50% for any Section 402 eligible projects
* Mid-Range State: In addition to the above, Programs identified in 23 CFR Part 1300.21 (j) and programs designed to reduce impaired driving based on problem ID ***if*** advance approval is received from NHTSA
* High Range State: only for HVE and programs identified above designed to reduce impaired driving based on problem ID ***if*** all proposed uses are described in a statewide impaired driving plan submitted to and approved by NHTSA
 |
| Ignition Interlock §1300.23 (g) | * For any eligible project or activity under Section 402 including Impaired Driving Assessments and drug-impaired driving programs
 |
| 24/7 Program §1300.23 (h) | * For any eligible project or activity under Section 402 including Impaired Driving Assessments and drug-impaired driving programs
 |
| ComprehensiveDistracted Driving (DD) §1300.24 | * At least 50% to educate the public through advertising concerning information about the dangers of texting or using a cell phone while driving, for traffic signs that notify drivers about the DD State law or for law enforcement costs related to DD law enforcement
* Not more than 50% for any eligible project/activity under Section 402, and, not more than 75% for any eligible project or activity under Section 402 if the State has conformed its distracted driving data to the most current MMUCC
 |
| Motorcyclist Safety (MC) §1300.25 (Territories not eligible)Note: A State that receives a MC grant may sub allocate funds to a nonprofit organization incorporated in that State to carry out grant activities under this section. | * Improvements to MC training curricula
* Improvements in program delivery of motorcycle training to both urban and rural areas including (A) purchase or repair of practice motorcycles; (B) instructional materials; (C) mobile training units; (D) leasing or purchasing facilities for closed-course motorcycle skill training
* Measures designed to increase recruitment or retention of MC training instructors, and,
* Public awareness, PSAs and other outreach programs to enhance driver awareness of motorcyclists
* ***If*** the State qualifies under *low fatality performance criteria,* up to 50% for any eligible project or activity under Section 402
 |
| Graduated Driver Licensing (GDL) §1300.26 | * Enforce the GDL process
* Provide training for law enforcement and other relevant State agency personnel relating to enforcement of the GDL process
* publish relevant educational materials that pertain to the State’s GDL law directly or indirectly
* carry out administrative duties to implement the GDL process; or,
* carry out a teen traffic safety program described in 23 USC 402 (m)
* Not more than 75% may be used for any eligible project or activity under Section 402
* ***If*** the State qualifies under *low fatality performance criteria,* up to 100% for any eligible project or activity under Section 402
 |
| Nonmotorized Safety §1300.27 | * Training of law enforcement officials on State laws applicable to pedestrians and bicycle safety
* Enforcement mobilizations and campaigns designed to enforce State traffic laws applicable to pedestrians and bicycle safety, or,
* Public education and awareness programs designed to inform motorists, pedestrians and bicyclists of State traffic laws applicable to pedestrians and bicycle safety
 |
| Racial Profiling Data Collection §1300.28 | * Collecting and maintaining data on traffic stops, or,
* Evaluating the results of the data
 |

**iv. NHTSA Section 405 Award Determinations and Appeals**

After reviewing applications and making award determinations, NHTSA shall, in writing, distribute funds available for obligation to qualifying States and specify any conditions or limitations imposed by law on the use of the funds. Effective FY17 NHTSA will transfer unallocated Section 405 funds to Section 402. NHTSA is required, within 60 days after the date of the Section 405 awards, to make publicly available on the U.S. DOT website an identification of the States awarded grants, the States that applied and were not awarded grants, the States that did not apply for a grant and a list of the deficiencies that made a State ineligible for a grant.

Grant awards are subject to the availability of funds. Except as provided in 23 CFR Part 1300.26 (h), the amount of a grant awarded to a State in a fiscal year under Section 405 or Section 1906 shall be in proportion to the amount each such State received under Section 402 for fiscal year 2009. If there are insufficient funds to award full grant amounts to qualifying States, NHTSA may release interim amounts and release the remainder, up to the State’s proportionate share of available funds, when it becomes available in the fiscal year. If all Section 405 funds available will not be distributed, the funds are transferred to Section 402 and distributed in proportion to the amount each State received under Section 402 for FY2009, see 23 CFR §1300.20 (e).

The Section 405 application review is a final decision of the NHTSA Administrator and is not subject to appeal.

**v. Racial Profiling Data Collection Grants**

Section 4011 of the FAST Act revised several aspects of the Section 1906 incentive grant program created under SAFETEA-LU. The purpose is to encourage States to maintain and allow public inspection of statistical information on the race and ethnicity of the driver for all motor vehicle stops made on all public roads except those classified as local or minor rural roads. Under the FAST Act, States have two ways to qualify and certain documentation and assurances are required to be submitted with the HSP, see 23 CFR Part 1300.28.

# I. Performance Report

This section describes the requirement for inclusion in the HSP of a brief Performance Report.

For FY19 and beyond, within the HSP the HSO is required to provide a program-area level report on the State’s success in meeting its performance targets by performance measure for each performance measure identified in the previous fiscal year’s HSP, see 23 CFR 1300.11 (b). The State should use the most recent data available including State-level fatal data as well as additional non-fatality data.

NOTE: This is NOT the same level of information which is required of the States to provide in the comprehensive Annual Report (AR) under 23 CFR 1300.35. This is a much briefer status report focusing mainly on the prior year’s results for the State’s Core performance measures. It is an in-process assessment at the program level on the State’s progress and thus differs from the Annual Report.

# J. Teen Traffic Safety Program

This section describes the option for States to include in the HSP an application for a statewide teen traffic safety program.

States may program funds for a Teen Traffic Safety Program for statewide efforts to improve traffic safety for teen drivers. It is optional for the State to elect to incorporate a statewide program as an HSP program area in accordance with Title 23 Section 402 (m). Beginning with FY17 as provided in the FAST Act, there are two new uses of funds allowed for this program.

If the State chooses to do so, a description of the strategies and planned activities it intends to conduct is required to be included in the HSP as well as assurances which must be signed by the GR, that the program meets the statutory requirements. See 23 CFR Part 1300.11 (e).

# K. Public Outreach

This section explains the process for including constituent groups, State and local officials and other traffic safety partners in the HSP development.

NHTSA regulations require that the HSO provide a description in the HSP of the processes used to identify its highway safety problems, define its highway safety targets and performance measures, and develop strategies and planned activities to address its problems and achieve its targets. In describing these processes, the HSO shall identify the participants in the processes (e.g., highway safety committees, community and constituent groups), discuss the strategies for activity selection (e.g., constituent outreach, public meetings, solicitation of proposals), and list the information and data sources consulted

To the extent possible, the State should summarize information that shows an understanding of the major highway safety activities of other agencies and organizations and how the HSO is collaborating with other agencies and partners. One methodused by many States to reach their constituency groups is a pre-proposal application conference or meeting.

The HSO strives to prevent the loss of life, personal injury, and property damage caused by traffic crashes and to reduce the resulting economic losses to the residents of the State. The efforts necessary to reach these goals require partnering with public agencies and special interest groups to foster the sense of cooperation vital to accomplishing the mission. This includes:

# Inter-Agency Working Groups: The HSO makes effort to promote inter-agency cooperation relating to highway safety issues using the resources of various State departments and agencies to the best advantage possible.

# Community Coalitions: The HSO encourages the development of community-based coalitions in order to engage citizen involvement in the health and safety of communities by *[insert brief description of community outreach]*

# Pedestrian, Motorcyclist and Bicycle Safety Groups: [*insert brief description of specific outreach, if applicable].*

GHSA's [A Guide to Effectively Partnering with State Highway Safety Office](https://www.ghsa.org/resources/partnering18) revised in 2018 identifies how organizations can collaborate with HSOs to improve traffic safety outcomes. It explains how HSOs operate; provides examples of partnership opportunities, both non-funded and funded; and includes a handy checklist for potential partners to reference as they work toward establishing relationships with HSOs.

# L. Funding

This section outlines the process for establishing funding priorities in the annual HSP as well as Federal funding restrictions and requirements.

The U. S. Congress authorizes traffic safety funds to be appropriated to the U.S. DOT, NHTSA. NHTSA apportions and distributes these funds to the States. The States obligate these funds through the annual HSP which is subject to NHTSA review. Any earmarked or special purpose funds shall be used only in that particular program area and cannot be transferred to any other program area. When developing the HSP, new revenue estimates for each funding source are obtained annually from the NHTSA Regional office by the HSO typically in the first quarter of the calendar year for the following fiscal year. This information along with estimated prior year unexpended funds is used to develop the estimated total highway safety funding available for the upcoming fiscal year.

The HSO *[insert position title]* is responsible for annually allocating the estimated amount of revenue by program area for the HSP budget based on the information gathered in the problem identification, performance target and strategy processes to assure the greatest potential impact on the State’s overall goal of reducing traffic safety related crashes, deaths and injuries. The process for making the budget allocation decision should be documented in the HSP.

Beginning in FY2014, the State annually submits a consolidated application for Section 402 funds and Section 405 and Section 1906 funds for the National Priority Safety Program Grant programs. The HSO may also receive penalty transfer funds. Planned funds are subject to revision depending on the actual amount of funding received by the State.

**i. Highway Safety Improvement Program Funds and Other Funding Sources**

Beginning with FY17, and new obligations of HSIP carryforward beginning on the effective date of the FAST Act, Highway Safety Improvement Program (HSIP) funds may **not** be used for behavioral safety programs.

The HSO is also required to identify funding from other sources (Federal, State, local and private sector) for planned activities that the HSO considers necessary to reach the performance targets identified in the HSP, see 23 CFR 1300.11 (d) (2). This is especially true of State designated funds and major planned activities where the HSO is directly partnering with agencies to achieve a target included in the HSP. However, it is not necessary for the HSO to search out every activity of that type within the State which may possibly be taking place.

**ii. Planning and Administration Program Area**

The tasks and related costs for Planning and Administration (P&A) should be included in a P&A program area within the HSP, or, another format where the activities are described. There are definitions of P&A eligible costs, limitations on the federal share of total P&A costs and sources of funds, and, limits on the amount of funds that can be spent on P&A programs. If the State is using HSO indirect costs as P&A match, such costs can only be applied to P&A expenditures. See Chapter IV. Grant Selection and Execution, Section H. Development of Highway Safety Office Internal Grants for additional information.

**iii. Automated Traffic Enforcement Systems Prohibition and Survey**

The HSO may not expend funds apportioned under Section 402 to carry out a program to purchase, operate or maintain an automated traffic enforcement system with the exception of school zones. The prohibition includes any camera which captures an image of a vehicle for the purposes only of red light and speed enforcement. NOTE: This does not include hand-held radar and other devices operated by law enforcement to make an on-the-scene traffic stop, issue a traffic citation or other enforcement action at the time of the violation. See also Chapter VI. Fiscal Procedures, Section E. Allowable Costs. Beginning with FY18, States with automated traffic enforcement systems are required to either certify that no systems are used on public roads, or, conduct and submit a biennial survey to the NHTSA Regional Office no later than March 1 of the fiscal year. For the survey requirements, see 23 CFR Part 1300.12 (d).

**iv. Motorcycle Checkpoint and Survey Funding Prohibition**

For FY17 and beyond, the FAST Act prohibits the HSO from expending NHTSA grant funds for any program to check motorcycle helmet usage or to create check points that specifically target motorcycle operators or motorcycle passengers. In April 2017 NHTSA interpreted this section to include a prohibition of federal funding for motorcycle helmet usage observation surveys.

**v. Apportionment and Obligation of Federal Funds**

The funds distributed are available for expenditure by the State to satisfy the Federal share of expenses under the approved traffic safety program, and shall constitute a contractual obligation of the Federal Government, subject to any conditions or limitations identified in the distributing documentation. Vouchers that request payment for projects whose project agreement numbers or amounts claimed do not match project agreements (submitted by the HSO) or exceed the estimated amount of Federal funds provided under 23 CFR §1300.11 (e) shall be rejected, in whole or in part, until an amendment is submitted to and approved by the NHTSA Regional Office in accordance with 23 CFR §1300.32

In the event that authorizations exist but no applicable appropriation act has been enacted by Congress by October 1 of a fiscal year the NHTSA Administrator shall, in writing, distribute a part of the funds authorized under 23 USC Chapter 4 contract authority to ensure program continuity and shall specify any conditions or limitations imposed by law on the use of the funds. Upon appropriation of Section 402 funds, the NHTSA Administrator shall, in writing, promptly adjust the obligation limitation and specify any conditions or limitations imposed by law on the use of the funds. See 23 CFR § 1300.15 (b).

Within the HSO, responsibility for development of the estimated annual HSP budget is assigned to the *[insert position title]*. The required planned activities and any necessary revisions are prepared by the *[insert position title]* for approval by the HSO Administrator and inclusion in the HSP submitted annually to NHTSA including project agreements and revisions submitted to the Regional Administrator after the HSP has been approved by NHTSA.

# M. Benefit to Locals

*This section defines the requirement imposed upon the HSO by Federal regulation to ensure that a minimum percentage of certain new Federal fund sources be expended for the benefit of local units of government.*

States are required to ensure that at least 40 percent (or 95 percent for Indian Nations) of all (new) Federal funds apportioned under Section 402 for any fiscal year is **expended\*** by the political (local) subdivisions of the State, including Indian tribal governments, in carrying out local highway safety programs. A State may request a waiver. These local highway safety programs must be approved by the Governor and operated in accordance with the minimum standards established by the Secretary under Section 402. For FY17 and forward, 23 CFR Part 1300 - Appendix C. Participation by Political Subdivisions.

When sub grants are directed to State agencies and local benefit is claimed, the HSO shall ensure that local benefit source documentation is readily available on site including evidence of an active local voice in the initiation, development and implementation of the programs. There are exceptions for a political subdivision which has not had an active voice but agrees in advance of implementation to accept or requests the benefits of the program. Evidence of the acceptance or request must be established in writing and maintained on file until all such funds are expended.

When the State proposes to use the salary and benefits of a State employee toward meeting the 40 percent requirement, the State should ensure that the required documentation is in place before any work is carried out and that it evidences that the local government consented and accepted the work of the State employee on its behalf. Refer to the Local Benefit guidance issued by NHTSA on December 1, 2011, for a description of the type of activities that may be considered.

With regard to State expenditures, such as State Highway Patrol/Police enforcement or statewide paid media, the State may designate such expenditures as benefiting local government to meet the 40 percent requirement. The HSO may credit such expenditures only where the political subdivision has had either an active voice, or, agreed in advance of implementation to accept the benefits of the program. And, the active voice or pre-agreement must be documented annually in writing from the local government.

**\*NOTE:** The HSO is required not only to obligate 40 percent of the Section 402 funds to the benefit of locals but must also ensure that the required percentage of funds is actually expended to the benefit of locals. This requires the HSO to periodically monitor local grant expenditure rates during the fiscal year. Each voucher entered into the Federal Grant Tracking System (GTS) shall provide the dollar amount of Federal funds for each program area which was allocated to local benefit at least at mid-year (by March 31) and with the final voucher at fiscal year closeout. If at March 31 the percentage of local benefit reported appears to be significantly low, research should be done to determine the cause including slow vouchering by subrecipients or an insufficient number or dollar amount of local sub grants.

**Use of Transfer Funds for Section 402 Purposes-Benefit to Locals:** Section 154 and 164 transfer funds obligated and spent on alcohol-impaired driving countermeasures or directed to State and local law enforcement agencies for the enforcement of impaired driving laws or regulations (154AL and 164AL) take on the characteristics and requirements of the Section 402 program. No matching funds are required for these transfer funds; per Section 154 (c) (4) and Section 164 (b) (4), the Federal share of the project cost is 100 percent. At least 40 percent of the annual 154AL and 164AL funds must be used by or for the benefit of political (local) subdivisions of the State. (Note: BIA local benefit is 95%) See NHTSA Highway Safety Grant Funding Guidance Part II.A.1 and Appendix A. Section 163 Guidance and Section 154/164 Guidance.

**Use of Section 405 Funds that are Section 402 Eligible:** The 40 percent share for local benefit requirement does not apply to projects paid with Section 405 funds used for Section 402 purposes.

# N. Transfer Funds

This section is designed to define transfer and incentive fund sources and clarify the differences between them.

Section 402 funds are used by the HSO to support planned activities identified in the HSP as encompassing a major highway safety problem in the State and for which effective countermeasures have been identified. In addition to Section 402 funds, the State may be eligible to receive funds from other Federal transfer program sources. The specific available programs typically change with each Federal reauthorization of the highway safety program. The most recent reauthorization is commonly referred to as the FAST Act, Fixing America’s Surface Transportation.

An annual determination is made by the U.S. DOT FHWA regarding the State’s inability to enact or enforce specified State traffic safety laws or policies to address a program area as prescribed by the U.S. Congress in the current reauthorization. Information regarding the State’s laws and policies is requested by the U.S. DOT to determine the State’s eligibility. The State is notified annually through FHWA’s Advance Notice of Apportionments (July 1) and FHWA’s Final Notice of Apportionments (October 1). Two and one-half percent (2.5) of Federal-aid funds apportioned for the National Highway Performance Plan (NHPP) and Surface Transportation Program (STP) (23 U.S.C. § 104(b) (1) and 23 U.S.C. § 104(b) (2)) are reserved, applied separately for each program, until the State certifies how it will use the reserved funds. The State DOT and the HSO Administrator determine the division of transfer funds and notify the U.S. DOT by letter, known as the “split letter”, due 60 days after the funds have been transferred.

The HSO is required to update the HSP to indicate how it intends to use its split of penalty transfer funds, if any, from Section 154 and 164. Alternatively, the HSO may plan ahead knowing that there will be transfer funds in October and include a program plan for these funds in the HSP submission prior to that date.

The Federal P&A share shall not exceed 50 percent of total P&A costs, except for select States using the sliding scale for match (See [NHTSA Order 462-6C Matching Rates for State and Community Highway Safety Program](http://www.nhtsa.dot.gov/nhtsa/whatsup/tea21/GrantMan/HTML/13_402StateMatchRequirements.html)). No match is required for penalty transfer funds (Section 154 or 164 funds) when repurposed for Section 402 programs), for U.S. Territories (23 U.S.C. 120(i)), or for federally recognized Indian Tribal governments (23 USC 402(h)) under the Indian highway safety program. Beginning with FY2019 up to **15** percent of the new Section 154 or 164 funds may be designated for P&A purposes. However, such funds may only be expended for P&A activities which support alcohol-impaired driving project agreements funded by Section 154 or 164 funds. See Appendix D to 23 CFR Part 1300, P&A Costs.

The HSO and NHTSA are responsible for the oversight of Funds transferred to NHTSA’s Section 402 program for alcohol-impaired driving programs under MAP-21 and the FAST Act while the State DOT and FHWA are responsible for the oversight of funds released for HSIP eligible activities. All alcohol-impaired driving funds and Hazard Elimination funds transferred to the Section 402 program under SAFETEA-LU are still the responsibility of the HSO and NHTSA.

For behavior-related activities, the use of Section 154 and 164 funds is limited to supporting alcohol impaired driving project agreements and shall **not** be used to support drug-impairment related projects. States may also use funds for paid media to support alcohol-impaired driving countermeasures or for purchase of equipment and training of officers for enforcement of DWI/DUI/related laws. States may not use penalty transfer funds for general law enforcement, training or equipment purchases.

The most current information regarding the requirements and limitations of the transfer fund programs can be found online in the [NHTSA Highway Safety Grants Management Resources](https://www.nhtsa.gov/highway-safety-grants-program/resources-guide)

# O. Advertising

This section provides information on the Federal restrictions on the purchase of advertising with highway safety funds.

The NHTSA "Guidance for States Using Section 402 Funds for Purchasing Advertising for Highway Safety Messages” was updated in May 2013 to provide information on using highway safety funds to purchase advertising for highway safety messages. The Guidance is available in the [NHTSA Highway Safety Grants Management Resources](https://www.nhtsa.gov/highway-safety-grants-program/resources-guide). The HSO has the authority to use funds to purchase advertising in a variety of mediums including television and radio, cinema, internet, print, outdoor (billboard space) and sports marketing for highway safety messages. States are still required to report on the purchase of media with Federal funds and its effectiveness in their Annual Report. NHTSA advocates the use of a sustained high visibility enforcement model that focuses on strategically deploying enforcement and communications resources at targeted times and locations throughout the year based on State problem identification. The objective is to influence and sustain year-round behavioral change while getting higher returns on investment and further improvements in traffic safety.

When a State plans to use funds for this purpose, the HSO shall document in their annual HSP information describing the following:

(a.) what program/policy the advertising is supporting;
(b.) how the advertising will be implemented to support an operational enforcement program whether it be a periodic crackdown/mobilization or an on-going saturation or roving patrol; (c.) the amount allocated for paid advertising; and
(d.) the measures that will be used to assess message recognition and penetration of target audience.

If a subrecipient is granted advertising funds the subrecipient should likewise be required to report this information to the State so that the information can be included in their Annual Report.

As with other activities, paid advertising must be part of a comprehensive program designed to address specific highway safety goals identified in the HSO Performance Plan. Advertising should not be a stand-alone program or activity. For example, the communications plan should be preceded by the enforcement plan.

Federal funds are to be used only for certain specified **advertising** and **public relations** costs. *See*  [2 CFR Part 200.421](http://www.ecfr.gov/cgi-bin/text-idx?SID=53e06ff69dcb6de8a22fa89277a33161&mc=true&node=pt2.1.200&rgn=div5#se2.1.200_1421). Federal grant funds are *never* available to cover the costs of **promotional items** and **memorabilia**.

Television public service announcements and advertising created with the aid of Federal funds must contain closed-captioning of the verbal content.

See also Chapter V. Grant Administration and Management, Section D. Public Information and Education (PI&E).

**Sports Marketing**: If the State enters into a sports marketing sponsorship agreement, with a team, stadium or arena, it must further the achievement of the program’s performance targets. In conjunction with the purchase of paid advertising, attendance at sporting and entertainment events that charge admission may occur which could be deemed an unallowable cost. See Chapter V, Section D (iii). Public Information and Education (PI&E) for guidance on applicable tests for such expenditures and examples of possible circumstances and their appropriate resolution.

**P. Certifications and Assurances- Appendix A**

*This section explains the requirements for development of the certification and assurances section of the HSP.*

Each fiscal year the HSO signs Certifications and Assurances with the submission of the HSP that the State complies with all applicable Federal statutes, regulations, and directives in effect with respect to the period for which it is receiving grant funding.

# A Certification Statement for the Section 402 program, which can be signed only by the State’s Governor's Representative for Highway Safety, is required in the HSP. The statement provides assurances that the State will comply with not only with applicable laws and regulations but also financial and programmatic requirements, and the special funding conditions of the programs. The State must use only the exact format and language specified in Appendix A (make no changes in the required language) and include every certification. NOTE: NHTSA will provide an electronic Certification and Assurances document for use by the States. An electronic signature will not be accepted.

# Subrecipient Certifications and Assurances: The HSO must also be aware that Federal regulations require that the HSO ensure that every subrecipient and contract (i.e. purchase orders) include any clauses required by Federal statute and Executive Order and their implementing regulations and that the subrecipient or contractor is aware of the requirements imposed upon them. See [2 CFR Part 200.331(a)(2)](http://www.ecfr.gov/cgi-bin/text-idx?SID=cf9d3110114282b21ac2ce0864c54667&mc=true&node=se2.1.200_1331&rgn=div8).

# Under the FAST Act, 23 CFR Part 1300 Appendix A Certifications and Assurances identifies for the HSO the following certifications and assurances that are required to be imposed upon subrecipients. They are:

# Non discrimination

# Political Activity (Hatch Act)

# Certification Regarding Federal Lobbying

# Restriction on State Lobbying

# Certification Regarding Debarment and Suspension

# Buy America Act

# Prohibition on Using Grant Funds to Check for Helmet Usage

Although discouraged, the HSO may at their option require additional subrecipient State certifications and assurances, such as, seat belt use policies or training requirements for law enforcement officers

Failure to comply with applicable Federal statutes, regulations and directives may subject State officials to civil or criminal penalties in accordance with [2 CFR Part 200 Remedies for NonCompliance Part 338 - 342](http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=0f94deabfcc105ce7cdf811c8b6b7631&mc=true&n=pt2.1.200&r=PART&ty=HTML#sg2.1.200_1337.sg7) See Chapter IV. Grant Selection and Execution – Section D (iii). Final Grant Agreement Preparation for additional information.

# Q. Three Years Plus One Federal Obligation Restriction

This section explains the Federal restriction on the number of years that States are allowed to carry forward unobligated funds.

23 CFR Chapter 1, Subchapter I, Part 118(2) states, “Except as otherwise specifically provided, funds apportioned or allocated pursuant to this title (other than for Interstate construction) in a State shall remain available for obligation in that State for a period of 3 years after the last day of the fiscal year for which the funds are authorized. Any amounts so apportioned or allocated that remain unobligated at the end of that period shall lapse.”

Section 402 and Section 405 grant funds are authorized for apportionment or allocation each fiscal year. When developing the annual HSP funding plan, the HSO must be aware of the limitations placed upon the length of time that the funds are available. Grant funds are available for expenditure for three years after the last day of the fiscal year of apportionment or allocation (referred to as “three years plus one”). States should, to the fullest extent possible, expend these funds during those fiscal years.

NOTE: Beginning with MAP-21 and continuing under the FAST Act, during the last year of availability of the funds in year 4, NHTSA will notify States of unexpended grant funds potentially subject to lapsing not later than 180 days before the end of the period of availability. The State may then commit the unexpended grant funds to a specific project, referred to as a “promised project”, which will be completed before the end of the period of availability which is year 5. The funds committed to a specific project must then be expended before the end of the succeeding fiscal year and only on that project. The funds cannot be moved to another project. At the end of that time period, any unexpended grant funds for that promised project will **lapse** and NHTSA will **deobligate** unexpended balances, see 23 CFR Part 1300.41 (b). Unspent funds for promised projects cannot be moved to other promised projects.

Claims for promised projects (that were sent to the Regional Office by September 30 of year 5) are manually tracked by the NHTSA Regional Program Manager using an internal tracking system – not GTS or GMSS.

Effective with FY17, there are new requirements pertaining to the State receiving credit for carry-forward funds and making them immediately available for use. The State’s Highway Safety Plan including any amendments shall have been approved by the NHTSA Regional Administrator as provided by 23 CFR Part 1300.14 including any amendments to the HSP as provided by 23 CFR Part 1300.32. See 23 CFR Part 1300.41.

# R. Fund Liquidation

This section establishes a process for the HSO to monitor the regular expenditure of federally appropriated highway safety funds.

The HSO shall promptly obligate and expend Federal highway safety grant funds and track fund liquidation including transfer and incentive funds by funding year and source. The oldest funds should be expended first whenever possible.

The HSO [*insert position title]* shall be responsible for periodically examining the current liquidation of each funding source by year, looking back at least three years, and shall promptly notify the HSO Administrator of any unreasonably large amounts of unliquidated funds. This examination shall include a prompt review of the GTS Grant Fund Balances Report (#7) and other reports and reconciliation of all categories with the HSO records. The HSO shall monitor closely the spending rates of all subrecipients and make periodic projections to assure the prompt start of project agreements and determine if there are impediments to full expenditure of funds by the project end. The HSO shall deobligate unspent funds in a timely manner to allow carryover into the next fiscal year.

The HSO shall document the specific rationale and anticipated timeframe for expenditure of any Federal funds which are not going to be promptly obligated. The HSO shall proactively bring any issues regarding unliquidated Federal transfer funds under SAFETEA-LU split by the HSO and the State Department of Transportation (DOT) for Hazard Elimination purposes to the responsible party at the State DOT. Where applicable, the HSO should ensure timeliness in contracting with the DOT and vouchering of funds through GTS. The HSO and NHTSA are only responsible for spending oversight for the funds shifted to the HSO.

See also section Q. Three Years Plus One Federal Obligation Restriction above.

# S. Delegation of Authority

This section establishes signature authority for Federal traffic safety grants and contracts, assurances, certifications and other documents delegated to various levels within the Department.

NHTSA regulations require a formalized process be established by the State as to who can act on behalf of the HSO Administrator in his or her absence. The HSO is required to establish a written Delegation of Authority.

The following table lists signature authority related to the HSO traffic safety grant program.

**Table 5. Delegation of Signature Authority**

|  |  |
| --- | --- |
| **Document** | **Signature Authority**  |
| Highway Safety Plan | ***Approved by the [insert position title]******Submitted by the HSO Administrator***  |
| Certifications and Assurances of the Highway Safety PlanAppendix A | ***Governor’s Representative or designee***  |
| Federal Cooperative Agreements | ***HSO Administrator*** |
| National Highway Traffic Safety Administration Agreements | ***HSO Administrator***  |
| Federal Grant Applications | ***HSO Administrator*** |
| Internal HSO Planning and Administration, and, Program Management grants  | ***[insert position title]***  |
| Reimbursable Service Agreements | ***HSO Administrator*** |
| Traffic Safety Program Grant Agreements and Amendments (any amount) | ***HSO Administrator*** |
| State Vouchers for Federal Reimbursement | ***[insert division name]*** |
| Requests to NHTSA to purchase equipment ($5,000 or more) with Federal funds | ***HSO Administrator***  |

In the absence of the HSO Administrator, HSO signature authority is delegated to the following individuals in the order noted:

1. ***[insert position title]***
2. ***[insert position title]***

The NHTSA Regional Office shall be notified in writing of the name and type of authorization and provided with the signature of each person currently assigned signature authority on behalf of the HSO. Whenever a temporary or permanent change occurs in the authorization assignment or the person assigned to the named authorized position, the NHTSA Regional Office shall immediately be notified in writing and provided the new information.

# T. Federal Spending Transparency

*This section provides information and guidance regarding the Federal requirements for the SHSO to obtain and report certain prime and sub award information regarding Federal spending transparency.*

The SHSO is required to report certain information to NHTSA as mandated in the Federal Funding Accountability and Transparency Act (FFATA) and subsequent Office of Management and Budget (OMB) guidance. This information is then made available to the public at the [www.USAspending.gov](http://www.USAspending.gov) web site.

Prime awardees (the SHSO and the Bureau of Indian Affairs) of Federal grants of $25,000 or higher that are awarded **on or after October 1, 2010**, are responsible for reporting. The FFATA sub award Reporting System (FSRS) is the reporting tool SHSOs use to capture and report sub award data and/or sub awardee executive compensation data, see [www.fsrs.gov](http://www.fsrs.gov).

Prime awardees (the HSOs and BIA) must:

* obtain a DUNS number from Dun & Bradstreet at <http://fedgov.dnb.com/webform> or call 1 866 705-5711;
* register in the System for Award Management (SAM) at <https://www.sam.gov/SAM/>; and,
* register in FSRS.

Sub awardees must obtain a DUNS number from Dun and Bradstreet. Subrecipients are not required to be registered in SAM however if they do register, the information will transfer to and pre populate the FSRS web site. In addition, the HSO is required to collect the names and total compensation of the five most highly compensated officers of the sub awardee agency if, in the preceding year, the agency:

* received 80% of more of its annual gross revenues from Federal awards; AND,
* $25 million or more in annual gross revenues from Federal awards; AND,
* if the public does not have access to this information from reports filed under section 13(a) or 15(d) of the Securities Exchange act of 1934 or section 6104 of the Internal Revenue Code of 1986.

For each sub award, the HSO and BIA must enter the following into the FSRS web site:

* + - * FAIN (Federal aid identification number) The FAIN is sent to the HSO when GTS sends an e-mail notifying them of the award.
			* Sub award amount
			* Date of the award (date the grant agreement is signed)
			* Project description (grant title)
			* Primary place of performance
			* Sub award number
			* Executive Compensation answers

The FAIN is required to be included in the HSO subrecipient award document, see [2 CFR Part 200.331(a) (1-6)](http://www.ecfr.gov/cgi-bin/text-idx?SID=a9734d9ad44b4d0d2f7555da1ac55128&mc=true&node=se2.1.200_1331&rgn=div8). Information is available on the GHSA web site at, Planning and Management Tools/Transparency Regulations: [Transparency Act-101](http://www.ghsa.org/html/resources/files/pdf/mgmt/transp/101.pdf), [OMB Guidance on Sub Award and Executive Compensation Data Reporting](http://www.ghsa.org/html/resources/files/pdf/mgmt/transp/101.pdf), and [NHTSA's Draft Guidance Paper for Regions and States](http://www.ghsa.org/html/resources/files/pdf/mgmt/transp/nhtsa.draft.transp.guidance.pdf). NOTE: HSOs should be aware that it is important to use the correct DUNS numbers and for the HSO to be actively registered in the CCR for the system to properly work. See also Chapter IV-Grant Selection and Execution, Section D- Final Grant Agreement Preparation.

**U. Buy America Act**

*This section provides information and guidance regarding the Federal requirements that the HSO use highway safety grant funds to purchase only products manufactured or assembled in the United States.*

# Appendix A of Part 1300 identifies for the HSO all of the certifications and assurances that are required, see Chapter II-Planning, subsection P. Certifications and Assurances. One of the required certifications is compliance with the Buy America Act, 23 U.S.C. Section 313. The Act prohibits States from using highway grant funds under 23 U.S.C. Chapter 4 to purchase products unless they are produced in the United States. The prohibition applies to steel, iron and all manufactured products unless a waiver has been requested from the Secretary of Transportation. The Secretary may waive the requirement if: it would be inconsistent with the public interest; the products are not produced in the United States in sufficient and reasonably available quantities and of satisfactory quality; or, use of the products produced in the United States would increase the overall cost by more than 25 percent.

NHTSA has determined that for compliance purposes American-made covers any product that is manufactured **OR assembled** in the United States. This requirement applies to all items purchased with Federal funds including office supplies. There are no waivers for classes of items. The waiver process generally takes 60 days. The waiver goes into effect at the time of its publication in the Federal Register. The waiver determination will state if the waiver applies only to the requestor or to others wishing to purchase the same item. The duration of the waiver will be stated in the Federal Register publication.

A public interest waiver issued by NHTSA became effective July 30, 2015. The waiver allows States to purchase any manufactured product with a purchase price of $5,000 or less, excluding a motor vehicle defined in 49 USC 30102(a)(6), when the product is purchased using Federal grant funds administered under Chapter 4 of Title 23 of the U.S. Code. The purchase of foreign-made cars, motorcycles, trailers and other similar conveyances must be made with using a waiver regardless of price. Effective July 30, 2015, any pending waiver requests for an item with a purchase price of $5,000 or less were no longer necessary.

NHTSA has issued Guidance dated January 23, 2014, which details the waiver criteria and the process for submitting a written waiver request to the applicable NHTSA Regional Administrator, see [NHTSA Highway Safety Grants Management Resources](https://www.nhtsa.gov/highway-safety-grants-program/resources-guide). NHTSA and GHSA conducted a webinar on January 29, 2014, “NHTSA Highway Safety Grant Program Updated GHSA-NHTSA Webinar” which included additional information on the Buy America Act requirements and the waiver process, see the GHSA website/Members Only/Webinar for a complete copy of the presentation. Caution is advised when considering purchases or waivers outside of the federal Buy America initiative.