



STATE OF MICHIGAN
DEPARTMENT OF TRANSPORTATION
LANSING

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October 8, 2007

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Dear Mr. Niemela and Mr. Fivas:

Use of Lump Sum or Pro Rata to Determine the Federal Participation for Federal Aid Projects

The Federal Highway Administration (FHWA) advised the Michigan Department of Transportation (MDOT) that MDOT was not correctly applying the federal regulations as related to the method of obligation of federal funds on local agency projects. The regulation as provided in Title 23 of the Code of Federal Regulations (CFR), Part 630, Section 630.106, Authorization to proceed and project monitoring, requires the federal share of an eligible project to be established either as pro rata (the federal share is a specified percentage) or a lump sum (the federal share is limited to a specified dollar amount not to exceed the legal pro rata).

Pro Rata Projects

In the case of pro rata, all eligible expenses during the construction of the project are eligible for federal aid at the established pro rata as long as reviewed and approved by MDOT construction.

Lump Sum Projects

In the case of lump sum, the federal share is the lesser of: (1) a fixed dollar amount established by the program administrator (e.g., Metropolitan Planning Organization (MPO), Rural Task Force, Local Safety Program Administrator, Enhancement Program Administrator, etc.), or (2) an adjusted dollar amount based on the federal aid eligible items of the project at the time of award of the construction contract (accounting for the bid prices); under this scenario, federal aid will not be available to cover future increases should additional eligible charges surface during construction.

The selection of obligation method, pro rata or lump sum, needs to be considered when the program administrator does his/her project selection. Once a project is submitted for obligation and approved by the FHWA, the method of determining federal aid participation is locked and can not be switched.

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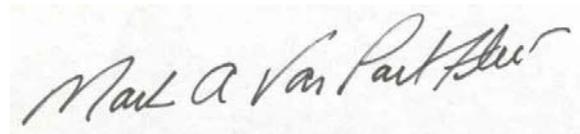
Additionally, Title 23 of the Code of Federal Regulations (CFR) under Section 630.106 (f) (2) states that the pro rata or lump sum share may be adjusted before or shortly after contract award to reflect any substantive change in the bids received. MDOT has defined a substantive change to be one that is 10 percent over or under the approved obligated amount. This adjustment in either the pro rata or the lump sum is a one time only change. A change in the pro rata or an increase in the lump sum beyond the amount established by the program administrator is to be initiated by the local agency with any necessary program administrator approval. Since projects are updated to reflect bid prices, MDOT must reduce the maximum federal aid downward for those lump sum projects where the bid prices cause the legal pro rata to be exceeded. This reduction takes place shortly after award of the construction contract and is considered the one time change. Although the federal pro rata or lump sum share can change, the method of obligation cannot change. Pro rata projects must remain pro rata and lump sum projects must remain lump sum.

FHWA has made MDOT aware that there may be misunderstanding on the part of some local agencies and their MPOs in regard to lump sum projects in particular. If a lump sum is selected as the funding vehicle, it should not be treated as a place holder for federal aid. The lump sum amount that appears in the Transportation Improvement Program (TIP) is valid and used unless the bid prices cause the lump sum to be adjusted downward. The lump sum amount set at the time of obligation by MDOT with allowance for one time adjustments shortly before or shortly after award of the construction contract becomes the federal aid available for the project. Modified language addressing the lump sum amount is being incorporated in the cost participation agreements starting with the October 2007 letting.

Please find enclosed a series of Frequently Asked Questions and Answers in regard to this change. We have also recently added instructions to MDOT's Local Agency Program's website on how to obtain bid information. A copy of the instructions is enclosed. If you have a specific question on how a project might be affected, please contact the appropriate Project Development Engineer:

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Sincerely,



Mark A. Van Port Fleet
Engineer of Design

Enclosures