



Memorandum

Subject: 23 USC 504(e) Funds

Date: APR 11 2013

From: Warren S. Whitlock *Warren S. Whitlock*
Associate Administrator for Civil Rights

In Reply Refer To:
HCR-30

To: Division Administrators
Division Civil Rights Specialists

Under 23 U.S.C. § 504(e) (Section 504(e)), States are permitted to apply funds from the National Highway Performance Program, Surface Transportation Program, Highway Safety Improvement Program, or Congestion Mitigation and Air Quality Improvement Program to support surface transportation workforce development. That section defines “surface transportation workforce development” to include “training and professional development for surface transportation workers, including activities for women and minorities.” Section 504(e)(1)(A) permits funds to be used for “tuition and direct educational expenses, excluding salaries, in connection with the education and training of employees of State and local transportation agencies.”

Federal Highway Administration (FHWA) has traditionally advised State Departments of Transportation (STAs) that 504(e) funds could be used to supplement projects pertaining to the On-the-Job Training Supportive Services program (OJT/SS), as those programs typically involve workforce training. Our office previously advised STAs that these funds could not supplement programs funded through Disadvantaged Business Enterprise Supportive Services (DBE/SS) dollars, as those programs involve training for businesses as opposed to individuals.

However, after further research, the Office of Civil Rights, in coordination with the Office of Chief Counsel, has concluded that, under the broad authority of Section 504(e), DBE/SS projects providing services to small businesses owned by socially and economically disadvantaged individuals, also constitute training and professional development for surface transportation workers; therefore, FHWA would like to notify Divisions that Section 504(e) funds may be used to supplement approved DBE/SS projects as well as OJT/SS projects.

Of course, the use of 504(e) funds to supplement traditional OJT and DBE/SS funding is strictly optional and based upon each STA’s discretion; however, we believe this policy will allow greater flexibility in providing quality training programs for transportation workers and small and disadvantaged business owners.

If you need further assistance please feel free to contact Martha Kenley of FHWA at martha.kenley@dot.gov.