

INSTRUCTIONAL MEMORANDUMS

To Local Public Agencies



To: Counties and Cities	Date: April 12, 2007
From: Office of Local Systems	I.M. No. 3.050
Subject: In-Kind Contributions	

Contents: This Instructional Memorandum (I.M.) provides guidance for use of in-kind contributions on a Local Public Agency (LPA) Federal-aid project. Topics addressed include general eligibility criteria, a discussion of the different types of in-kind contributions, the procedures for requesting and receiving credit for in-kind contributions, and example calculations showing how in-kind contributions effect the net cash outlay required by the LPA.

Definitions

In-kind contribution – a non-monetary contribution of property, services, materials, or equipment that is used in the development, construction, or implementation of a Federal-aid project.

Third-party – any non-governmental agency, group, organization, or individual.

Small Federal Programs – includes the Transportation Enhancement Program, Recreational Trail Program, and Scenic Byways Program.

Introduction

As amended by the Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Section 323 of Title 23, United States Code (U.S.C.) allows contributions of funds, materials, services, or property to be credited toward the non-Federal share of a Federal-aid project's costs, subject to the restrictions and conditions noted below. Such contributions may come from either a third party or an LPA.

Third party donations of funds may be made upon whatever lawful terms are mutually agreeable to the LPA and third party. The LPA may then simply use the donated funds toward the non-Federal share of project costs. Therefore, it is not necessary to include a discussion of donated funds in this I.M. Instead, this I.M. will focus on in-kind contributions.

General Eligibility Criteria

An in-kind contribution must be a project-related activity that would otherwise be eligible for reimbursement with Federal funds. For example, construction work is an activity eligible for Federal-aid reimbursement. Therefore, the value of construction performed with donated labor, materials, or equipment could be used as an in-kind contribution, provided it contributes to the project and complies with approved project design and environmental conditions.

In general, in-kind contributions credited toward the non-Federal share of project costs must come from non-Federal sources. However, for the Small Federal Programs, funds or in-kind contributions from some Federal agencies, other than the Federal Highway Administration (FHWA), may be credited toward the non-Federal share of project costs, subject to certain conditions. LPAs that desire to receive credit for funds or in-kind contributions from other Federal agencies should contact the Iowa Department of Transportation (Iowa DOT) Administering Office for assistance.

In-kind contributions may only be used once as part of the required non-Federal match. In other words, the same in-kind contribution cannot be used as match toward two different Federal-aid projects. In addition, if more than one type of Federal funds are involved in a single project, the same in-kind contribution cannot be used as match for more than one type of Federal funds.

The specific requirements for receiving credit for in-kind contributions vary, depending on the type of contribution and the type of Federal funds being matched. In the sections that follow, each type of contribution is discussed in detail, including: a description, the conditions or requirements for eligibility, and the method for establishing and documenting the value of the in-kind contribution.

Materials and Equipment

Description

This type of in-kind contribution includes materials or equipment that are either physically incorporated into the project or used to carry-out project activities. Typically, these consist of materials or equipment used for construction of the project. However, in some cases, pamphlets, brochures, trail maps, etc. may also be considered as a material contribution, if there is a direct connection to the project being funded. But, under no circumstances will the cost of any promotional items (e.g., pens, key chains, mouse pads, etc.) be considered as an in-kind contribution.

Conditions or Requirements for Eligibility

1. The Federal funds being matched shall be from one or more of the Small Federal Programs.
2. The donated materials or equipment shall be used on or incorporated into the project only *after* the initial FHWA Authorization of Federal funds and *before* FHWA approval of the final voucher.
3. If materials or equipment will be purchased by the LPA for use as an in-kind contribution, they shall be acquired through a competitive bid or quote process.

Valuation and Documentation

Credit for in-kind contributions of materials or equipment will be based on the fair market value of the materials or equipment used on or incorporated into the project. The quality and condition of materials or equipment may be reviewed by the Administering Office prior to approving the in-kind value.

Materials

If the materials were purchased by the LPA for the project, the fair market value will be the actual invoiced cost. Documentation shall include copies of the invoices that show the actual cost paid.

If the materials were supplied out of the LPA's existing inventory (i.e., they were not purchased specifically for the project), or the materials were donated by a third party, the fair market value will be estimated. Documentation shall include a detailed description of all donated materials, and an itemized estimate that includes a quantity and unit value for each item, and a total value for all donated materials. Support for the unit value may include current invoices, price sheets, quotations from local suppliers, or other information that is sufficient to establish the fair market value.

Equipment

If the equipment will not be permanently incorporated into the project, the fair market value will be determined based on the estimated time the equipment will be used during development or construction of the project. Documentation shall include an itemized estimate that includes the following for each piece of equipment: a description (type and size), the hourly rate, the number of hours the equipment will be used, and the total estimated value for its use. The hourly rates shall be based on the [Federal Emergency Management Administration \(FEMA\) Schedule of Equipment Rates](#), the [Rental Rate Blue Book for Construction Equipment](#), or the [Iowa DOT Schedule of Equipment Rates](#), as published by the Office of Local Systems.

If the equipment will be a permanent, integral part of the project, the fair market value will be based on the entire estimated cost or value of the equipment. For equipment that was purchased by the LPA for the project, documentation shall include a copy of the invoice or receipt that shows the purchase price. For equipment that was previously owned by the LPA (i.e., it was not purchased specifically for the project), or was donated by a third party, the value may be based on the [Green Guide for Equipment Values](#), a purchase price quotation for a comparable piece of equipment, or other information that is sufficient to establish the fair market value.

Property (Right-of-Way)

Description

This type of in-kind contribution includes the purchase or donation of real property that is required for the construction or implementation of the project.

Conditions or Requirements for Eligibility

1. The Federal funds being matched may be from any program or combination of programs funded by Title 23 of the United States Code. Besides the Small Federal Programs, this includes such programs as the Surface Transportation Program, Highway Bridge Program, and many others. Some Federal funds earmarked by Congress may also use property as an in-kind contribution, depending on the specific authorizing legislation.
2. The property may be donated or acquired at any time during the development of the project, up until FHWA approval of the final voucher.
3. The donation or acquisition of the property shall not influence the environmental review of the project, such as: the evaluation of the purpose and need, consideration of alternative alignments, or the selection of the final project location.
4. The property is not a 4(f) property (e.g., a publicly-owned park, recreational area, or wildlife refuge).
5. If the property is donated by a third party:
 - a) the third party shall be informed of its right to receive just compensation for its property;
 - b) title to the property must be transferred from the third party to the LPA; and
 - c) if the donated property is not needed because a different alignment or project alternative is chosen, title to the property shall be revested to the third party.
6. If the LPA purchases the property for the project:
 - a) the acquisition shall be in accordance with all applicable State and Federal laws (for a summary of these requirements, refer to the Iowa DOT [Local Public Agency Right of Way Manual](#));
 - b) only the fair-market value of the property itself is eligible (other right-of-way incidental costs may not be counted); and
 - c) the property was acquired specifically for the project (i.e., it was not already owned or purchased by the LPA for a different purpose).

Valuation and Documentation

Credit for in-kind contributions of property shall be based on the fair market value of property, as established by a current appraisal. The appraisal shall not include any increase or decrease in value caused by the project. However, there may be instances when mitigation actions of some type are necessary to make the property viable as part of the final project. Any and all of these necessary mitigation costs will be taken into account when making the final determination on the in-kind value of the property. Documentation shall include a copy of the appraisal. The appraisal shall conform to the current edition of the Iowa DOT Local Public Agency Right of Way Manual.

Services

Description

This type of in-kind contribution includes the value of labor, technical services, or other work effort by individuals which directly contributes to the development or construction of the project. These services may be performed by a third party, a consultant hired by the project sponsor, or the project sponsor's own employees. The project sponsor may be either the LPA or a co-sponsoring non-profit organization.

Conditions or Requirements for Eligibility

1. The Federal funds being matched shall be from one or more of the Small Federal Programs.
2. For Transportation Enhancement and Scenic Byways Program projects, the services shall be performed only *after* the initial FHWA Authorization of Federal funds and *before* FHWA approval of the final voucher.
3. For Recreation Trail Program projects, services for planning and environmental studies performed up to 18 months prior to FHWA Authorization are also eligible for use as an in-kind contribution.
4. For consultant services acquired by the project sponsor, the services must have been obtained through a qualifications-based selection process that meets the requirements of Title 23 of the Code of Federal Regulations, Part 172 ([23 CFR 172](#)).

Valuation and Documentation

The credit for in-kind contributions of services shall be based on the fair market value of such services. The fair market value can be determined a number of different ways, but in general, the value approved will be comparable to what it would cost the project sponsor if those services were performed by a construction contractor or a consultant. Additional guidance for each type of service contribution is provided below:

Volunteer Services

The value of volunteer services is determined through a negotiation process between the Iowa DOT and the project sponsor. The value of volunteer labor shall be estimated in a manner similar to the cost of completing such work by a competitive bidding process. Documentation shall include an itemized estimate that includes descriptions of the comparable construction job classifications, and the number of hours and wage rates for each. The wage rates used may include employee benefits and should be typical for the local area.

Professional Services

The value of professional services will be based on the maximum amount approved for the consultant, as shown on the unsigned final draft of the consultant contract. Documentation shall include a copy of the unsigned, final draft consultant contract.

Note: Because the costs for professional services provided as an in-kind contribution for Transportation Enhancement and Scenic Byways Program projects may not be incurred prior to FHWA Authorization, the project sponsor should not execute a contract with the consultant until the Administering Office has approved the proposed in-kind contribution of professional services. However, because Recreational Trail Program projects allow the costs of planning or environmental services incurred up to 18 months prior to FHWA Authorization to be counted as an in-kind contribution, the value of such services may be documented based on an executed contract or actual invoices for such services.

Sponsor Services

The value of services performed by employees of the project sponsor will be determined in the same way as volunteer services. However, under no circumstances shall the project sponsor's services be valued at an amount greater than what would be paid to a professional contractor doing the same work as the result of a competitive bid process, or in the case of professional services, a consultant acquired through a qualifications-based selection process.

The indirect costs associated with a project sponsor's employee services may also be counted as an in-kind contribution. However, indirect costs must be allocated to a project in accordance with an approved cost allocation plan that meets the requirements of the Office of Management and Budget (OMB) Circular [A-87](#) (for LPA employees) or [A-122](#) (for employees of a non-profit organization). If indirect costs are desired as part of an in-kind contribution, the LPA should contact the Administering Office for further assistance.

Procedures

The procedures to request and receive credit for in-kind contributions are as follows:

1. The LPA sends a written request for approval to the Administering Office for use of an in-kind contribution as credit toward the non-Federal share of project costs.

The LPA's request for approval shall identify the project in the Statewide Transportation Improvement Program (STIP), specify the amount of in-kind credit that is being requested, provide a description of the requested contribution(s), and include all required supporting documentation. The request for an in-kind contribution should be submitted with the Concept Statement if possible. Otherwise, the request should be submitted as soon as the supporting documentation is available.

Note: As outlined in the preceding sections for each type of in-kind contribution, Federal rules place limitations on when the work associated with the in-kind contribution may be performed. If the work has already been performed, it may not be eligible for use as an in-kind contribution.

2. The Administering Office reviews the completeness of the submittal. If the LPA's submittal lacks completeness, the Administering Office contacts the LPA and requests additional information.
3. When the LPA's request is acceptable, the Administering Office provides a copy of the in-kind request approval to the Iowa DOT Office of Finance (Project Accounting & Payables) and the Office of Contracts (if the Administering Office is one of the District Offices).
4. When requesting FHWA Authorization for other Federal-aid reimbursable work, the Iowa DOT documents the approved amount of in-kind contribution as part of the FHWA authorization request. If FHWA Authorization has already been requested, the Iowa DOT submits an amendment / modification to the previous FHWA authorization request(s) to document the approved amount of in-kind contribution.
5. After FHWA approval of the authorization request or amendment / modification, the Administering Office notifies the LPA the in-kind contribution has been approved and work associated with the approved in-kind contribution may proceed.

The Administering Office's approval notice will identify the type of in-kind contribution and total dollar value approved. This dollar value will be the maximum amount of in-kind credit that can be applied toward the non-Federal share of project costs. The approved in-kind dollar value may only be increased if a subsequent in-kind request is reviewed and approved by the Administering Office. However, the approved in-kind dollar value may be decreased if the LPA fails to complete the in-kind work that was approved. In such case, the maximum approved value will be decreased on a pro-rated basis.

6. After obtaining the appropriate approvals from the Administering Office, the LPA submits requests for reimbursement of other Federal-aid reimbursable work after expenses are incurred.
7. Before crediting the approved in-kind amount, the Administering Office verifies that the approved in-kind contributions were accomplished. If only part of the approved in-kind contribution has been completed, the Administering Office will credit only that portion that has been completed to date.
8. After verifying the in-kind contribution was accomplished, the Administering Office reimburses the LPA for other eligible and authorized expenses, taking into account the amount of in-kind that has been reviewed and approved to-date.

Example Calculations

The purpose of receiving credit for in-kind contributions is to reduce the LPA's net cash outlay required to satisfy the non-Federal share of the total project costs. However, the effect of applying in-kind contributions to a specific project is dependent on several variables. These variables include: the total value of the in-kind contributions, the maximum amount of Federal funds available for the project (STIP limit), and the total Federal-aid reimbursable costs.

To illustrate the effects each of these variables can have on the net cash outlay required by the LPA, several example calculations are provided on the following page.

Example In-Kind Calculations

Cost Item	Baseline (No In-Kind)	Example 1 (Reimbursable Costs Control)	Example 2 (STIP Limit Controls, In-Kind helps some)	Example 3 (STIP Limit Controls, In-Kind has no effect)	Example 4 (Neither Controls)
STIP Limit (1)	\$135,000	\$135,000	\$85,000	\$68,000	\$135,000
Reimbursement Rate (2)	80%	80%	80%	80%	80%
Reimbursable Costs (3)					
Preliminary Engineering	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000
Right-of-Way	\$15,000	\$15,000	\$15,000	\$15,000	\$15,000
Construction Engineering	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000
Construction	\$70,000	\$70,000	\$70,000	\$70,000	\$70,000
Total Reimbursable Costs	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000
Approved In-Kind Value (4)	\$0	\$60,000	\$30,000	\$30,000	\$10,000
Total Project Costs (5)	\$100,000	\$160,000	\$130,000	\$130,000	\$110,000
80% of Total Project Costs	\$80,000	\$128,000	\$104,000	\$104,000	\$88,000
Federal Funds Payable (6)	\$80,000	\$100,000	\$85,000	\$68,000	\$88,000
Local Cash Required (7)	\$20,000	\$0	\$15,000	\$32,000	\$12,000
Effective Reimbursement Rate (8)	80%	100%	85%	68%	88%

Notes:

- (1) The STIP limit represents the maximum amount of Federal funds programmed for the project in the Statewide Transportation Improvement Program (STIP).
- (2) The reimbursement rate is the Federal government's pro-rata share of eligible project costs. This is the percentage of eligible and properly documented project costs which will be reimbursed to the LPA. These examples use a reimbursement rate of 80%, which is typical for most Federal-aid highway programs.
- (3) Reimbursable costs are any costs that may be reimbursed with Federal funds. Such costs must be for eligible project activities and FHWA authorization must be obtained prior to beginning any work which will be reimbursed with Federal funds.
- (4) The approved in-kind value is established as per the guidance contained in this I.M.
- (5) Total project costs are the sum of all reimbursable costs, plus the value of any in-kind contributions that have been reviewed and approved by the Administering Office.
- (6) The Federal funds payable represents the maximum amount of Federal-aid reimbursement. This figure is equal to the total project costs multiplied by the reimbursement rate, unless this amount exceeds either: (a) the total reimbursable costs, as shown in Example 1; or (b) the STIP limit, as shown in Examples 2 and 3. If 80 percent of the total project costs exceeds either (a) or (b), the Federal funds payable will be equal to the lesser of these two.
- (7) The local cash required is calculated by subtracting the Federal funds payable from the total reimbursable costs. This amount represents the net cash outlay required by the local agency.
- (8) The effective reimbursement rate is shown for comparison purposes only. This rate is calculated by dividing the Federal funds payable by the total reimbursable costs. The effective reimbursement rate illustrates the effect of the in-kind contribution in each of the examples shown above. Generally speaking, in-kind contributions have the effect of increasing the amount of Federal funds payable, subject to the limitations discussed above.

Summary of Example In-Kind Calculations

The preceding examples demonstrate some important points about in-kind contributions:

- The maximum amount of Federal-aid that can be received is limited by either the total reimbursable costs (see Example 1), or the STIP limit (see Examples 2 and 3), whichever is less.
- When the STIP limit is less than the Federal share of reimbursable costs, in-kind contributions have no effect on decreasing the amount of local cash required (see Example 3).