



U.S. Department
of Transportation

Federal Highway
Administration

Memorandum

Subject **INFORMATION:** Equipment Purchases For State
Construction Engineering Use

Date MAY 5 1993

From Director, Office of Engineering

Reply to
Attn of HNG-22

To Regional Federal Highway Administrators
Federal Lands Highway Program Administrator

In the mid-1980's, several inquiries were received regarding the FHWA's position concerning participation when State highway agencies (SHA's) require construction contractors, as a condition of their contract, to purchase and transfer ownership of certain construction engineering equipment items to the SHA. Examples include field laboratories and various acceptance testing equipment items.

The FHWA guidance was issued by Mr. Leather's memorandum of September 11, 1986. It required that when an SHA proposed that equipment items be purchased by a contractor, under the terms of a Federal-aid contract, for ultimate ownership by the State, it must first conduct a lease versus purchase analysis. The FHWA's approval would then be given if the SHA was able to justify the purchase as being the most economical approach. Also, once the equipment was removed from the Federal-aid project, the State was to provide an appropriate salvage credit to the project.

Following the establishment of this policy, a number of significant events have occurred which make effective management using this procedure difficult. First, in 1988, the Department issued its federalism regulation, 49 CFR Part 18, which eliminated the agency's ability to require an appropriate salvage credit when the equipment was removed from the project for use elsewhere. Salvage credit was to be based on the State's own established practices. Next, in 1991, provisions of the ISTEA provided that States could exempt FHWA oversight and procedures under certain conditions.

As a result of these actions and a number of recent field inquiries, we have re-evaluated our previous position. Future construction project authorizations involving the purchase of construction engineering equipment items for State ownership and use will adhere to the following policy:

Pursuant to 23 U.S.C. 302, SHA's must be suitably equipped to carry out the requirements of the Federal-aid highway program. When a State needs to purchase equipment to adequately meet the construction engineering requirements of a Federal-aid project, it makes no difference, relative to Federal-aid participation, whether the equipment is purchased by the State directly or through the project contractor. In either case, it is not

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acceptable to use Federal-aid funds to participate in the purchase of the equipment. Rather, the equipment's cost should be amortized over the equipment's useful life. Federal-aid funds will then participate only in that portion of the amortized cost attributable to the time the equipment is used on a specific Federal-aid project(s). Participation will, of course, be accounted for as a construction engineering cost.

If you have questions on this matter, please contact Mr. Allan Rockne or Mr. David Geiger of the Contract Administration Branch (HNG-22) at (202) 366-0355.


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