



# Memorandum

Subject: **INFORMATION:** Eligibility of Replacement  
Parts for Safety-related Hardware

Date: June 10, 2008

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From: Dwight Horne  
Director, Office of Program Administration

In Reply  
Refer To: HIPA-10

To: Division Administrators

From mid-1976 through early 1991, the Office of Engineering and Traffic Operations issued a series of memorandums and notices on the eligibility of purchasing critical replacement parts for safety-related hardware, either as part of an on-going related Federal-aid highway construction project, or through a safety project established to replace and upgrade highway hardware. While the basic concepts expressed in those memorandums and notices are still valid, several specifics have been superseded by legislation and agency policy. Therefore, in coordination with the Offices of Asset Management, Bridge Technology, Operations, and Safety, we are now issuing this memorandum as an update to agency policy.

The prompt replacement and, if needed, upgrade of highway safety appurtenances remains a priority for FHWA, especially for situations where appurtenances have been damaged through highway crashes. Therefore, the construction, upgrading and replacement of highway safety-related appurtenances are eligible for Federal-aid participation in one of three ways:

1. Federal-aid highway construction and safety funds may be used to purchase a minimal number of essential replacement parts during a highway construction or safety project which installs or upgrades the safety appurtenances. The intent of this eligibility is to ensure the immediate availability of essential replacement parts (such as end treatment parts) that are damaged through no fault of the contractor during the Federal-aid construction project. The specific parts and quantity of each should be determined based on the scope of the project with the above stated intent in mind. All parts not used during construction may be retained by the State DOT for use on any public road in the State. Should the State DOT collect the cost of replacement for the damaged appurtenances at a specific location from the responsible party, Federal-aid participation is limited to the uncollected cost of the parts.
2. Federal-aid highway construction and safety funds may be used for upgrading damaged safety appurtenances in locations where the existing safety appurtenances do not meet the current safety standards. However, should the State DOT collect the cost of replacement for the damaged appurtenances at a specific location from the



responsible party, Federal-aid participation is limited to the betterment cost for upgrading the appurtenances.

3. Some combination of State funds, Federal-aid highway construction and/or safety funds may be used for an established statewide program of safety-related upgrades in response to a change in safety standards.

Methods 2 and 3 may be accomplished through the use of either a contract or a public agency force account. Use of force account would require a finding that it is cost-effective in accordance with 23 CFR 635 Subpart B. A public interest finding will be needed if a specific proprietary product is used, (23 CFR 635.411 – Material or product selection), or if State purchase of any required components is utilized (23 CFR 635.407 – Use of materials made by a public agency).

Due to the agency's recognition that safety of the traveling public may be enhanced through the use of Intelligent Transportation Systems (ITS), the concept of "safety-related" appurtenances needs to take on a broader definition. For situations where a State DOT can demonstrate clearly the safety benefits of repairing a crash-damaged ITS installation, the replacement and upgrade of system components would be eligible for Federal-aid participation under an appropriate Federal-aid funding category. Additional information about the eligibility of operations and associated costs for ITS facilities is available in the memorandum, "Guidance on Federal-aid Eligibility of Operating Costs for Transportation Management Systems" issued on January 3, 2000.

The memorandums that are specifically superseded by this memorandum are:

- "Replacement Breakaway Hardware for Luminaire Supports," dated February 4, 1991;
- "Federal-Aid Participation in Construction, Upgrading, and Replacement of Highway Safety Appurtenances," issued April 23, 1982;
- "Federal-Aid Participation in Replacement of Highway Safety Appurtenances," issued November 3, 1980;
- "Funding Replacement of Safety Related Hardware," issued December 28, 1978; and
- "Funding of Replacement Parts for Crash Cushions," issued July 23, 1976.

Notice 7560.6 – "Federal-aid Participation in Replacement of Highway Safety Appurtenances," issued January 9, 1979, formally expired on December 1, 1979.

Questions about this policy should be referred to Vincent Barone at 202-366-4652.

cc: Associate Administrators  
 Chief Counsel  
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