

**MEMORANDUM**

TO: Arizona COGs and MPOs  
FROM: Dan Gabiou, ADOT Regional Planning Manager  
DATE: January 15, 2021  
RE: Eligible Third Party Contributors for FHWA In-Kind Match

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This memorandum clarifies which types of third parties may contribute towards in-kind match for FHWA Federal Aid-funded (PL, SPR, STBG) projects and programs.

This memorandum does not apply to FTA Programs. For guidance on FTA in-kind match, please contact ADOT Transit staff.

The below definitions are taken from the 2019 FHWA Federal-Aid Guidance Non-Federal Matching Memo ([https://www.fhwa.dot.gov/legregs/directives/policy/memonfmr\\_tapered20190515.htm](https://www.fhwa.dot.gov/legregs/directives/policy/memonfmr_tapered20190515.htm)).

**Third party** – A third party is an entity (other than a recipient, subrecipient, or Federal agency) that is not party to a Federal-aid project agreement, but who may derive a benefit associated with the completion of the project. As a recipient, a State cannot be considered a third party.

**Third Party In-kind Contribution** - The value of non-cash contributions (i.e., property or services) that—

- (a) Benefits a federally assisted project or program; and
- (b) Are contributed by non-Federal third parties, without charge, to a non-Federal entity under a Federal award (2 CFR 200.96).

ADOT and the FHWA Arizona Division, after collaboration with other FHWA Division offices, offer the following clarification regarding which third parties are allowed to be counted towards FHWA in-kind match.

**<sup>1</sup>Eligible Third Party In-Kind Match Contributors:**

- 1) Tribal Government Representatives
- 2) Local Public Agency Representatives (including elected officials)
- 3) Guest Speakers (such as a University Professor)

<sup>1</sup>Eligible third party contribution could only count towards in-kind match when it is "necessary and eligible", meaning such participation:

- (a) Benefits a federally assisted project or program; and
- (b) Are contributed by non-Federal third parties, without charge, to a non-Federal entity under a Federal award (2 CFR 200.96).

**Ineligible Third Party In-Kind Match Participants:**

- 1) Public Participants
- 2) Rural Transportation Advocacy Council (RTAC) Participants
- 3) ADOT or FHWA Participants
- 4) COG, MPO, or TMA Staff Participants
- 5) <sup>2</sup>Consultant Participants (if under federal aid contract or not directly contributing)

<sup>2</sup>Consultant Participants: If a consultant is hired as a contract employee to represent an eligible third party, such participation could count towards in-kind match. If a consultant is requested to present on a topic that directly relates to Work Program activities and is not under an active federal aid contract, specific to the topic being presented, such participation could count towards in-kind match. Under all other circumstances, consultant participation would be ineligible to count towards in-kind match.

It should be noted that participants on the above ineligible list are still encouraged to participate in COG and MPO activities, but such participation cannot be counted towards in-kind match. The above guidance should be applied to all FHWA Federal Aid reimbursement requests (or invoices).

For additional guidance, refer to 2 C.F.R. § 200.306 – Cost sharing or matching (subparts e-f).

For any questions, or to verify the eligibility of a specific third party in-kind match contributor, please contact your Regional Transportation Planner.

Respectfully,



Dan Gabiou, CPM

**Attachments (1):**

1. Question & Answer Sheet

## **Attachment 1: Question and Answer Sheet**

**Question 1:** Are elected officials eligible third party contributors (under Local Public Agency Representatives)?

**ADOT/FHWA Response:** Yes, as long as they are contributing to Work Program activities.

**Question 2:** How should we value elected official time?

**ADOT/FHWA Response:** Refer to [2 CFR § 200.306](#) – Cost sharing or matching (subparts e-f) and contact your ADOT Regional Transportation Planner with any questions.

**Question 3:** Are consultants eligible third party contributors?

**ADOT/FHWA Response:** If a consultant is hired as a contract employee to represent an eligible third party, such participation could count towards in-kind match. If a consultant is requested to present on a topic that directly relates to Work Program activities and is not under an active federal aid contract, specific to the topic being presented, such participation could count towards in-kind match. Under all other circumstances, consultant participation would be ineligible to count towards in-kind match.

**Question 4:** Why aren't RTAC staff eligible as a Guest Speaker?

**ADOT/FHWA Response:** Although RTAC provides informative financial and economic updates, ADOT and FHWA do not feel that such information has a direct impact on implementing Work Program activities.

**Question 5:** Could donated space count towards in kind contribution?

**ADOT/FHWA Response:** Yes, per 2 CFR § 200.306 (part i), the value of donated space can be used as in-kind match (<https://www.law.cornell.edu/cfr/text/2/200.306>). ADOT and FHWA suggest using the designated hourly rate of the respective facility in the in-kind valuation of donated space. If a facility only offers free facility rentals (does not have an hourly rate), use the hourly rate of similar facilities. Such hourly rates should be documented when submitting invoices.