

(d) *Compliance.* After (four years from effective date), no aircraft flight data recording system may filter any parameter listed in paragraph (c) of this section that does not meet the requirements of Appendix F of this part unless the certificate holder possesses test and analysis procedures that have been approved by the FAA. The procedures must be submitted to the FAA no later than the completion of the next heavy maintenance check after [six months after effective date] but not later than [two years after the effective date].

Issued in Washington, DC, on November 6, 2008.

**Pamela Hamilton-Powell,**

*Director, Office of Rulemaking.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### 23 CFR Parts 620, 635, 636, and 710

[FHWA Docket No. FHWA-2008-0136]

RIN 2125-AF29

#### Fair Market Value and Design-Build Amendments

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM); re-opening of comment period.

**SUMMARY:** The FHWA is re-opening the comment period for the notice of proposed rulemaking (NPRM) and request for comments, which was published on October 8, 2008, at 73 FR 58908. That NPRM proposes to amend existing regulations to clarify that fair market value must be negotiated for and received under a concession agreement, and to amend the design-build regulations to allow contracting agencies to incorporate unsuccessful proposers' ideas into a contract upon payment of a stipend.

The original comment period closed on November 7, 2008. The extension is based on the FHWA's desire to receive the fullest and most comprehensive comments possible from the broadest group of stakeholders. During the comment period, the FHWA received requests for additional time to analyze and submit comments regarding the rulemaking. The FHWA recognizes that

those interested in commenting on this important program may not have had the opportunity to provide comments and that the comment period should be reopened. Therefore, the comment period is being reopened until November 21, 2008, which will provide those interested in commenting additional time to discuss, evaluate, and submit responses to the docket.

**DATES:** Comments must be received on or before November 21, 2008. Late-filed comments will be considered to the extent practicable.

**ADDRESSES:** Mail or hand deliver comments to Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001, submit comments electronically at <http://www.regulations.gov>, or fax comments to (202) 493-2251.

All comments should include the docket number that appears in the heading of this document. All comments received will be available for examination and copying at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard or may print the acknowledgment page that appears after submitting comments electronically. Anyone is able to search the electronic form of all comments in any one of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, or labor union). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70, Pages 19477-78) or you may visit <http://DocketsInfo.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** Mr. Marcus J. Lemon, Chief Counsel, Mr. Michael Harkins, Office of Chief Counsel, or Mr. Steve Rochlis, Office of Chief Counsel, (202) 366-0740, Federal Highway Administration, 1200 New Jersey Avenue SE., Washington, DC 20590-0001. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

#### SUPPLEMENTARY INFORMATION:

##### Electronic Access and Filing

You may submit or retrieve comments online through the Federal eRulemaking portal at [www.regulations.gov](http://www.regulations.gov). It is

available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

An electronic copy of this document may also be downloaded by accessing the Office of the Federal Register's home page at: <http://www.archives.gov> and the Government Printing Office's Web page at: <http://www.access.gpo.gov/nara>.

#### Background

On October 8, 2008, the FHWA published an NPRM proposing to require State departments of transportation (DOT) and other public authorities to negotiate for and obtain fair market value as part of any concession agreement involving a facility acquired or constructed with Federal-aid highway funds; to amend FHWA regulations to permit public agencies to compete against private entities for the right to obtain a concession agreement involving such facilities; and to amend the design-build regulations to permit contracting agencies to incorporate unsuccessful offerors' ideas into a design-build contract upon the acceptance of a stipend.

The original comment period for the NPRM closes on November 7, 2008. During the comment period, the FHWA received requests for additional time to analyze and submit comments regarding the rulemaking. The FHWA recognizes that additional time will allow interested parties a broader and more comprehensive review and discussion of the proposed regulations; and then, allow the development and submission of complete responses to the docket. To allow time for interested parties to submit comprehensive comments, the comment period is being reopened until November 21, 2008.

**Authority:** Secs. 1503 and 1604 of Pub. L. 109-59, 119 Stat. 1144; Secs. 1215(b) and 1307 of Pub. L. 105-178, 112 Stat. 107; Secs. 1012(b) and 1041(a), Pub. L. 102-240, 105 Stat. 1914; 23 U.S.C. 101 (note), 107, 108, 109, 111, 112, 113, 114, 116, 119, 128, 129, 133, 142(f), 156, 166, 204, 210, 308, 315, 318 and 323; 31 U.S.C. 6505; 42 U.S.C. 2000d et seq.; 3334, 4601 et seq.; 23 CFR 1.32; 49 CFR 1.48, 18.31, and parts 21 and 24;

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**Thomas J. Madison, Jr.,**

*Federal Highway Administrator.*

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