



Illinois Department of Transportation

2300 South Dirksen Parkway / Springfield, Illinois / 62764

June 21, 2006

CIRCULAR LETTER 2006-04

FEDERAL HIGHWAY EARMARKS GUIDELINES

COUNTY ENGINEERS/SUPERINTENDENT OF HIGHWAYS
MUNICIPAL ENGINEERS/DIRECTORS OF PUBLIC WORKS/MAYORS
CONSULTING ENGINEERS

Federal highway earmarks are designated by the United States Congress and are reimbursable funds for a specific project. The funds are reimbursed to the state or local agency at a variable percentage of 80-100% depending upon the type of earmark received. Funds are also reimbursed only after evidence is shown that expenditures were conducted within federal regulations (including environmental, labor, business practices, etc.) for the activities described by Congress.

Funding of Federal Earmarks

Federal earmark funds, including High Priority Project earmarks, received through the federal government are not grants to be given directly to local agencies. These and other transportation-related federal funds are received through a reimbursable process, whereby the Illinois Department of Transportation (IDOT) provides the state funding equivalent to the amount of the federal earmark for the specific project. Once the Federal Highway Administration (FHWA) has authorized funds for the project and work is actually under way, IDOT pays bills and then requests and receives reimbursement from the federal government for the federal share of the project.

Since federal funds are provided via a reimbursable process with the state responsible for the initial funding, projects that receive federal earmark funds have to be budgeted in the IDOT highway program along with all other transportation-related projects. When you are notified that you have received a federal earmark from your legislator, you should contact your IDOT District Bureau of Local Roads and Streets to coordinate the funding and schedule for your project. Cash flow constraints require that IDOT expend funds for the project as close to the federal reimbursement schedule as possible and with the assurance that federal regulations have been followed.

Scoping the project to match the available funds is a critical step for the local agency. Most federal earmark funds, including High Priority dollars, are provided based on an 80% federal to 20% local split with the maximum federal funding amount written in the earmark. Oftentimes the total project cost will exceed the amount available from federal funds and the associated local split. This means that

the local agency is responsible for providing the 20% local match for the federal funds; and the local agency is also responsible for any additional funding shortfall the project incurs. The federal share for some federal earmarks is 100%; in these cases, the local agency is not required to provide a local match for the funds. However, if the project cost exceeds earmarked federal dollars, the local agency is responsible for any additional funding shortfall the project incurs.

Regulatory Requirements

Federal highway earmark funds are administered by the FHWA. The FHWA is required by the National Environmental Policy Act of 1969 (NEPA) to consider environmental factors through a systematic, interdisciplinary approach before committing to a course of action. Code of Federal Regulations, Title 40, Section 1500.2, sets forth the policy for compliance with NEPA. The National Environmental Policy Act of 1969 requires that each project will use all practicable means to restore and enhance the quality of the human environment and avoid or minimize any possible adverse effects of the project upon the quality of the human environment.

Earmark projects must go through three phases before a project is completed, and comply with NEPA in all phases. These phases are: Phase I (Planning), Phase II (Design), and Phase III (Construction). In Phase I, the purpose and need for the project is defined, the level of environmental documentation is determined, public involvement activities occur, and preliminary plans are developed. The purpose and need are important to define what benefits are derived from the project which will ultimately be weighed or evaluated against any/all environmental impacts. It is in Phase I that detailed review of the project's environment is completed. The main reviews, which take the most time, are: Cultural, Biological, and Wetlands. These review areas are very dependent on weather, seasons, and availability of personnel. As such, a project's development of preliminary plans may not take much time in Phase I, but receiving the necessary environmental sign-offs, can be lengthy. Sign-offs are generally required through several agencies, including the U.S. Army Corps of Engineers, Environmental Protection Agency, Historic Preservation Agency, Federal Highway Administration and the Department of Natural Resources.

Phase II, while requiring some time, will generally proceed much quicker than the Phase I process. Phase II does not depend on reviews and comments by agencies external to IDOT to the extent required for Phase I. Phase II refines the plans developed in Phase I and finalizes those plans by adding the necessary detail drawings and information. Quantities are calculated, contract documents are prepared, and any permits are obtained. Land acquisition related to the project may occur during Phase II and must follow federal procedures for obtaining right-of-way to include certified appraisals and paying fair market value. A review of these Phase II documents is done by the IDOT District and central offices. After the documents are satisfactory, the project is ready for letting. The letting process allows the project to enter Phase III.

Phase III construction will be accomplished in accordance with the approved plans and specifications that reference applicable federal and state regulations. The local agency is responsible for ensuring compliance with the contract documents during construction and keeping accurate records. Reimbursement of all federally earmarked funds is contingent upon the project being completed in accordance with all federal requirements and regulations governing the improvement.

Other Considerations

On rare occasions, a federal earmark will be designated for a project that has already been completed. In order to accommodate reimbursement to the local agency, the above regulatory requirements must have been followed in all phases of the project. This documented evidence must be submitted through IDOT to the FHWA in order to complete reimbursement of funds. If use of federal funds is anticipated on a project in the future, then federal procedures should be followed during all phases of that project to ensure that reimbursement to the local agency will be realized.

Please contact the IDOT District Bureau of Local Roads and Streets with any questions on federal highway earmarks. Local agencies should establish an open line of communication with their Local Roads Field Engineer who will strive to ensure federal earmark projects are completed in accordance with federal regulations and the plans of the local agency in order to best serve the needs of the traveling public.

Sincerely,

A handwritten signature in cursive script that reads "Charles J. Ingersoll". The signature is written in black ink and is positioned to the left of a vertical red line.

Charles J. Ingersoll, P.E.
Engineer of Local Roads and Streets