

**CHAPTER 233. TRANSPORTATION ENHANCEMENT  
GRANTS FROM AUTOMATED RED LIGHT  
ENFORCEMENT SYSTEM REVENUES**

Sec.	
233.1.	Purpose.
233.2.	Definitions.
233.3.	Eligibility requirements and criteria.
233.4.	Limits of funding.
233.5.	Application procedure.
233.6.	Deadline for applications.
233.7.	Public records.
233.8.	Grant selection process and criteria.
233.9.	Offer and acceptance of a grant.
233.10.	Standards, methods, techniques, designs, and special conditions.
233.11.	Audit and recordkeeping.
233.12.	Inspection.
233.13.	Payment procedures.
233.14.	Liability; forfeiture of funds; repayment.
233.15.	Waiver.
233.16.	Appeal.

**Authority**

The provisions of this Chapter 233 issued under 75 Pa.C.S. § 3116, unless otherwise noted.

**Source**

The provisions of this Chapter 233 adopted October 29, 2010, effective October 30, 2010, 40 Pa.B. 6267, unless otherwise noted.

**§ 233.1. Purpose.**

This chapter sets forth requirements and criteria relating to transportation enhancement grants from automated red light enforcement system revenues.

**§ 233.2. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*Automated red light enforcement system*—A vehicle sensor installed to work in conjunction with a traffic-control signal which automatically produces one or more recorded images of a vehicle at the time the vehicle is used or operated in a manner which is a violation under 75 Pa.C.S. § 3112(a)(3) (relating to traffic-control signals).

*Department*—The Department of Transportation of the Commonwealth.

*Director*—The Director of the Center for Program Development and Management of the Department.

*Grant*—An offer of funding assistance from the Department to a sponsor for a project governed by this chapter.

*Highway—*

(i) The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

(ii) The term includes a roadway open to the use of the public for vehicular travel on grounds of a college or university or public or private school or public or historic park.

*Local government—*County, municipal, and other local boards or bodies having authority to enact laws relating to traffic.

*Official traffic-control devices—*Signs, signals, markings and devices not inconsistent with 75 Pa.C.S. (relating to Vehicle Code) placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic.

*Recorded image—*An image recorded by an automated red light enforcement system on a photograph, a digital image, or any other image-capture technology.

*Sponsor—*A local government, metropolitan planning organization, rural planning organization, county planning organization, or Commonwealth agency applying for, or receiving, a transportation enhancement grant under this chapter.

*Traffic—*Pedestrians, ridden or herded animals, vehicles, streetcars, and other conveyances, whether singly or together, using any highway for purposes of travel.

*Traffic-control signal—*A device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

*Vehicle—*

(i) Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices used exclusively upon rails or tracks.

(ii) The term does not include a self-propelled wheelchair or an electrical mobility device operated by and designed for the exclusive use of a person with a mobility-related disability.

**§ 233.3. Eligibility requirements and criteria.**

(a) The minimum requirement for eligibility to apply for a transportation enhancement grant under this chapter is that the project must involve improvement to highway safety and mobility within this Commonwealth.

(b) It is the intent of this grant program to fund worthwhile projects that can be completed at a relatively low cost.

(c) All projects may be considered for a transportation enhancement grant from automated red light enforcement system revenues, with the exception of

transportation impact studies and highway improvements that are the responsibility of the applicant for a Department Highway Occupancy Permit.

**§ 233.4. Limits of funding.**

Grants under this chapter may cover the entire cost of an eligible project, so matching funds are not required. Grants may also be used for a portion of a larger project if other funding sources are secured.

**§ 233.5. Application procedure.**

(a) A sponsor shall submit a written request in the form of an application to the Director: Attention—Transportation Enhancement Grants from Automated Red Light Enforcement System Revenues, Bureau of Program Development and Management, 400 North Street; 6th Floor, Harrisburg, PA 17120, or e-mail to: ARLE\_Grants@state.pa.us.

(b) The application shall be prepared in accordance with instructions provided by the Department. The application must contain sufficient information to enable the Department to complete its evaluation of the proposed project.

(c) An application must set forth, as a minimum, the following information:

(1) *Project description.* Provide a general description of the project and the objectives that are desired to be achieved.

(2) *Project location.* Provide a location map. Clearly identify the beginning and ending points of the project, the associated counties, municipalities, routes, segments, and offsets. Provide a general description of the location of the project and the surrounding area. Indicate roadway type/classification and length of the project in miles. Provide information on annual average daily traffic (AADT), current roadway geometry (number of lanes), speed limits, adjoining land uses, and number/location of signalized intersections.

(3) *Official traffic-control device description.* For projects involving official traffic-control devices, briefly describe the existing official traffic-control devices.

(4) *Project justification.* Outline why this project is being nominated for this grant program and the benefits that would be obtained.

(5) *Potential improvements and cost.* Provide a description of the potential improvements, and their associated estimated costs. Estimated costs should be as detailed and accurate as possible, and include all aspects of the project (design, construction, and the like).

(6) *Schedule.* Provide information that indicates the time frame necessary to complete the project. Indicate whether the project can be completed during 1 year or if it would be a multiyear project.

(7) *Other programmed projects.* Describe any other improvement projects that are in the vicinity of the proposed project and have been programmed on the Regional Transportation Improvement Program (include location, time frame, cost, and the like).

- (8) *Anticipated development.* Describe any known major developments that are anticipated within the next 10 years in the vicinity of the proposed project.
- (9) *Professional engineer.* Identify the professional engineer or consulting engineering firm that will provide engineering services for the project.
- (10) *Contact person.* Provide the name, address, telephone number and e-mail address of a contact person for the sponsor.
- (11) *Other information.* The sponsor shall provide other information related to the project that the sponsor believes may justify the project or that is requested by the Department.
- (d) The sponsor shall complete the application and submit it before the deadline under § 233.6 (relating to deadline for applications).

#### **§ 233.6. Deadline for applications.**

- (a) Applications for transportation enhancement grants under this chapter will be considered on an annual basis. From the completed applications on file for a given year, projects will be selected for grants. Applications on file, but incomplete, may be excluded from consideration for grants in that year.
- (b) During the initial year of the grant program, sponsors may submit a completed application within the time period established by the Department by notice in the *Pennsylvania Bulletin*. In years following the initial year of the grant program, sponsors may submit a completed application for a transportation enhancement grant under this chapter beginning on June 1 of each year until the close of business on June 30 of that year.
- (c) If the deadline for applications occurs on a weekend or legal holiday when Commonwealth offices are closed, the deadline will be the close of the next business day.
- (d) The Department may consider applications for transportation enhancement grants under this chapter which may be technically incomplete on the application deadline, but which are made complete within 3 weeks of the close of the application period.

#### **Cross References**

This section cited in § 233.5 (relating to application procedure).

#### **§ 233.7. Public records.**

An application for a transportation enhancement grant under this chapter will be considered a public record at the time of filing, and will be made available for inspection.

#### **§ 233.8. Grant selection process and criteria.**

- (a) *Consideration.* Following the closing date for receipt of applications, properly completed applications filed within the application period will be considered for grants to be awarded during the current calendar year.

(b) *Additional information.* If it is determined that an application is incomplete and that additional information is necessary, the sponsor shall provide that additional information to allow further consideration of the application.

(c) *Review by Director.* The Director will review and evaluate applications with respect to applicable criteria for project funding, available funds, and current priorities for traffic safety and mobility.

(d) *Criteria used in review.* In considering an application, the Director will give weight and consideration to the following criteria:

(1) The sponsor's past maintenance and operational history for traffic-control signals, official traffic-control devices, or other items of work that are project components.

(2) The anticipated benefits of the project considering traffic safety benefits, mobility benefits and delay reduction, energy savings and greenhouse gas reductions.

(3) The estimated cost of the project.

(4) The local and regional impact of the project.

(5) The results of similar types of projects that have already been completed.

(6) The results of previous projects completed by the sponsor.

(7) Cost sharing by sponsor or other entities.

(8) Other Department traffic safety and mobility priorities.

(e) *Discretion in evaluation.* In consideration of the various criteria applicable to the review of an application, the Department may take into account unique or special factors that may arise in the administration of the grant program.

(f) *Debriefing.* At the request of a sponsor, the Department will conduct a debriefing with a sponsor whose application has been denied.

(g) *Distribution of grant funding.* Distribution of grant funding will be as follows:

(1) Fifty percent of the grant revenues generated through an automated red light enforcement program will be used exclusively for funding of transportation enhancement grants in the local government entity in which the violation was prosecuted.

(2) The remaining 50% of the grant revenues generated through the automated red light enforcement program will be available for funding of transportation enhancement grants to eligible sponsors throughout this Commonwealth.

**§ 233.9. Offer and acceptance of a grant.**

(a) *Issuance of grant offers.* The Department will, in writing, notify each sponsor who has submitted an application whether or not they will receive a grant offer.

(b) *Grant agreement.* A grant offer issued to a sponsor will describe any specific grant conditions and include such conditions as terms in the accompanying grant agreement.

(c) *Grant conditions.* The Department may or may not fully fund the entire cost of the project. The grant agreement will specify the total amount to be funded under the grant offer, the scope of the project, the items of work to be included, and an anticipated project completion date. The Department may also require sponsors to conduct before and after studies to determine project effectiveness.

(d) *Acceptance.* A sponsor who has received a grant offer shall, within 30 days indicate, by registered mail, acceptance of the offer.

(1) Acceptance of an offer is not binding on a sponsor until the execution of the grant agreement between the Department and the sponsor.

(2) Failure of a sponsor to indicate acceptance of the terms of an offer within the 30-day response period will be considered as a rejection of the offer and withdrawal of the application.

(e) *Discretion of Department.* Unless otherwise restricted by statute, the Department has absolute discretion in the selection of projects and in the determination of funding levels, priorities, critical project selection criteria, project phasing, project design and specifications and performance criteria.

(f) *Amendments to projects.* In the consideration of an application, the Department may determine that a proposed project should be amended to accommodate available funding, application traffic design criteria, anticipated use, or to better accommodate potential user needs. The Department may offer a transportation enhancement grant under this chapter for a project whose cost, specifications, terms, or scope have been modified by the Department.

(g) *Consultation does not insure offer.* In the event that the Department confers with a sponsor to amend a proposed project, the sponsor should understand that consultation and amendment does not insure that an offer will be made.

### **§ 233.10. Standards, methods, techniques, designs, and special conditions.**

(a) The Department reserves the right to specify or make determinations as to the standards, methods, techniques, designs and dimensional criteria acceptable in projects funded by transportation enhancement grants under this chapter.

(b) The design and construction of an approved project are subject to the review and approval of the Department, including costs, materials, plans, specifications, and design and operational details.

(c) Failure to meet special conditions, performance criteria or specifications may result in the withdrawal of the transportation enhancement grant, disqualification from future consideration for a transportation enhancement grant under this chapter, or declaration of a sponsor to be in default of the terms of the grant agreement.

**§ 233.11. Audit and recordkeeping.**

(a) *General.*

(1) A sponsor receiving a transportation enhancement grant under this chapter shall keep records as the Department may prescribe, including records which fully disclose the amount and the disposition by the sponsor of the grant proceeds, the total cost of the plan or program in connection with which the transportation enhancement grant is given or used, and the amount and nature of that portion of the cost of the plan or program supplied by other sources, as well as records that will facilitate an effective audit.

(2) The Department will have access, for the purpose of audit and examination, to books, documents, papers, and records of the sponsor that are pertinent to a transportation enhancement grant issued under this chapter. This includes progress audits during the project.

(3) A sponsor is required to establish and maintain an adequate accounting record for an individual project, which will allow the Department to verify the costs incurred for the project.

(4) A sponsor shall maintain effective control over and accountability for all funds, property and other assets. Sponsors shall adequately safeguard assets and assure that they are used solely for authorized purposes.

(5) A sponsor shall establish procedures to minimize the time elapsing between the transfer of funds from the Department and the disbursement by the sponsor whenever funds are advanced by the Department. If this elapsed time exceeds the time frame delineated in the terms of the grant agreement, the Department may require the return of interest earned on payments made.

(6) The sponsor shall include, in any contract related to the grant, a clause which allows the Department access to the sponsor's contractor's records for purposes of accounting and audit.

(b) *Retention of records.*

(1) A sponsor shall retain, for 3 years after the date of the submission of the final Department payment, documentary evidence such as invoices, cost estimates and negotiation documents relating to any item of project cost. These documents include, but are not limited to, vendor's invoices, applicable purchase orders, receiving reports, inventory records, method of pricing, returns, catalog cuts, plans, inspection reports, final inspection report showing acceptance of the project, and a record of disposition or correction of unsatisfactory work.

(2) A sponsor shall retain for 3 years after the date of the submission of the final Department payment, evidence of payments for items of project costs including, but not limited to, vouchers, cancelled checks or warrants, and receipts for cash payments.

(3) If audit findings have not been resolved, records shall be retained until the findings have been resolved.

**§ 233.12. Inspection.**

(a) The Department or an agency of the Commonwealth, or both, or person designated or authorized by the Department has the absolute right to inspect, without notice, the project sites, proposed project sites, records, and construction materials relating to a project funded by a transportation enhancement grant from automated red light enforcement system revenues.

(b) An inspection ordered by the Department or conducted under its authority may include, but not necessarily be limited to, the reproduction and examination of records, the taking of samples applicable to evaluation or project quality control, or the assessment of any factor relevant to a project, application, or contracts and terms related to the process for transportation enhancement grants from automated red light enforcement system revenues.

(c) A sponsor's denial of access to records, failure to produce records or obstruction with an inspection may result in withdrawal of the transportation enhancement grant and disqualification from future consideration for a transportation enhancement grant under this chapter.

**§ 233.13. Payment procedures.**

Unless otherwise specified by the Department, the following general procedures are to be used for funds from a transportation enhancement grant under this chapter:

(1) Prior to disbursement of funds, the Department reserves the right to conduct inspections or testing, or to review and audit records or accounts to validate, to the satisfaction of the Department, that disbursement of funds is warranted.

(2) A sponsor, having received payment or partial payment or reimbursement under a transportation enhancement grant under this chapter, shall make payments, within 30 calendar days from receipt of funds, to vendors and contractors for services and materials properly invoiced under the project.

(3) A sponsor shall forward requests for payment to the Department on the forms provided or in a manner specified by the Department. A request must include submission of actual cost documentation, consisting of approved contract estimates of work-in-place, approved invoices or other evidence of incurred costs, satisfactory to the Department. The final 10% of the total payment will not be paid by the sponsor until final inspection and approval of the project by the Department.

(4) Payment requests shall be limited to monthly submissions.

**§ 233.14. Liability; forfeiture of funds; repayment.**

If a sponsor fails to comply with the terms of a transportation enhancement grant issued under this chapter, the sponsor shall immediately reimburse the Department the amount for which a demand is made by the Department.

**Cross References**

This section cited in § 233.16 (relating to appeal).

**§ 233.15. Waiver.**

(a) *Waiver of requirements.* The Department may waive requirements to submit specific maps, reports, plans, information, or data normally required for a grant application. The waivers may be granted only after written request to the Director and formal written response to the sponsor by the Director prior to submission of the completed application to the Bureau.

(b) *Special projects procedures.* The Department may develop modified procedures for grant applications pertaining to Department-specified projects funded by transportation enhancement grants under this chapter.

**§ 233.16. Appeal.**

A person aggrieved by a decision of the Department under § 233.14 (relating to liability; forfeiture of funds; repayment) may take an appeal under 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law) and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

[Next page is 251-1.]

233-10

(353528) No. 434 Jan. 11

*Copyright © 2011 Commonwealth of Pennsylvania*