

CONDITIONS OF RECEIPT

In the guidelines for CERTS, near the end there is some very good advice: “Prospective grantees should review section 421(c)(6), “Conditions of Receipt” and section 421(c)(8), “Additional Conditions of Certain Receipts” for more details on the statutory conditions on receipt of CERTS grant funds.

As operating companies that received “ADA Accessible” and “Security” grants in the past will tell you, acceptance of a Federal grant comes with some very large responsibilities and anyone thinking they may fall through the cracks is likely very mistaken. Funds must be spent precisely in the manner dictated and complete reports often referred to as “Certifications & Assurances”. Federal audits are routine.

We have excerpted these important sections in the CERTS guidance for your convenience:

(6) CONDITIONS OF RECEIPT. —As a condition of receipt of assistance under this subsection, the Secretary shall require that a provider of transportation services shall agree—

(A) subject to paragraph (7)—

(i) to commence using the funds, on a priority basis and to the extent the funds are available, to maintain through the applicable covered period, expenditures on payroll costs for all employees as of the date of enactment of this Act, after making any adjustments required for—

(I) retirement; or

(II) voluntary employee separation;

(ii) not to impose, during the covered period—

(I) any involuntary furlough; or

(II) any reduction in pay rates or benefits for nonexecutive employees; and

(iii) to recall or rehire any employees laid off, furloughed, or terminated after March 27, 2020, to the extent warranted by increased service levels;

(B) to return to the Secretary any funds received under this subsection that are not used by the provider of transportation services by the date that is 1 year after the date of receipt of the funds; and

(C) to examine the anticipated expenditure of the funds by the provider of transportation services for the purposes described in subparagraph (A) not less frequently than once every 90 days after the date of receipt of the funds.

(7) RAMP-UP PERIOD. —The requirement described in paragraph (6)(A)(iii) shall not apply to a provider of transportation services until the later of—

(A) the date that is 30 days after the date of receipt of the funds; and

(B) the date that is 90 days after the date of enactment of this Act.

(8) ADDITIONAL CONDITIONS OF CERTAIN RECEIPTS. —

(A) **PRIORITIZATION OF PAYROLL COSTS.** —As a condition of receipt of a grant under this subsection, the Secretary shall require that, except as provided in subparagraph (B), a provider of transportation services shall agree to use an amount equal to not less than 60 percent of the funds on payroll costs of the provider of transportation services.

(B) **EXCEPTION.**—Subparagraph (A) shall not apply to a provider of transportation services if the provider of transportation services certifies to the Secretary that, after making any adjustments required for retirement or voluntary employee separation—

(i) each nonseasonal employee on the payroll of the provider of transportation services on January 1, 2020—

(I) if laid off, furloughed, or terminated by the provider of transportation services as described in paragraph (6)(A)(iii), is rehired, or has been offered rehire, by the provider of transportation services; and

(II) if rehired under clause (i) or subject to a reduction in salary before the date of receipt by the provider of transportation services of assistance under this subsection, receives not less than 100 percent of the previous salary of the employee; (ii) the provider of transportation services—

(I) is staffed at a level of full-time equivalent, seasonal employees, on a monthly basis, that is greater than or equivalent to the level at which the provider of transportation services was staffed with full-time equivalent, seasonal employees on a monthly basis during calendar year 2019;

(II) is offering priority in rehiring to seasonal employees that were laid off, furloughed, terminated, or not offered rehire in calendar year 2020, as the provider of transportation services achieves staffing at the level described in subclause (I); and

(III) offers any seasonal employee rehired under subclause (II) or subject to a reduction in salary before the date of receipt by the provider of transportation services of assistance under this subsection not less than 100 percent of the previous salary of the employee; and

(iii) the provider of transportation services will fully cover, through the applicable covered period, all payroll costs associated with the staffing requirements described in clauses (i) and (ii).

(9) **FORMS; TERMS AND CONDITIONS.** —A grant provided under this section shall be in such form, subject to such terms and conditions, and contain such covenants, representations, warranties, and requirements (including requirements for audits) as the Secretary determines to be appropriate in accordance with this section