



Illinois Department of Transportation

2300 South Dirksen Parkway / Springfield, Illinois / 62764

April 29, 2015

CIRCULAR LETTER 2015-07

FEDERAL FLEXIBLE MATCH PROGRAM - REVISED

COUNTY ENGINEERS / SUPERINTENDENTS OF HIGHWAYS
MUNICIPAL ENGINEERS / DIRECTORS OF PUBLIC WORKS / MAYORS
METROPOLITAN PLANNING ORGANIZATIONS - DIRECTORS
CONSULTING ENGINEERS

OVERVIEW

Provisions introduced in TEA-21 and expanded by SAFETEA-LU allowed new flexibility to the Federal-Aid Highway Program's matching requirements by allowing certain public donations of cash, materials, and services to satisfy the local matching requirements. Title 23 USC - "Highways," Chapter 3 - "General Provisions," Section 323 - "Donations and Credits," outlines the legal basis for the FHWA Innovative Finance Management tool known as flexible match or soft match. Flexible match allows a wide variety of public and private contributions to be counted toward the non-Federal match (local match). The Moving Ahead for Progress in the 21st Century (MAP-21) federal transportation bill consolidated programs which eliminated some donations and credits that may be used towards the flexible match.

The following benefits may be realized through the Federal Flexible Match (FFM) Program:

- Acceleration of projects that receive donated resources
- Allowing local public agencies to reallocate funds that otherwise would have been used to meet Federal matching requirements
- Promoting public-private partnerships by providing incentives to seek private donations

IDOT limits FFM credits to use during construction and construction engineering, and recognizes up to 80% of the value of FFM as direct federal match. It should be noted that seeking FFM does not increase the specific approved amount of federal funding awarded for projects selected through a solicitation process. In these cases, the additional federal funding will need to come from an approved local public agency federal funding source, such as Surface Transportation Program funds. The FFM request should not be submitted unless federal funding is expected to be used for some portion of the project.

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ELIGIBLE ITEMS FOR FLEXIBLE MATCH

Flexible match may be used for federal highway programs with the **exception** of the Emergency Relief Program. Flexible match can be applied toward all or any portion of the required matching share. This flexible match will only affect individual approved projects; no carryover or credit of flexible match funds for other projects will be allowed.

The following table outlines the eligibility of flexible match donations or credits and their associated donors:

Type of Donation/Credit	Source of Donation/Credit	
	<i>Private</i>	<i>Local Government</i>
Funds (see note 1)	Yes	Yes
Land or ROW (see note 2)	Yes	Yes
Materials (see note 3)	Yes	Yes
Services (see note 4)	Yes	Yes (Limited)

Notes:

1. Funds must be received prior to project authorization by FHWA.
2. Land may be donated by a non-governmental owner in accordance with 23 CFR 710.505 or contributed by a local government in accordance with 23 CFR 710.507. For any donated property that was originally acquired with federal funds, only the non-federal share of the property may be counted as the donation.
3. Federal "Buy America" requirements apply.
4. Pre MAP-21 Transportation Enhancement projects are allowed to use consultant services. Local government services are limited to only those services performed by local government employees in accordance with Title 23 Section 323.

Donations or credits must be earned or given in a previous phase of the same project and clearly documented in order to be utilized as flexible match. Anticipation of flexible match will not be allowed. For example: preliminary engineering (PE) or land acquisition may be applied to construction, but construction items cannot be applied to PE or land acquisition. If material cannot be stockpiled near the jobsite, it may not be applied as credit during construction which utilizes that material. However, after the material is accepted, in-place, and its value clearly documented, application to use the material donation as a credit in a later stage of the project which has not yet received federal authorization might be permissible. Material contributed to a project needs approval for it to be required in a construction contract.

The donations or credits may consist of funds, land, materials, equipment rental, and/or services that are directly associated with the specific project. Only that portion germane to the project will be eligible for FFM credit. These flexible match donations must not have been used as match for any other federally-funded project. Also, the dollar amount of the in-kind donations must be included in the

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total project cost; these in-kind donations cannot both reduce the project cost and be used as flexible match.

REQUIRED DOCUMENTATION

Local public agencies should notify IDOT, by letter through the District Local Roads and Streets office, as early in the project as possible of their intent to utilize FFM. A proposed project description and funding schedule (example in Attachment 1) should also accompany this letter. IDOT will in turn request FHWA concurrence with the local public agency intent. This letter of intent to utilize FFM on a project should be submitted prior to, and separate from, the request to approve the dollar amount of FFM earned for the project.

It is the responsibility of the local public agency to maintain adequate records and documentation to verify the flexible match on any given project. The fair market value of the non-monetary donations to be used on a project must be determined and documented by the local public agency in order to be considered for flexible match. Land and materials must be appraised to determine fair market value by an IDOT-approved appraiser. If the value of a land parcel is less than \$10,000 it may be appraised by the County Engineer or Municipal Engineer for their projects. Contributions of land can be by fee title or any lesser property interest, i.e., dedicated right-of-way. The services must be based on the local prevailing wage rate or actual local public agency expenditures with supporting invoices or time cards. All documentation supporting the claimed flexible match amount must be submitted and approved by FHWA prior to authorization for utilizing the flexible match.

Preliminary engineering performed by consultants on Transportation Enhancement Program (ITEP) projects funded prior to MAP-21 may be considered for FFM. Otherwise, preliminary engineering performed by consultants can only be considered when the work performed is a donation from the private entity. Preliminary engineering provided by local public agency employees may be used as FFM for all federal programs except Emergency Relief, and will be approved based on actual expenditure documentation.

Upon completion, a local city official, county engineer, or consultant that has been contracted by the local authority to act as the same, will certify the flexible match items have been completed in accordance with all applicable guidelines. This certification should be submitted with all documentation required to justify the requested Federal Flexible Match amount.

To allow sufficient time for review and approval, local public agencies should submit all final FFM documentation in a single submittal to the District prior to the date of federal authorization. This should be done far enough in advance to allow sufficient time for review by IDOT and approval by FHWA. No changes to the FFM amount will be allowed after final award of the contract.

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IMPLEMENTATION PROCEDURES

Prior to proceeding with a project that utilizes FFM, FHWA approval is required. The initial funding schedule submitted through the district with the local public agency's intent to use FFM letter (as well as the cost estimate submitted at the same time as the joint agreement) should show the type, source, and amount of FFM, and the particular phases in which it is anticipated to be donated and applied. Metropolitan Planning Organization guidelines should be followed for use of FFM on Surface Transportation Program and Congestion Mitigation and Air Quality Program funds within their respective areas. This FFM cost estimate is to be submitted by the local public agency to the IDOT District Bureau of Local Roads and Streets.

If you have any questions regarding this Circular Letter, please contact the Local Policy and Technology Unit at (217) 782-5048 or DOT.LocalPolicy@illinois.gov.

Sincerely,



James K. Klein, P.E., S.E.
Acting Engineer of Local Roads and Streets

Attachment

TW/

cc: Catherine A. Batey, FHWA
Jeffrey M. South, Office of Planning & Programming
Greg Smothers, Illinois Association of County Engineers
Joe Schatteman, Illinois Municipal League

ATTACHMENT 1

LOCAL PUBLIC AGENCY FEDERAL FLEXIBLE MATCH (FFM)

	<i>Project Phase</i>	<i>Total</i>	<i>Federal Funds Used</i>	<i>% Federal Funds</i>	<i>Local Funds or Contribution</i>	<i>% Local</i>	<i>FFM Earned (80% of Local Contribution)</i>	<i>FFM Applied (additional to 80% fed)</i>
Step 1: FFM Earned	Land Acquisition	\$20,000	\$0	0%	\$20,000	100%	\$16,000	
Step 2: FFM Applied	Construction	\$100,000	80,000+16,000= \$96,000 (80% fed + FFM = total)	96%	\$4,000	4%		\$16,000
	Summary	\$120,000	\$96,000	80%	\$24,000	20%		