



U.S. Department of Transportation

Federal Highway Administration

Memorandum

Washington, D.C. 20590

Subject: Contractor Furnished Equipment and Liability Insurance

From: Associate Administrator for Engineering and Program Development

To: Regional Federal Highway Administrators Regions 1-10

Date: JAN 15 1987

Reply to Attn of: HHO-32

By memorandum dated September 11, 1986, you were advised that State highway agencies (SHA's) shall not require construction contractors to furnish personal use equipment items for SHA use or furnish liability insurance coverage for SHA employees. You were further advised that in the event SHA specifications contained either of these requirements, that such specifications be immediately disapproved for use on Federal-aid contracts. Also you were instructed that for currently active projects and projects for which the final voucher had not been approved, costs resulting from such specifications would be made nonparticipating.

We have subsequently received several field inquiries as to the appropriateness of a retroactive application of this policy. It has been pointed out that in several States contractors have been required to provide vehicles for SHA use and/or liability coverage for SHA employees for some time. In these States, contracts have been executed containing such requirements and costs incurred with the knowledge and approval of the FHWA field offices. It has been argued that to now make these costs nonparticipating conflicts with the basic Federal-State partnership principle of the Federal-aid program.

Prior to issuance of the September 11 memorandum, we were aware that a limited number of States placed such conditions and requirements unrelated to construction in their construction contracts. However, we were not aware of the extent of these practices nor of the difficulties that retroactive adjustments in participation might cause. The field responses have served that purpose.

After full consideration of the comments and concerns expressed, we must agree that it would be inappropriate for the FHWA to withdraw participation in costs incurred by a State with prior FHWA knowledge and approval. Accordingly, the costs associated with contractor furnished equipment and/or liability insurance for SHA use will continue to be eligible for Federal-aid participation on those projects which were previously authorized. However, future projects must be in compliance with my September 11 memorandum.

Original Signed By
Rex C. Leathers

Rex C. Leathers

FEDERAL HIGHWAY ADMINISTRATION

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