



# Illinois Department of Transportation

2300 South Dirksen Parkway / Springfield, Illinois / 62764

March 19, 2007

## **CIRCULAR LETTER 2007-03**

### **LOCAL AGENCY FEDERAL FLEXIBLE MATCH PROGRAM**

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

#### **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 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). 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

The Illinois Department of Transportation (IDOT) intends to allow funds, land or right-of-way and engineering contributions by local agencies during the initial year of implementation of this program due to the readily documented costs associated with these items. IDOT also intends to limit FFM application to use during construction and construction engineering only. As the program proceeds, it may be expanded to include other eligible items and phases.

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**ELIGIBLE ITEMS FOR FLEXIBLE MATCH**

Flexible match, up to 20 percent of the required local share match, may be used for federal highway programs with the **exception** of the Emergency Relief Program. High Priority Projects under previous highway bills and Transportation Enhancements 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 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

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. Local government services are limited to only those services performed by local government employees in accordance with Title 23 Section 323, except in the case of the Transportation Enhancement Program which allows any services in accordance with Title 23 Section 133.

Donations or credits must be earned or given in a previous phase of a 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. Material contributed to a project 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 may be permissible.

The donations or credits can 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

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in the total project cost; these in-kind donations cannot both reduce the project cost and be used as flexible match. See the attached example (Attachment 1b) "Local Agency Federal Flexible Match (FFM)."

### **REQUIRED DOCUMENTATION**

A local agency should notify IDOT as early in the project as possible of its intent to utilize FFM. See Attachment 1, "Request and Intent Letter" for a recommended format. A proposed project description and funding schedule should also accompany this letter (Attachment 1b). IDOT will in turn request FHWA concurrence with the local agency intent.

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 by an IDOT-approved appraiser. 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 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 is only eligible to be used as FFM for Transportation Enhancement projects. 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 local agency employees may be used as FFM for all federal programs except Emergency Relief and 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. See example (Attachment 2), "Certification and Notification of Flexible Match Eligible Cost." 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 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 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.

### **APPLICATION**

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Flexible match may only be applied to projects utilizing funds after January 1, 2007. Donations or expenditures which were received or made after July 1, 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 projects federally authorized after January 1, 2007.

**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 "Request and Intent 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 agency to the IDOT districts.

Any questions regarding this letter may be directed to your IDOT District Local Roads Engineer.

Sincerely,

A handwritten signature in black ink that reads "Charles J. Ingersoll". The signature is written in a cursive style with a large initial "C".

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

cc: Norm Stoner  
Eric Harm  
Dick Smith

**ATTACHMENT 1**

**REQUEST AND INTENT LETTER**

\_\_\_\_\_, Regional Engineer  
Attention: District Bureau of Local Roads and Streets  
\_\_\_\_\_, District Office Address

Date

Subject: Federal Flexible Match Request

\_\_\_\_\_ Local Agency requests that Section \_\_\_-\_\_\_\_\_-\_\_-\_\_  
located \_\_\_\_\_ be considered as an eligible  
Federal Flexible Match Program project.

I certify that the local agency intends to utilize donations or credits toward this project as outlined in the Illinois Department of Transportation Federal Flexible Match Program. A proposed project description and funding schedule is attached.

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Sincerely,

\_\_\_\_\_, Local Agency Highway Official

**ATTACHMENT 2**

**CERTIFICATION AND NOTIFICATION OF FLEXIBLE MATCH ELIGIBLE COST**

\_\_\_\_\_, Regional Engineer  
Attention: District Bureau of Local Roads and Streets  
\_\_\_\_\_, District Office Address

Date

Subject: Federal Flexible Match Eligible Cost

\_\_\_\_\_ Local Agency certifies that Section \_\_-\_\_\_\_-\_\_\_\_-\_\_\_\_  
located \_\_\_\_\_ has proceeded in  
accordance with all applicable guidelines of the Federal Flexible Match Program.

I also certify that \$\_\_\_\_\_ is the final eligible Federal Flexible Match cost  
which has been donated or credited to the project, and request that 80% of this  
amount be applied as part of the local matching share for federal funds in the  
project.

Detailed documentation of the eligible items and evidence of donation, fair market  
value or payment are attached.

Sincerely,

\_\_\_\_\_, Local Agency Highway Official

ATTACHMENT 1b

LOCAL 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>
Step 1: FFM Earned	Land Acquisition	\$20,000	\$0	0%	\$20,000	100%
Step 2: FFM Applied	Construction	\$100,000	80,000+16,000= \$96,000 (80% fed + FFM = total)	96%	\$4,000	4%
	Summary	\$120,000	\$96,000	80%	\$24,000	20%

<i>FFM Earned (80% of Local Contribution)</i>	<i>FFM Applied (additional to 80% fed)</i>
\$16,000	
	\$16,000