U.S. Department of Transportation
National Highway Traffic Safety Administration

Memorandum

Subject: **Use of NHTSA Funds to Purchase Items for Distribution**

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Reply to Attn. of:

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This memorandum contains guidance concerning the use of Federal highway safety grant funds by States and State subrecipients for certain purchases. Please distribute the memorandum to State grantees.

I. Allowable Costs

NHTSA highway safety grant funds are intended to support traffic safety in the States. Any use of NHTSA grant funds must support State traffic safety goals. When determining whether to purchase any of the below types of items, a State or subrecipient should use good judgment as a responsible caretaker of tax dollars intended to support traffic safety. As always, all costs charged to NHTSA highway safety grants must be reasonable, within the scope of the grant, address a highway safety problem, and help meet performance measures.

States may use NHTSA grant funds to purchase items in the following four categories:

- **Recognition Awards:** NHTSA highway safety grant funds may be used to purchase awards, where appropriate, under a formalized program that recognizes superior performance or exceptional contributions to the purposes served by the NHTSA grant. An appropriate award may be a certificate, plaque, coin, or medal, if it is given under a limited, formalized recognition program.
    - Examples of allowable recognition awards:
        - A plaque given by the SHSO to a police department at the annual highway safety conference for specific outstanding enforcement efforts.
        - A certificate given by the SHSO to an employee for exceptional work in a specific enforcement effort.
        - A medal given by the SHSO at a state Lifesavers conference to an individual for a career of exceptional service to public safety.

        - A letter signed by the head of the SHSO recognizing the outstanding achievements of a subrecipient.
        - A medal or coin given by a subrecipient to a police officer as a formal award for specific superior highway safety enforcement performance (when used like a trophy; i.e., not a challenge coin for general distribution).
        - A certificate given by a subrecipient to a community partner for exceptional work on a collaborative highway safety project.

- **Safety Supplies and Equipment:** An item that serves a safety function required to protect personnel during performance of a project is an allowable project expense. The key is that these items must be supplies or equipment needed by those carrying out work under the grant and are kept by the State or subrecipient for use by the program, not distributed for retention by individuals.
    - Examples of allowable safety supplies and equipment:
        - Reflective safety vest for use by employee conducting a roadside survey at night and retained by the program.
        - Bike helmet for use by participants in a bike rodeo event and returned to the program after the event.
        - Safety gear—including helmets, safety vests, reflective material—for use by trainees during motorcycle training events and returned to the program after the training.

- **Educational materials:** Paper, pamphlets, flash drives and CD-ROMs that contain educational materials are allowable because their purpose is to contain and convey educational information, not to generate goodwill or incentivize behavior. In order to be considered educational, distributed material must provide substantial information and educational content (not merely a slogan) to the public and have the sole purpose of conveying that information. If a recipient or subrecipient chooses to provide educational content on a flash drive or CD-ROM, that device must be an economical method of conveying the information.
    - Examples of allowable educational materials:
        - Traffic safety-themed coloring book given to children at a school event, state fair, etc.
        - A pamphlet including statistical information such as "X number of people lose their lives every year when not wearing a seat belt" and safety tips distributed at a state fair.
        - A flash drive containing information about the dangers of texting and driving (i.e., statistics, ideas to prevent texting while driving).

        - A folder containing information about child passenger safety (i.e., statistics car seat/ booster seat laws, proper car seat installation and use, danger of leaving children unattended in hot or cold cars, etc.) and relevant safety tips provided to parents at a car seat inspection station.
        - A CD-ROM or flash drive containing training/ conference materials given to attendees at a highway safety conference hosted by the recipient/subrecipient.

- **Advertising media:** Advertising media intended to reach a large audience—such as television or radio ads, ads on social media, banners and posters—are allowable costs under NHTSA's highway safety grants. The Uniform Guidelines for the Section 402 program provide that "the State should enlist the support of a variety of media, including mass media, to improve public awareness and knowledge and to support enforcement efforts about seat belts, air bags, and child safety seats."
    - Examples of allowable advertising media:
        - Banners or posters featuring the Click It or Ticket campaign for use at events.
        - A "U Text. U Drive. U Pay." banner displayed in a school.
        - A television ad about the dangers of impaired driving.
        - Posters displayed in bars that say "Report every drunk driver immediately at *55".
        - A yard sign telling drivers to "Watch for Motorcycles".

The Super Circular has additional provisions that may apply to certain items that fall within these categories. For example, certain educational materials costs may be subject to the Super Circular provision on Conference Costs (2 C.F.R. §200.432). Consult Subpart E of the Super Circular (Cost Principles) to determine if there are any additional provisions that pertain to a particular item or use of that item.

II. Promotional Items are Not Allowable Costs under NHTSA Grants

The Super Circular makes clear that no promotional items or memorabilia are allowable costs under Federal grants (see below). Use of NHTSA grant funds to purchase promotional items or memorabilia is illegal and could result in a management review finding and the requirement to repay the misused funds.

In order for a State grantee or a subrecipient to give out items that are paid for using Federal funds, there must be specific statutory authority regardless of whether the item serves a safety or other purpose. NHTSA (and by extension, NHTSA fund recipients and subrecipients) has only two authorities of this kind. States may use Section 405 occupant protection funds to provide child restraints to low-income families, subject to a cap of 5% of funds received. 23 U.S.C. §405(b)(4)(A)(v). NHTSA also has authority under 49 U.S.C. §20134 to "purchase items of

nominal value and distribute them to the public without charge as part of an education or awareness program" to promote railroad grade crossing safety.

An item that is used as an incentive, to increase goodwill, or that is distributed as a giveaway is an unallowable promotional item. NHTSA grant funds are intended to promote safety and educate the public about traffic safety, not to provide items to individuals or groups through distribution. Distribution of items where the beneficiary keeps the item after the event (whether to members of the public at a State fair, to groups at a training event, or to police officers to maintain partnerships) is never a necessary expense for performance of projects under the grant.

States and State subrecipients may use State funds or privately collected funds/ private donations to purchase promotional items, subject to applicable State laws and policies. Items donated by private entities are considered program income. This guidance only applies to the use of NHTSA grant funds for these types of purchases.

Illustrative examples of unallowable promotional items or memorabilia include:

- Bumper stickers, and/or texting thumb bands given to members of the public at a state fair.
- Keychains and/or pens given to groups at a training event.
- T-shirts for volunteers at a state fair or car seat installation center (either as an incentive or to designate staffers as a team).
- Shirts for Law Enforcement Liaisons.
- Shirts or hats worn by participants in a press event.
- A helmet given to participants in a bike rodeo to take home.
- Challenge coins, when ordered in bulk and kept on hand to give to many people outside of a limited, formalized recognition program (for example, to all attendees at a conference, to police officers in the ordinary course of employment).
- Items (such as flashlights, general law enforcement equipment, duty bags, jackets or even plaques) given to members of law enforcement to encourage or incentivize participation. (Law enforcement participation in NHTSA grant activities is secured and covered by reimbursement of salary and overtime expenses.) These items are not appropriate awards.
- A folder or binder given to attendees at a conference that is more expensive than necessary to hold the provided materials. The cost of folders or binders must be reasonable; the purpose is to hold materials that convey information, not to provide a gift or memento to the attendee.

III. Governing OMB Super Circular Provision on Advertising and Public Relations Costs

The Super Circular allows Federal funds to be used only for certain specified **advertising** and **public relations** costs. *See* 2 C.F.R. § 200.421.

- The Super Circular provides that the only allowable **advertising** costs are for:
  - Recruitment of personnel required for performance of a Federal award;
  - Procurement of goods and services for the performance of a Federal award;
  - Disposal of scrap or surplus materials acquired in the performance of a Federal award except when reimbursed for disposal costs at a predetermined amount; or
  - Program outreach and other specific purposes necessary to meet the requirements of the Federal award.
- The Super Circular provides that the only allowable **public relations** costs are for:
  - Costs specifically required for the Federal award;
  - Costs of communicating with the public and press pertaining to specific activities or accomplishments which result from performance of the Federal award; or
  - Costs of conducting general liaison with news media and government public relations officers, to the extent that such activities are limited to communication and liaison necessary to keep the public informed on matters of public concern, such as notices of funding opportunities, financial matters, etc.

The Super Circular *excludes* all other advertising and public relations costs, and *specifically excludes* "costs of **promotional items** and **memorabilia**, including models, gifts, and souvenirs"—these items are always unallowable advertising and public relations costs. 2 C.F.R. § 200.421(e)(3). Therefore, Federal grant funds are *never* available to cover the costs of **promotional items and memorabilia**.

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