



**U.S. Department of
Transportation**

Office of the Secretary
of Transportation

ORDER

DOT 4600.17A

3-30-00

Subject: FINANCIAL ASSISTANCE MANAGEMENT REQUIREMENTS

1. PURPOSE. This Order updates DOT Order 4600.17, Grant Management Requirements, pertaining to the administration of financial assistance programs and prescribes the procedures for implementing laws, regulations, Executive Orders, and Office of Management and Budget (OMB) Circulars, providing guidance for the administration of DOT financial assistance programs.

For purposes of this Order, "financial assistance" means the forms of assistance that provide funds to eligible recipients, e.g., grants, cooperative agreements, and assistance-type other transactions. Although it does not include loans, loan guarantees, interest subsidies or insurance, this Order provides guidance that can be used to better manage these instruments.

A grant or cooperative agreement is the transfer of money, property, services, or anything of value to an eligible recipient to accomplish a public purpose of support or stimulation authorized by Federal statute, rather than the acquisition, by purchase, lease or barter, of property or services for the direct benefit of the Federal Government. A cooperative agreement differs from a grant in that, in the case of the former, substantial involvement is anticipated between the Federal Government and the recipient. An assistance-type "other transaction" is an instrument specifically created by Congress that is not a contract, grant or cooperative agreement, but is specifically designed to allow government entities, non-profit organizations and private industry to freely transfer funds, materials and technical assistance among themselves for the mutual benefit of all participants.

2. CANCELLATION. DOT Order 4600.17, Grant Management Requirements, is superseded. Deputy Secretary memorandums dated August 7, 1998, "Other Transactions Authority Under the Transportation Equity Act for the Twenty-First Century," and December 9, 1998, "Selection of Discretionary Grants," are cancelled.

DISTRIBUTION: All Secretarial Offices
All Operating Administrations
Bureau of Transportation Statistics

OPI: Office of the
Senior Procurement
Executive

3-30-00

3. BACKGROUND. Executive Order 12861 of September 12, 1993, required that all executive branch departments and agencies eliminate at least 50 percent of their internal regulations by September 11, 1996. In addition, several DOT Performance Review recommendations addressed the problem of a lack of centralized information for financial assistance program guidance. As a result, all financial assistance guidance was combined into one publication, DOT Order 4600.17, in 1995.

This Order revises requirements on audits, program announcements, indirect costs and lobbying and adds guidance for a new financial assistance instrument, "other transactions." New guidance on discretionary grant selection, based on the Deputy Secretary's memorandum of December 9, 1998, and the requirements of Section 1311 of TEA-21, Discretionary Grant Selection Criteria and Process, has been added.

4. POLICY. DOT policy is to comply with all instructions and standards as contained in Appendices A through I of this Order except where enabling legislation for a specific financial assistance program prescribes different policies or requirements, or where a specific exemption has been granted by OMB or the Assistant Secretary for Administration in accordance with paragraph 6 of this Order.
5. APPLICABILITY. The provisions of this Order and its Appendices apply to all operating administrations and secretarial offices that award Federal assistance to non-Federal entities, or provide policy guidance to departmental financial assistance managers.
6. RESPONSIBILITIES.
 - a. The Assistant Secretary for Administration shall issue additional instructions as required for implementing the contents of this Order only in those instances where the prescribed requirements need further clarification and/or implementation.
 - b. Operating administrations and applicable secretarial offices shall establish any necessary implementing procedures to comply with this Order.

- c. Operating administrations and applicable secretarial offices shall submit all new and/or revised procedures which are designed to implement the requirements of this Order, or the directives this Order implements, to the Assistant Secretary for Administration for clearance before the procedures are issued. Procedures will be reviewed to determine compliance with the appropriate guidance.
 - d. When required, operating administrations and applicable secretarial offices shall request waivers to the requirements of this Order, or the directives this Order implements, from the Assistant Secretary for Administration. Waivers must be accompanied by sufficient information to justify an exemption.
7. IMPLEMENTATION. The policy and procedures contained in this Order and its Appendices are effective immediately. Implementing directives required by paragraph 6 shall be submitted within 90 days of the publication of this Order.

FOR THE SECRETARY OF TRANSPORTATION:



Melissa J. Allen
Melissa J. Allen
Assistant Secretary
for Administration

3-30-00

APPENDICES

APPENDIX A: USE OF CONTRACTS, GRANTS AND COOPERATIVE AGREEMENTS

Implements Federal requirements on the use of grants, cooperative agreements and contracts, 31 U.S.C. §6301 et seq; OMB Circular A-102, Revised; OMB Circular A-110, Revised; and Section 1311 of the Transportation Equity Act of the Twenty-First Century, P.L. 105-178 (TEA-21).

APPENDIX B: ADMINISTRATIVE REQUIREMENTS FOR FINANCIAL ASSISTANCE PROGRAMS

Implements 49 CFR parts 18 and 19; OMB Circular A-102, Revised; OMB Circular A-110, Revised; and Executive Order 13101.

APPENDIX C: COST PRINCIPLES FOR FINANCIAL ASSISTANCE PROGRAMS

Implements 49 CFR parts 18 and 19; OMB Circular A-21, Revised; OMB Circular A-87, Revised; and OMB Circular A-122, Revised.

APPENDIX D: AUDITS OF FEDERAL ASSISTANCE RECIPIENTS

Implements 49 CFR parts 18 and 19; and OMB Circular A-133.

APPENDIX E: DEBARMENT AND SUSPENSION

Implements 49 CFR part 29.

APPENDIX F: INTERGOVERNMENTAL REVIEW OF PROGRAMS AND ACTIVITIES

Implements 49 CFR part 17; and Executive Order 12372.

APPENDIX G: DOT GRANT MANAGEMENT COUNCIL

APPENDIX H: ADDITIONAL REPORTING REQUIREMENTS

Implements 31 U.S.C. §6102(a) - Grant Information System;
31 U.S.C. §6104 - Catalog of Federal Domestic Assistance;
49 CFR part 20 - New Restrictions on Lobbying.

APPENDIX I: ADMINISTRATIVE REQUIREMENTS FOR OTHER TRANSACTIONS

Implements Sections 3015, 5102, and 5111 OF TEA-21.

USE OF CONTRACTS, GRANTS AND COOPERATIVE AGREEMENTS

1. PURPOSE. This Appendix provides departmental guidance for implementing Federal statutes, codified at 31 U.S.C. §§ 6301 et seq., establishing requirements on the use of grants, cooperative agreements and contracts.
2. BACKGROUND. Section 6301 of 31 U.S.C. provides standards that agencies are required to use in selecting among contracts, grants or cooperative agreements. The intent is to prescribe uniform criteria to assist agencies in distinguishing differences between the legal instruments based on the Federal purpose in the relationship. It does not convey new authority to make assistance awards independent of agency program legislation.

A contract is used when the principal purpose of a transaction is to acquire property and services for direct DOT use. A grant or a cooperative agreement is used when the principal purpose is to transfer funds or resources to assist recipients in acquiring property or services to carry out a public purpose of support or stimulation. Generally, grants are used where there is less specific Federal supervision and oversight of project activities. Cooperative agreements are used when there is substantial involvement by the granting agency in grant project activities.

Often, funds are provided for direct DOT use which are in turn provided to a third party. The choice of instruments in this type of transaction depends solely on the purpose of the transaction. If the intent is to acquire property or services to carry out a DOT program function, a contract is required. If the intent is to assist the recipient to carry out its functions, a grant or cooperative agreement is appropriate.

3. REQUIRED ACTIONS. Each operating administration or secretarial office that awards contracts, grants, or cooperative agreements shall:
 - a. Determine whether there exists substantive authority to award a grant or cooperative agreement. If such authority exists, determine whether the principal purpose of a transaction is to acquire property and services for direct DOT benefit or use, or to transfer funds to assist recipients in accomplishing public purposes.

3-30-00

- b. Award and administer each of the legal instruments in accordance with the appropriate directives.
 - (1) Contracts will be awarded and administered in accordance with the provisions of the Federal Acquisition Regulation (FAR), the Transportation Acquisition Regulation (TAR), the Transportation Acquisition Manual (TAM), and other DOT directives covering contracting activities.
 - (2) Grants and cooperative agreements with units of State and local governments will be awarded and administered in accordance with OMB Circular A-102 and 49 CFR part 18.
 - (3) Grants and cooperative agreements with universities, hospitals, and other nonprofit organizations will be awarded and administered in accordance with OMB Circular A-110 and 49 CFR part 19.
 - (4) Grants and cooperative agreements with for-profit organizations will be awarded and administered in accordance with applicable program procedures. The use of 49 CFR part 19 is encouraged.
- c. Obtain the maximum competition practicable in awarding grants or cooperative agreements whenever discretion is permitted in selecting recipients.
 - (1) Grant program announcements must include, at a minimum, a Federal point of contact, information on eligibility requirements, application procedures, proposal evaluation criteria, special award selection factors (if any), and terms and conditions of the awards.
 - (2) The public must be provided with an advanced notice in the Federal Register, or other appropriate means, of intended funding priorities for all discretionary assistance programs or projects, unless funding priorities are established by statute. Whenever time permits, the public shall be provided an opportunity to comment on intended funding priorities.

- (3) Selection of all discretionary projects shall include an explanation of how the projects were selected based on the funding priorities established. Decisions not to fund projects with the highest priority shall be documented.
 - (4) All discretionary project selections must be reviewed by a policy official.
- d. Unless congressionally directed or when awards are made to State or local governments, when competition has not been sought, a justification shall be prepared. The justification shall include the basis for not competing the award and a rationale for selecting the grantee. Justifications must be approved by the operating administration's Administrator or Secretarial Officer or a designee. Suggested guidelines for levels of approval are contained in the FAR subpart 6.304 and the TAM subpart 1206.304.
- e. As required by Section 316 of the Federal Property and Administrative Services Act of 1949, as amended, 41 U.S.C. § 266, new awards for research, development, test or evaluation must be based on merit-based selection procedures. This section provides that a provision of law may not be construed as requiring a new grant to be awarded to a specified non-Federal government entity unless that provision of law specifically refers to Section 316, identifies the specific entity involved, and states that the award is required by law in contravention of the policy set forth in Section 316.

ADMINISTRATIVE REQUIREMENTS FOR FINANCIAL ASSISTANCE PROGRAMS

1. PURPOSE. This Appendix provides departmental guidance for implementing OMB Circular A-102, Grants and Cooperative Agreements with State and Local Governments, 49 CFR part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Governments, OMB Circular A-110, Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations, and 49 CFR part 19 (same title).
2. BACKGROUND. On March 12, 1987, the President directed all affected agencies to issue a common grants management rule to adopt Governmentwide terms and conditions for financial assistance to State and local governments. OMB Circular A-102 was revised in 1988 to provide additional guidance to Federal agencies. DOT issued its common rule on March 11, 1988, as 49 CFR part 18. The common grants management rule allows States to use their own procedures to manage their financial management, equipment, and procurement systems. OMB Circular A-102 was revised on October 14, 1994, to include updated direction on: (1) implementation of the metric system; (2) review of infrastructure investment; (3) implementation of the Resource Conservation and Recovery Act; and (4) public announcement of the amount of Federal funds used in certain contract awards.

Administrative requirements for management of grants to nonprofit organizations programs are contained in 49 CFR part 19, originally published as an interim final rule on April 4, 1994. The rule incorporates and reflects the provisions of OMB Circular A-110. The revised Circular was developed by an interagency task force for Governmentwide use in a common rule format to facilitate regulatory adoption by executive departments and agencies.

Part of these efforts included DOT obtaining required paperwork clearance for all standard forms and reporting requirements in 49 CFR parts 18 and 19. However, OMB approval must be obtained for any additional reporting requirements. Both rules permit deviations, but they must be based on statute or approved by either OMB (for class deviations) or the Office of the Secretary (for individual cases).

3-30-00

be based on statute or approved by either OMB (for class deviations) or the Office of the Secretary (for individual cases).

3. REQUIRED ACTIONS.

- a. The Assistant Secretary for Administration shall issue additional specific instructions for implementing OMB Circulars A-102 and A-110, and 49 CFR parts 18 and 19 only in those instances where the prescribed requirements need further clarification and/or implementation.
- b. The operating administrations and secretarial offices shall:
 - (1) Establish additional instructions, if required, for implementing the above directives.
 - (2) If imposing additional requirements on "high risk" grantees, as authorized by 49 CFR 18.12, or 49 CFR 19.14, forward copies of such notifications to the Assistant Secretary for Administration and the Assistant Inspector General for Auditing.
 - (3) In addition to guidance provided in Section 2.(h) of OMB Circular A-102, and Section 16 of OMB Circular A-110, regarding resource conservation and recycling programs, implement the provisions of Executive Order 13101, Greening the Government Through Waste Prevention, Recycling, and Federal Acquisition.

COST PRINCIPLES FOR FINANCIAL ASSISTANCE PROGRAMS

1. PURPOSE. This Appendix provides departmental guidance for implementing Office of Management and Budget (OMB) Circular A-87, Cost Principles for State and Local Governments, OMB Circular A-122, Cost Principles for Nonprofit Organizations, and OMB Circular A-21, Cost Principles for Educational Institutions.
2. BACKGROUND. The costs of Federal financial assistance performed by State or local governments are determined by the provisions of OMB Circular A-87. The Circular requires State and local governments to substantiate indirect costs through formal indirect cost proposals or cost allocation plans, and provides for the negotiation, approval and audit of those plans. OMB has assigned DOT as the cognizant Federal agency for all State highway agencies and other State transportation-related agencies.

The costs of Federal financial assistance performed or administered by nonprofit organizations are determined by the provisions of OMB Circular A-122. The Circular provides principles and policy guidance for recognizing costs incurred by nonprofit organizations, and lists methods for allocating indirect costs and computing indirect cost rates. The cognizant Federal agency negotiates and approves indirect cost rates. OMB Circular A-21 establishes principles for determining costs applicable to financial assistance to certain educational institutions. The Circular was revised in 1993 to include: (1) a limitation of a 24 percent fixed allowance for the administrative costs portion of indirect costs; (2) permission to use multi-year predetermined indirect cost rates for research agreements; and (3) a consistent policy for adjustment of indirect cost rates for proposals subsequently containing unallowable costs.

Cost principles for for-profit organizations are not covered by OMB Circulars. Operating administrations (OAs) and secretarial offices (SOs) are encouraged to utilize subpart 31.2 of the Federal Acquisition Regulation (FAR) to determine cost principles for these organizations.