

LOCAL AGENCY FEDERAL FLEXIBLE MATCH PROGRAM

DRAFT as of 20060421

Overview

Provisions introduced in TEA-21 and expanded by SAFETEA-LU allow new flexibility to the Federal-Aid Highway Program's matching requirements by allowing certain public donations of cash, materials, and services to satisfy the non-Federal 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. In the current climate of limited local agency cash-flows, coupled with the passage of a new federal highway transportation bill, the Bureau of Local Roads and Streets (BLRS) is implementing a Local Agency Federal Flexible Match Program (FFM).

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

- Acceleration of projects that receive donated resources
- Allowing local 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

Eligible Items for Flexible Match

Flexible match, up to 20 percent of the non-federal match, may be used for federal highway programs with the **exceptions** of the Emergency Relief and Transportation Enhancement Programs. High Priority Projects under previous highway bills are also eligible to participate in this 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 soft match funds for other projects will be allowed.

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

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

Notes:

1. Funds must be received during the timeframe between project approval (by FHWA) and submittal of final voucher.
2. Land may be donated anytime during the project development; the donation does not influence the environmental assessment. 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.

Donations or credits must be earned or given in a previous phase of a project in order to be utilized as flexible match. Anticipation of flexible match will not be allowed. For example: PE or land acquisition may be applied to construction, but construction items cannot be applied to PE or land acquisition.

The donations or credits can consist of funds, land, materials, equipment rental, and/or services that are directly associated with the specific project. 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 total project cost; these in-kind donations cannot both reduce the project cost and be used as flexible match.

Required Documentation

It is the responsibility of the local 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 agency in order to be considered for flexible match. Land and materials must be appraised to determine fair market value, and the services must be based on the local prevailing wage rate or actual local 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.

Local agencies will utilize selection procedures as outlined in Section 5-6.02 of the Bureau of Local Roads and Streets Manual for preliminary engineering performed by consultant services subject to IDOT approval. Flexible match amounts earned will be limited to approved federal compensation methods for engineering services. Preliminary engineering provided by a local agency will be approved based upon actual expenditure documentation.

Upon completion, either 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.

To allow sufficient time for review and approval, local agencies should submit all final FFM documentation in a single submission to the District prior to the date of federal authorization. This should be done 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 without coordination and approval of BLRS, Bureau of Construction and the Project Control Unit.

Application

The Local Agency Federal Flexible Match Program will begin with the FY 2007 Highway Improvement Program. Flexible match may only be applied to projects utilizing funds in the FY 2007 program year or future years. Donations or expenditures which were received or made after July 1st, 2004 and which are eligible items may be requested for use as flexible match. If they are documented and approved by FHWA in accordance with these guidelines, they may be utilized for FY 2007 or later projects.

Programming

FFM should only be programmed in the annual element of the multi-year program. Projects incorporating FFM should be programmed for the actual dollar amounts of federal funds that will be spent for the phase, with a remark indicating the amount of FFM applied. For example, construction phase for a state let \$100,000 Highway Bridge Program improvement utilizing \$15,000 in FFM earned by local funds spent on preliminary engineering should be programmed for \$95,000 Highway Bridge Program funds and \$5,000 local match. A comment in the description field should state "FFM is \$15,000". If the project is locally let, all the federal funds should be programmed with a comment stating the FFM amount indicating the project is a local letting.

Implementation Procedures

Prior to proceeding with a project that includes FFM, FHWA approval is required. The initial cost estimate submitted through the District 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. If applicable, a letter of approval from the Metropolitan Planning Organization should accompany the cost estimate if FFM is requested. This FFM cost estimate is to be submitted to the Bureau of Local Roads and Streets, Project Support Unit, for review and approval. BLRS will review and submit the FFM request to FHWA for their review and approval. It is the intention of BLRS to have the FFM cost estimate approved by the FHWA prior to a project authorization request to the FHWA. This will ensure the Authorization/Project Agreement (APA) and the Division of Cost to the funding agreement are identical.

Phases of a project that will contribute to the FFM will not be federally participating; and therefore not entered into the FMIS computer system by IDOT. The FFM funds will have a percentage and "not to exceed" amount on both the joint agreement and the APA. The FFM amount cannot exceed what FHWA has approved for that specific project. The FHWA FFM approval will be submitted along with the APA and the funding agreement to the Project Control Unit in the IDOT Bureau of Budget and Fiscal Management at the time of the federal authorization request. The FHWA approval for FFM will be maintained in the BLRS master file and the Project Control Unit files for auditing purposes.

The APA form will include the FFM amount in the federal column. This may require the federal percentage to be 100%, and there may be instances where the FFM, other local and state funds, and the federal percentage exceed 100%. The APA will explain this in the memo section. BLRS will show a breakdown of the percentages and amounts for additional information and to accurately reflect the Division of Cost to the funding agreement.

The Division of Cost to the funding agreement will include the FFM either at the top of one of the columns or as a note, dependent upon space available. The FFM will never be allowed to exceed 20% of the contract cost. BLRS intends to include a note on each funding agreement stating the FFM is a specific percentage not to exceed a specific dollar amount. For state let contracts, it will be the responsibility of the Project Control Unit and the Bureau of Construction to ensure this amount is not exceeded. The FFM will be eligible for federally participating construction and federally participating construction engineering.