Order

U.S. DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Subject
Policy on Sponsorship Acknowledgment and Agreements within the Highway Right-of-Way

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Par.

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1. **What is the purpose of this directive?** Sponsorship opportunities benefit the traveling public with an improved transportation system by providing flexibility for highway agencies to pursue innovative sources of financing for maintenance and construction activities and other highway-related services. With this additional revenue, these agencies have the means to provide services critical to enhancing the safety and efficiency of the Nation's highways.

   This directive provides the Federal Highway Administration's (FHWA) policy on sponsorship acknowledgment and sponsorship agreements within the highway right-of-way. This directive further serves to streamline and emphasize information pertaining to the acknowledgment of sponsorships by consolidating information previously issued. This directive addresses the provisions of recent legislation regarding sponsorship of rest areas and further clarifies applications of sponsorship acknowledgment as they relate to existing standards.

2. **Does this directive cancel an existing FHWA directive?** Yes. This directive cancels FHWA Order 5160.1, Policy on Sponsorship Acknowledgment and Agreements within the Public Right-of-Way, dated March 13, 2012.

3. **What is the background of this directive?**

   a. State and local highway agencies and private sponsors have raised a number of questions with respect to FHWA's guidance on sponsorship agreements and how a sponsor can be acknowledged for the service provided under a sponsorship agreement.

   b. Sponsorship programs are growing in popularity and are becoming a significant opportunity for highway agencies to generate critical support needed to build, operate, and maintain key facilities and services, including, but not limited to, adopt-a-highway litter removal programs, maintenance of a parkway or interchange, rest area operation and maintenance, other highway maintenance or beautification sponsorship programs, travel information services, and emergency service patrols. One of the most common ways for highway agencies to recognize the support provided by sponsors is through acknowledgment signs. However, there are a number of other options to recognize sponsors, including acknowledgment on in-vehicle transponders, service patrol vehicles, maintenance vehicles, outreach and educational materials, and Internet Web sites, as well as within telephone messages such as those of 511 systems. The FHWA continues to encourage agencies to make use of these other opportunities for sponsor recognition or acknowledgment whenever possible and appropriate so that the number of additional signs and informational load imposed on the driver can be minimized.

4. **What is the scope of this directive?** The provisions of this directive apply to all types of highways that are open to public travel.

5. **What authorities govern this directive?**

   a. Title 23, United States Code (U.S.C.), Section 109(d), Standards for Federal-Aid Highways.

   b. 23 U.S.C. 111(b), Rest Areas.

   c. 23 U.S.C. 131, Control of Outdoor Advertising.

   d. 23 U.S.C. 156, Proceeds from the Sale or Lease of Real Property.

   e. 23 U.S.C. 402, Highway Safety Programs.

   f. Title 23, Code of Federal Regulations (CFR), Section 1.23(b), Rights-of-way.

   g. 23 CFR Part 655, Subpart F, Traffic Control Devices on Federal-Aid and Other Streets and Highways.

h. Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD), published by FHWA under 23 CFR Part 655, Subpart F.

i. 23 CFR 655.603, Standards for Traffic Control Devices on Federal-Aid and Other Streets and Highways.

j. 23 CFR Part 750, Highway Beautification (for controlled routes).

k. 49 CFR 1.48(b), Delegations to Federal Highway Administrator.

6. **What definitions are used in this directive?**

a. **Acknowledgment plaques.** Plaques that are intended only to inform the traveling public that a highway-related service, product, or monetary contribution has been sponsored by a person, firm, or entity. Acknowledgment plaques are installed only in the same sign assembly below a primary sign that provides the road user specific information on accessing the service being sponsored. Consistent with the MUTCD, a plaque legend is displayed on a separate substrate from that of the sign below which it is mounted.

b. **Acknowledgment signs.** Signs that are intended only to inform the traveling public that a highway-related service, product, or monetary contribution has been sponsored by a person, firm, or entity. Acknowledgment signs are installed only as independent sign assemblies.

c. **Advertisements/advertising signs.** Signs or other devices that promote commercial products or services through slogans, information on where to obtain the products and services, or other means.

d. **Driver distraction.** Driver inattention to the driving task at hand, resulting from internal or external events or actions.

e. **Highway.** Any street or roadway that is open to public travel.

f. **Highway agency.** An agency that owns the highway on which signs are to be placed and to which the sponsorship policy and agreements apply.

g. **Highway right-of-way.** A strip of property, owned by a highway agency, within which a highway (as defined above) exists or is planned to be built. The highway right-of-way consists of all lands within the defined highway right-of-way limits, including airspace above and below the facility. This area typically includes, but is not limited to, the roadway(s), shoulders, and sidewalk(s), if any; areas

for drainage, utilities, landscaping, berms, and fencing; rest areas; and the defined clear zone.

h. **Recipient agency.** An organization that directly receives the highway-related service, product, or monetary contribution from the sponsor entity. The recipient might be the highway agency, or a contractor engaged by the highway agency to administer the highway-related service.

i. **Sponsorship agreement.** An agreement between a recipient agency and a sponsoring organization to be acknowledged for the provision of a highway-related service, product, or monetary contribution.

j. **Sponsorship program.** A program that allows a person, a firm, or an entity to sponsor an element of a highway agency's highway operation through the provision of highway-related services, products, or monetary contributions.

7. **What is FHWA's policy concerning sponsorship acknowledgment and agreements?**

a. **General principles.**

(1) It is FHWA's policy to allow the use of signs to acknowledge the provision of highway-related services under both corporate and volunteer sponsorship programs. It is essential that good, basic engineering practices be followed, such as simplifying sign message content, using reasonable sign sizes as specified in the provisions of the MUTCD and this directive, and minimizing driver distraction.

(2) The FHWA recognizes a distinction between signing intended as advertising and signing intended as a sponsorship acknowledgment. Advertising generally has little, if any, relationship to a highway service provided. Instead, the advertiser seeks to get its recognizable message, company emblem, or logo before the public, and if possible, information on how or where to obtain the company's products or services. In most cases, if the sign goes beyond recognizing the company's contribution to a particular highway service or includes telephone numbers, Internet addresses, or directional information, the sign is more properly classified as an advertising sign and not as an acknowledgment sign.

(3) The use of highway right-of-way for advertising purposes is not allowed, except as provided in 23 U.S.C. 111(b), Rest Areas.

(a) When advertising within the highway right-of-way is identified, the FHWA Division Administrator should take timely notice and develop a plan for corrective action to bring the State into compliance with the CFR.

(b) This policy position is consistent with the principles and intent of several laws and regulations including 23 CFR 1.23(b), 23 U.S.C. 109(d), 23 U.S.C. 111(b), 23 U.S.C. 131, and 23 CFR Part 750. Furthermore, Paragraph 3 in Section 1A.01 in the MUTCD states, "Traffic control devices or their supports shall not bear any advertising message or any other message that is not related to traffic control."

(c) These laws and regulations are based on safety and operational concerns, particularly as related to driver distraction. Highway signs and other traffic control devices convey crucial information. In order for road users to perceive and respond appropriately to critical information, the conspicuity of highway signs and other traffic control devices must be preserved so that the safe and orderly movement of traffic is not compromised.

b. **Sponsorship policies and agreements.**

(1) In order to be eligible for acknowledgment within the highway right-of-way, sponsorship policies and agreements should follow these principles:

(a) Sponsorship agreements can allow sponsors to provide products, services, or monetary contributions.

(b) Sponsorship agreements may be of any duration. However, these agreements should:

1 be economically viable and provide a net benefit to the public, and

2 include provisions for maintenance and removal of physical elements of the sponsorship acknowledgment after the agreement expires or the sponsor withdraws.

(c) Agreements can be applicable to a highway site, a highway corridor, or a specific highway operation. If a sponsor is making a monetary contribution, the recipient agency needs to identify specific highway sites, corridors, or operations supported by the monetary contribution in the sponsorship agreement.

(d) If Federal-aid funds were used within the corridor or facility for which sponsored services are being provided, then monetary contributions received as a part of sponsorship agreements shall be spent for highway purposes.

(e) All sponsorship agreements involving the Interstate highway system should be approved by the FHWA Division Administrator.

(2) If a State, local, or other highway agency elects to have a sponsorship program, then the State department of transportation for that State should have a policy on sponsorship agreements that is applicable to all highways within that State. These policies are to:

(a) be approved by the appropriate FHWA division office;

(b) include requirements that eligible sponsoring organizations must comply with State laws prohibiting discrimination based on race, religion, color, age, sex, national origin, and other applicable laws;

(c) include a termination clause for sponsorship agreements based on:

1 safety concerns,

2 interference with the free and safe flow of traffic, or

3 a determination that the sponsorship agreement or acknowledgment is not in the public interest;

(d) include types of sponsors and agreements that are acceptable, consistent with applicable State and Federal laws;

(e) establish a requirement for facilities on which Federal-aid funds have been used, that the sponsorship money be used only for highway purposes; and

(f) establish a recommendation for facilities on which Federal-aid funds have not been used, that the sponsorship money be used only for highway purposes.

(3) FHWA review and approval are only for the purpose of determining consistency with this directive and the MUTCD. States and local highway agencies are responsible and liable for ensuring their policies and agreements are consistent with State and Federal laws.

(4) The provisions of this directive apply to new and revised agreements and are intended to promote a degree of national uniformity and consistency. Existing State agreements do not have to be changed.

c. **Acknowledgment signs and acknowledgment plaques.**

(1) Highway agencies may acknowledge sponsors with acknowledgment signs or acknowledgment plaques. All acknowledgment signs shall meet the general principles and specific criteria prescribed in the MUTCD, including the provisions for acknowledgment signs in Section 2H.08. Furthermore, these acknowledgment signs shall not be placed at key decision points where a driver's attention is more appropriately focused on traffic control devices, roadway geometry, or traffic conditions.

(2) Acknowledgment signs and acknowledgment plaques:

(a) must meet all design and placement criteria for acknowledgment signs as covered in Part 2 of the MUTCD and all sign design principles covered in the Standard Highway Signs and Markings Book;

(b) when located on a bikeway or shared-use path, should also be appropriately sized commensurate with the legibility needs of the bikeway or path user;

(c) must be placed near the site(s) being sponsored, consistent with the purpose and principles of traffic control devices in Parts 1 and 2 of the MUTCD;

(d) must be placed at least 1 mile apart from each other if facing in the same direction and associated with the same element of the highway agency's highway operation, such as litter pickup, consistent with the

purpose and principles of traffic control devices in Parts 1 and 2 of the MUTCD;

(e) must not display any directional information, in accordance with Section 2H.08 of the MUTCD;

(f) must not display telephone numbers, Internet addresses, or other legends prohibited by the MUTCD (consistent with Section 2H.08 of the MUTCD) for the purpose of contacting the sponsoring entity or to obtain information on the sponsorship program, such as how to become a sponsor at an available site; and

(g) should remain in place only for the duration of the agreement.

(3) For sponsorship of rest areas, one acknowledgment sign for each direction of travel may be installed on the highway mainline. Additional acknowledgment signs may be placed within the rest area, provided that these sign legends are not visible to highway mainline traffic and do not pose safety risks to rest area users. In accordance with the provisions of the MUTCD, the acknowledgment signs must not be appended to any other sign, sign assembly, or other traffic control device. In accordance with Section 2H.08 of the MUTCD, rest area acknowledgment signs on the highway mainline should not be located within 500 feet of other traffic control devices.

(4) For sponsorship of travel service programs that are not site-specific, such as 511 Traveler Information, Radio-Weather, Radio-Traffic, and Emergency Service Patrol, an acknowledgment plaque may be mounted in the same sign assembly below the General Service signs for these programs. The acknowledgment plaque is a horizontally oriented rectangle, with the horizontal dimension longer than the vertical dimension. The size of the acknowledgment plaque must not exceed the lesser of 1/3 of the area of the General Service sign below which it is mounted or 24 square feet. An acknowledgment plaque must not exceed 1/3 of the area of the largest size prescribed in the MUTCD for a specified standard sign below which the acknowledgment plaque is mounted, even where the standard sign is enlarged in accordance with Sections 2A.11 and 2I.01 of the MUTCD or where the size of a standard sign used is designated as Oversized in the MUTCD for its application. Where the legend of a standard sign is modified based on a State MUTCD, State Supplement, or equivalent, and results in a

sign size larger than that of the standard sign in the National MUTCD, the size of the corresponding acknowledgment plaque is governed by the size of the standard sign in the National MUTCD with the standard, unmodified legend.

(5) The provision of highway-related services, products, or monetary contributions that occurs through naming sponsorship (sometimes referred to as "naming rights") of officially mapped named or numbered highways is, by definition, sponsorship. Consistent with Section 2H.08 of the MUTCD, an unofficial overlay or secondary designation in the name of a sponsor on the official highway name or number through proclamation, contract, agreement, or other means, may be acknowledged within the highway right-of-way only with an acknowledgment sign. An acknowledgment sign must not display a legend that states, either explicitly or by implication, that the highway is named for the sponsor.

(6) In accordance with Section 2H.08 of the MUTCD, in order to maintain the recognition value of official devices used for traffic control, acknowledgment signs and acknowledgment plaques shall only take the form of static, non-changeable, non-electronic legends.

(7) Except as provided for acknowledgment plaques in Paragraph 7.c.(4) of this directive, acknowledgment sign and acknowledgment plaque messages shall not be interspersed, combined, or alternated with other official traffic control messages, either in the same display space, by adjacency in the same assembly, or by adjacency of multiple assemblies whose longitudinal separation does not meet the placement criteria contained in the MUTCD, including when placed on opposite sides of the roadway facing the same direction of travel.

(8) Consistent with the provisions of Section 2H.08 of the MUTCD, due to the limit on their maximum overall size, acknowledgment signs and acknowledgment plaques shall not be overhead installations. Only roadside, post-mounted installations of acknowledgment signs and acknowledgment plaques are allowed.

(9) In order that the focus remains on the service provided rather than the sponsoring entity, the sponsor logo area on an acknowledgment sign or acknowledgment plaque shall be a horizontally oriented rectangle, consistent with the MUTCD provisions on business logos in Chapter 2J of the MUTCD.

The width of this rectangle shall be at least 1.67 times its height, the total area of which shall not exceed the maximum referenced or specified elsewhere in this directive and in the MUTCD. The word legend describing the activity, such as "SPONSORED BY," shall be composed of upper-case lettering of the FHWA Standard Alphabets at least 3 inches high on conventional roads and at least 4 inches high on expressways and freeways.

(10) When a graphic logo is used to represent the sponsor (instead of a word legend using the FHWA Standard Alphabets), the logo shall be the principal trademarked official logo that represents the corporate name of the sponsor. Secondary logos or representations—even if trademarked, copyrighted, or otherwise protected—are classified as promotional advertising and shall not be allowed in accordance with Section 1A.01 of the MUTCD.

(11) An alternative business name whose sole or primary purpose appears to be to circumvent the provisions of the MUTCD is classified as promotional advertising rather than an acknowledgment of a sponsoring entity of a highway-related service. In accordance with Section 1A.01 of the MUTCD, promotional advertising shall not be allowed on any traffic control device or its supports.

(12) Acknowledgment signs or acknowledgment plaques that include displays mimicking advertising shall not be allowed. The determination of whether a sign mimics or constitutes advertising lies with the FHWA. In accordance with Section 2H.08 of the MUTCD, a brief jurisdiction-wide slogan may be displayed on an acknowledgment sign. The slogan displayed is that of the program name, such as "ADOPT-A-HIGHWAY." Slogans for companion, supplementary, or other programs unrelated to the service being sponsored shall not be displayed on any acknowledgment sign or acknowledgment plaque.

(13) The provisions of this directive apply to new and modified installations and are intended to promote a degree of national uniformity and consistency. Existing acknowledgment signs already installed do not have to be changed except when they are no longer serviceable or when a modification of the sponsor name or logo on the existing acknowledgment sign occurs for any reason.

d. **Policy conclusion.**

(1) If a proposed sponsorship agreement cannot meet the above criteria, acknowledgment signs or acknowledgment plaques should not be considered; however, the other forms of acknowledgment (such as acknowledgment on transponders, service patrol vehicles, maintenance vehicles, outreach and educational materials, and Internet Web sites, as well as within telephone messages such as those of 511 systems) may still be considered. Safe and orderly movement of traffic must not be compromised with the use of these acknowledgment signs or acknowledgment plaques. Safety is, in fact, the overriding issue when there is any doubt as to whether an acknowledgment sign or acknowledgment plaque is appropriate.

(2) The nature of highway financing is evolving, and private sector investment promises to be a significant source of revenue. Sponsorship programs are being used or considered by many States to meet current and future highway construction and maintenance needs. The FHWA will continue to work with highway agencies to assure that these programs are administered in a safe and effective manner.

8. **What are FHWA's responsibilities?**

a. **FHWA Federal-aid Division Offices**

(1) Inform public agencies of this directive.

(2) Review State policy on sponsorship acknowledgment in the highway right-of-way for consistency with this directive and the MUTCD, and approve if consistent.

(3) Review State sponsorship agreements for acknowledgment on Interstate highways for consistency with this directive and the MUTCD, and approve if consistent.

(4) Perform periodic review or risk-based assessment of State policy and agreements on sponsorship acknowledgment in the highway right-of-way.

b. **FHWA Office of Operations**

(1) Provide guidance and technical assistance to division offices on issues related to sponsorship acknowledgment in the highway right-of-way.

(2) Notify division offices of updates or changes to or interpretations of this policy and/or the provisions of the MUTCD related to acknowledgment signs.

9. **Where can I obtain additional guidance?** Frequently-asked questions have been developed to provide further detail about the provisions of this policy. For more information or additional guidance on the provisions of the MUTCD and sponsorship acknowledgment with the highway right-of-way, contact FHWA's MUTCD Team Leader.

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