

**Equipment Management
Question & Answer
July 2009**

Q1: Has there been a change in equipment management and disposition from Title 49 to Title 23 requirements. This will create a burden on our SHSO. When will NHTSA inform us? Can we be granted a waiver?

A: The requirements for equipment management haven't changed. Titles 23 and 49 are in complete agreement. However, NHTSA Chief Counsel recently clarified that **Title 49, Part 18.32 (b) States**, was not being interpreted correctly. Excerpts from the Titles with explanations follow:

**Title 49: Transportation: PART 18—UNIFORM
ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND
COOPERATIVE AGREEMENTS TO STATE AND LOCAL
GOVERNMENTS**

§ 18.32 Equipment.

(b) *States.* **A State will use, manage, and dispose of equipment acquired under a grant by the State in accordance with State laws and procedures. Other grantees and sub-grantees will follow paragraphs (c) through (e) of this section.** (emphasis added)

d) *Management requirements.* Procedures for managing equipment (including replacement equipment), whether acquired in whole or in part with grant funds, until disposition takes place will, as a minimum, meet the following requirements:

(2) A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.

Explanation: Paragraph (d) (2) above requiring a physical inventory every two years does not apply to the SHSO, the primary recipient of Federal highway safety funds. The “other grantees and sub-grantees” referenced are recipients of direct funding from the Federal grantor agency. In NHTSA’s case, these would typically be universities and other Section 403 contractors that receive NHTSA funds. They would be bound to the requirements of paragraphs (c) through (e), **not the States.**

Title 23: Highways: PART 1200—UNIFORM PROCEDURES FOR STATE HIGHWAY SAFETY PROGRAMS

§ 1200.21 Equipment.

(c) *Management and disposition.* Subject to the requirement of paragraphs (b), (d), (e) and (f) of this section, States and their sub-grantees and contractors shall manage and dispose of equipment acquired under the Section 402 program in accordance with State laws and procedures. (emphasis added) (applies to all of NHTSA grant programs)

Explanation: Paragraph (c) of this language is complementary of 49 CFR 18.32's. It goes further to include all sub-grantees and contractors that receive highway safety funds from the SHSO.

Any equipment purchased with Federal highway safety Section 402 grant funds, regardless of whether a State agency, local governmental agency, or contractor is the purchaser, must follow the same inventory and other equipment requirements as a State agency. Local sub-grantees of the State's federally funded highway safety program are bound to follow State laws and procedures by default, if they are not specifically exempted or referenced in States laws or regulations.

Q2. How will equipment management be addressed in Management Reviews?

A: NHTSA will no longer be citing 49 CFR 18.32 (c) through (e) in management reviews regarding equipment management issues. Instead, NHTSA will cite 23 CFR 1200.21 (c) that points to the management and disposition of equipment acquired under the S402 program "in accordance with State laws and procedures." Though not specifically cited, all NHTSA grant funds are included here. 23 CFR was written before TEA-21 and SAFETEA-LU and the advent of their various fund categories.

Paragraph 1200.21 (b) *Use* states that "all equipment shall be used for the originally authorized grant purposes for as long as needed for those purposes, as determined by the Approving Official (the Regional Administrator), and neither the State nor any of its subgrantees or contractors shall encumber the title or interest while such need exists." The absence of any mechanism to assure compliance with this section may lead to an MR Finding. Monitoring protocols and equipment tracking routines may adequately address this requirement.

Q3: Do equipment purchases need to be approved by NHTSA? How long can the state keep the equipment?

A: All purchases and dispositions of equipment with useful life of more than one year and an acquisition cost of \$5,000 or more must receive prior written approval from the NHTSA Regional Administrator.

All equipment shall be used for the originally authorized grant purposes for as long as needed for those purposes, as determined by the NHTSA Regional Administrator, and neither the State nor any of its sub-grantees or contractors shall encumber the title or interest while such need exists.

23 CFR Part 1200.21

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