



TECHNICAL BRIEF

Innovative Financing For TE Projects

Since inception, methods for implementing Transportation Enhancements (TE) activities have been inventive. The TE activities' original purpose revolutionized and expanded the scope of highway transportation improvements beyond traditional roadway uses. A series of procedural innovations applied to TE over the years improved the ability of project sponsors and state Departments of Transportation (DOT) to implement projects.

Building on the original provisions of the *Intermodal Surface Transportation Efficiency Act* (ISTEA) of 1991, the *National Highway Systems Act* (NHS) of 1995 strengthened the TE program process by including the following streamlining measures: Categorical Exclusions under NEPA; Advance Payment Options; Donations of Funds, Materials, or Services; Application of the Uniform Act to Third Party Sellers; and the Nationwide Programmatic Agreement (Historic Preservation).

In turn, the *Transportation Equity Act for the 21st Century* (TEA-21) of 1998 further expanded program and administrative flexibility in several important areas. TEA-21 increased the flexibility in relating projects to surface transportation, added and expanded categories of eligibility, increased the flexibility in applying the requisite 80/20 matching ratio, and expanded allowances for non-cash contributions to local matching requirements.

While states are not required to adopt these legislative provisions, those that have done so provide project sponsors and other state DOTs with examples of the beneficial financial flexibility the provisions allow. This *Technical Brief* is designed to highlight those legislative provisions by identifying and describing actions taken across the country to ease the financing of TE projects. Each section begins by quoting the legislative provisions, then features successful case studies. A contact for each case study is also provided.

Additional information on the implementation of the TE activities can be found in *FHWA Guidance, Transportation Enhancement Activities, 23 U.S.C. and TEA-21, December 17, 1999*. Another document, *A Guide to Transportation Enhancements*, published by the National Transportation Enhancements Clearinghouse (NTEC), offers background on the TE program, application and implementation tips, and 21 case studies of successful TE projects. Both documents are available to download or on-line on the NTEC Web site at www.enhancements.org. To order a hard copy, write an email to ntec@transact.org or call toll-free, 1-888-388-6832.

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Legislative Provision:

States may allow the value of in-kind, non-cash, contributions of materials, services and land (the fair market value of real property) to be credited toward the non-Federal match of a TE project. Included may be state and local government services and the costs of preliminary engineering prior to project approval. (23 U.S.C. 133(e)(5) and 23 U.S.C. 323(c)).

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In-Kind Local Match Procedures In Georgia

The non-cash local contribution is an innovative financing technique encouraged in TEA-21. In Georgia, TE project sponsors may spend money on design, preliminary engineering and right-of-way acquisition without being constrained by Federal competitive bidding and consultant selection procedures. Under most circumstances, they are also relieved of state requirements regarding the use of pre-qualified consultants. Their expenditures become part of their local match. To realize these benefits, the project sponsor must 1) request permission in its TE application to use the innovative financing option, 2) submit a detailed proposal, 3) complete a pre-award audit process and 4) execute a Memorandum of Understanding (MOU). The MOU between the sponsor and the DOT secures clearances for the sponsor, acknowledges that innovative financing procedures will be used, and commits the sponsor to securing necessary rights-of-way. Innovative financing saves the sponsor time and money and improves the quality of the TE project.

■ *For further information, contact Steve Roberts at 404-651-5327 or steve.roberts@dot.state.ga.us.*

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Conditions for a Federal Overmatch of 95% in Louisiana

The Louisiana Department of Transportation and Development (LDOTD) has developed an optional form of match that is popular with sponsors since it simplifies the consultant selection and negotiation process and expedites project development. If the sponsor pays all design and construction engineering, supervision, inspection, and testing costs, or if these services are donated, the sponsor may choose the consultants and negotiate the fee without LDOTD oversight. The LDOTD determined that these costs generally represent about 15% of project cost. The state would then pay for 95% of the construction costs with the sponsor responsible for the remaining 5%. If the sponsor chose to start design before project authorization they are allowed to do so, but will not be reimbursed for any expenses if the construction project is not later authorized. This procedure is referred to by the state as the "95/5 Match." This form of match can also be combined with other match options. For example, if the sponsor also donates any real estate necessary for the project, which is valued at an amount equal to five percent or more of the construction cost, the state will fund 100% of the construction costs. ■ *For further information, contact Bill Jack at 225-379-1245 or bjack@dotdmail.dotd.state.la.us.*

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The University of California, Davis (UC Davis) received TE funds to construct a bike and pedestrian path, related lighting, and landscaping on the east end of the campus adjacent to a new on-campus housing project and the city of Davis. The housing project developer agreed to give the University the money that the developer was considering for use for a pathway along the west side of the housing project. UC Davis combined the money from the developer with funds received from campus parking fines to create the matching funds for the TE award. The new path provides bicycle and pedestrian connections between the main campus, the campus arboretum, the new on-campus housing, and north Davis, as well as connects to a project currently under construction that will create a bike and pedestrian tunnel under a railroad track and freeway to south Davis. This project is a good example of a private/public sector partnership that benefited the entire community. ■ *For further information contact Brodie Hamilton at 530-752-3727 or bwhamilton@ucdavis.edu.*

Partnership between University of California, Davis and Developer Leads to Trail

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A team of professional volunteers helped initiate and advance the Grand Canyon Greenway project. The National Park Service and the Grand Canyon National Park Foundation convened the group, comprised of ten trail and greenway advocates, developers, and designers. The volunteers reviewed the Grand Canyon National Park's General Management Plan and developed a Multiple Use Trail element for the plan. The result of the volunteers' work is an Implementation Plan involving \$58 million and 72 miles of trails. The team continues to assist in trail implementation and financing, and succeeded in attracting corporate support from American Airlines and Xerox. The hours of professional services donated by these volunteers were valued at more than \$200,000. This amount helped leverage more than \$1.5 million in Federal transportation funds, including an \$800,000 TE award from the Arizona DOT. ■ *For further information, contact Bob Searns at 303-904-9415 or green49@aol.com.*

Volunteers Donate Professional Services at Grand Canyon National Park, Arizona

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Legislative Provision:

States may fund individual projects with a Federal share of up to 100 percent of project cost without a corresponding match provided that on a fiscal year basis all of that state's TE projects, as a group, comply with the 80/20 Federal share requirement. (23 U.S.C. 133(e)(5)).

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CalTrans, the California Department of Transportation, has used an innovative application of the 80/20 funding split to give a set of smaller local projects a procedural break. The state identified a set of large, state-agency sponsored projects with state funded 20% match, and a set of small, locally-sponsored projects. The 20% match dollars of the group of state projects equaled the 80% Federal dollars of the group of small projects. CalTrans then simply switched these

California's "Shuffle" of State and Federal Funds Provides Flexibility for Implementation of Small Projects

funding sources. The result is a set of large, state-sponsored projects that received 100% Federal funds, and a set of smaller, local projects that have no Federal funds at all (80% from state funds and 20% from original local match source). This funding “shuffle” allowed the local projects to be administered in accordance with more flexible state and local procedural requirements. The local sponsors enjoy the resulting flexibility as it allows them to budget time and resources in accordance with the needs of the project. ■ *For further information, contact Marsha Mason at 916-654-5275 or marsha_mason@dot.ca.gov.*

Legislative Provision:

State toll credits may be used to match Federal TE funds across the entire state TE program. The Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) included a provision that enables states to apply toll credits in lieu of the non-Federal match for projects funded with Federal highway funds. The projects are 100% Federally funded through the use of this provision. (23 U.S.C. 120(j) and August 7, 1998 Memorandum – Toll Credit for Non-Federal Share, Section 1111(c) of TEA-21 Implementing Guidance).

New Jersey Funds TE Projects with 100% Federal Dollars

New Jersey requires no match from TE project sponsors since New Jersey is able to utilize the toll-credit provision across their entire Surface Transportation Program (STP). By matching their Federal DOT highway funds with 20% toll credits, New Jersey DOT is able to fund every STP project, including TE projects, using 100% Federal funds. The state does encourage spending this money on construction rather than design or right-of-way. TE projects must be construction-ready at the time of selection. After being notified that their project has been selected to receive funds, the sponsor has two years to break ground. The community must submit a written commitment of continued ownership and project maintenance for a minimum of twenty years, or the community is responsible to return the money received. ■ *For further information contact Bob Goslin at 609-530-3640 or BobGoslin@dot.state.nj.us.*

Pennsylvania DOT Uses 100% Federal Funding

Between 1992 and 1997, Pennsylvania accumulated over \$1.2 billion in toll credits from eligible toll projects. In the summer of 1998, after the passage of TEA-21, PennDOT management decided to apply a portion of these toll credits to the non-Federal share of TE projects. Project sponsors qualify for this 100% Federal funding for the construction phase of their projects by agreeing to perform all pre-construction work using non-Federal highway funds. In other words, sponsors who implement their engineering, environmental clearance, right-of-way acquisition, and utility relocation phases with funding from local, private, or other state and Federal sources can qualify for the 100% Federal TE funding in Pennsylvania. Because the sponsors are using their “own” money for the preliminary work

they are able to choose whomever they want to design the project and Federal criteria are limited to the construction phase. This arrangement, which began in September 1998, expedites project implementation to the benefit of both the sponsors and the state. ■ *For further information, contact Dan Accurti at 717-783-2258 or daccurt@dot.state.pa.us.*

Legislative Provision:

TE Program funds may be advanced by the states to a local government through the Advanced Payment option of TEA-21 (23 U.S.C 133(e)(3)(B)). See December 17, 1999 FHWA Final Guidance on TE for description of limitations and opportunities.

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In Colorado, progress payments to construction contracts required progress certifications by state engineers. Such certifications placed workload burdens on the state engineering staff and also led to a level of oversight inappropriate to a local program such as TE. The process also delayed payments and reimbursements. To streamline the process, Colorado now sends a check to the local government sponsor in the amount of 70% of the Federal share of construction contracts upon the award and execution of the contract. The state pays the sponsor the balance of 30% upon final completion and acceptance of the contractor's work. As a result, oversight is painless and payments smooth. ■ *For further information, contact Lisa Falconer at 303-512-5212 or Lisa.Falconer@dot.state.co.us.*

**Colorado DOT's
Advance Payment on
Construction Contracts**

Legislative Provision:

Federal funds (other than U.S. DOT funds) may be credited toward the non-Federal share of the costs of a TE project. (23 U.S.C. 133(e)(5)).

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Youth Corps derive Federal funds from a number of sources to provide funding for projects they undertake. In addition to the other benefits derived from the use of youth corps on TE projects, the total value of other Federal funds that youth corps apply to a TE project may be credited to the non-Federal share of project cost. Frequent sources of other Federal funding for corps projects include the Corporation for National Service, the Department of Labor, the Department of Housing and Urban Development, the Environmental Protection Agency, and the National Parks Service. Youth conservation and service corps contributions can also be designated as force account labor on TE projects. ■ *For further information, contact Andrew Moore at 202-737-6272 or amoores@nascc.org.*

**Federal Financial
Contributions to Youth Corps
Become Local Share When
Corps Work on a TE Project**

If you have other examples of successful implementation of legislative streamlining provisions, please share those with NTEC! Write, fax, or email them to us – our contact information is on the front page. Thanks to all who shared their examples with NTEC and made this *Technical Brief* possible.
