

Project No. NCHRP 20-65 Task 75

# **National Cooperative Highway Research Program Project 20-65 Task 75**

## **USE OF IN-KIND AS MATCH FOR FEDERAL TRANSIT ADMINISTRATION AWARDS**

**Prepared for:**  
National Cooperative Highway Research Program  
Transportation Research Board  
of  
The National Academies

Dan Wagner  
Diane King  
Seidah Durante  
Milligan & Company, LLC  
Philadelphia, PA

Viktor Zhong  
Scott Baker  
AECOM  
Arlington, VA

February 2020

## ACKNOWLEDGMENT OF SPONSORSHIP

This work was sponsored by one or more of the following as noted:

- American Association of State Highway and Transportation Officials, in cooperation with the Federal Highway Administration, and was conducted in the **National Cooperative Highway Research Program,**
- Federal Transit Administration and was conducted in the **Transit Cooperative Research Program,**
- Federal Aviation Administration and was conducted in the **Airports Cooperative Research Program,**
- Research and Innovative Technology Administration and was conducted in the **National Cooperative Freight Research Program,**
- Pipeline and Hazardous Materials Safety Administration and was conducted in the **Hazardous Materials Cooperative Research program,**
- Federal Railroad Administration and was conducted in the **National Cooperative Rail Research Program,** which is administered by the Transportation Research Board of the National Academies.

## DISCLAIMER

This is an uncorrected draft as submitted by the Contractor. The opinions and conclusions expressed or implied herein are those of the Contractor. They are not necessarily those of the Transportation Research Board, the National Academies, or the program sponsors.

## **Foreword**

The purpose of this handbook is to assist recipients, subrecipients, and awarding agencies, including the Federal Transit Administration (FTA), understand under what circumstances in-kind resources can be used as match to FTA funds. It explores potential options for use of in-kind as match, addressing potential sources of in-kind and discussing under what circumstances these sources are eligible. It incorporates information gathered from a survey of state departments of transportation (DOTs), case studies, discussion with FTA staff, and field experience of the authors. As always when developing an award involving in-kind, the applicant should work with FTA to ensure that it is eligible and is adequately documented.

## Table of Contents

1. What is in-kind?.....	1
2. When should in-kind match be used? .....	1
3. What are the federal requirements for use of in-kind match?.....	2
4. What are the FTA requirements for use of in-kind match? .....	4
5. What are some in-kind basics?.....	4
6. What are some examples of use of in-kind for FTA projects? .....	5
<b>6.1. Labor</b> .....	6
Case Study: OATS, Inc.....	8
<b>6.2. Rental Space</b> .....	9
<b>6.3. Land and Buildings</b> .....	10
Case Study: Missoula Ravalli Transportation Management Association .....	12
<b>6.4. Equipment</b> .....	12
<b>6.5. Goods and Services</b> .....	14
Case Study: Lemhi Ride .....	14
<b>6.6. Indirect Costs</b> .....	14
Case Study: San Carlos Apache Tribe .....	15
<b>6.7. Intercity Bus</b> .....	16
Case Study: West Virginia Department of Transportation.....	17
<b>6.8. Vanpool Credits</b> .....	18
Case Study: Potomac Rappahannock Transportation Commission .....	18
<b>6.9. Travel Expenses</b> .....	20
7. What are source documents for this handbook? .....	21

## 1. What is in-kind?

In-kind is a service or good that a Federal Transit Administration (FTA) recipient or subrecipient receives without incurring any expense but the recipient or subrecipient would have paid for in the normal course of business. These goods or services are usually, but not always, provided by a third party. When used as match for FTA awards, in-kind is included in the project budget.

This guidebook provides FTA recipients and subrecipients a reference tool on how to properly use in-kind as match for FTA awards by explaining relevant federal regulations and illustrating the requirements with case studies. For questions about using in-kind match for a specific project, please contact FTA directly for guidance.

## 2. When should in-kind match be used?

When cash match is limited or is not enough to meet federal funding requirements, in-kind match offers FTA recipients and subrecipients, such as transit providers, metropolitan planning organizations (MPOs), and state departments of transportation (DOTs), a way of providing and meeting requirements with local resources other than a cash match. Using in-kind match could also free up cash for other federally funded projects or conserve cash in reserves. Below presents an example of how in-kind can help provide local resources.

### With Cash Match Only

As shown below, an applicant is eligible to receive \$50,000 in FTA operating assistance and this would require the recipient to provide \$50,000 in local cash match. The FTA funds pay for half of the net operating expenses. Therefore, the recipient has \$100,000 cash available for operating expenses.

FTA operating assistance	\$	50,000
Local cash match	\$	50,000
		_____
Net operating expenses in cash	\$	100,000

### With Cash and In-Kind Match

If in addition to the \$50,000 local cash match the recipient identifies \$10,000 in in-kind, the recipient is eligible for \$60,000 in FTA operating assistance. Therefore, the recipient has \$110,000 cash available for operating expenses, including the additional \$10,000 cash from FTA for claiming the \$10,000 in-kind.

FTA operating assistance	\$	60,000
Local cash match	\$	50,000
In-kind match	\$	<u>10,000</u>
Net operating expenses of \$110,000 cash and \$10,000 in-kind	\$	120,000

Below is a graphic illustration of the same example above:

<b>FTA Operating Assistance (\$50,000)</b>	<b>Local Cash Match (\$50,000)</b>
<b>Add'l FTA Operating Assistance (\$10,000)</b>	<b>In-Kind Match (\$10,000)</b>

This guidebook explores potential options for using local resources as in-kind match and discusses under what circumstances these sources are eligible. The discussions incorporate data gathered from a survey of state DOTs, case studies, discussion with FTA Headquarters and all ten Regional Offices, and field experience of the authors. This guidebook summarizes general federal requirements (Section 3) and FTA requirements (Section 4) regarding use of in-kind match, lays out the basic principles of using in-kind match (Section 5), and provides detailed guidance on most common types of in-kind match (Section 6). Section 6 includes the following subsections, each focused on a type of in-kind match:

- 6.1 [labor](#)
- 6.2 [rental space](#)
- 6.3 [land and buildings](#)
- 6.4 [equipment](#)
- 6.5 [goods and services](#)
- 6.6 [indirect costs](#)
- 6.7 [intercity bus](#)
- 6.8 [vanpool credits](#)
- 6.9 [travel expenses](#)

### 3. What are the federal requirements for use of in-kind match?

Title 2 of the U.S. Code of Federal Regulations, Part 200 – *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance), establishes the rules and regulations that recipients and subrecipients of federal awards must follow. The Uniform Guidance also addresses award costs, including cost share, and matching requirements, including in-kind. The sections that address the eligibility of sources of match for FTA awards, including in-kind, are:

- 2 CFR Part 200.306 *Cost sharing or matching*, which describes the general characteristics of costs and matching funds, including in-kind, that a recipient or subrecipient can use to meet the matching requirements for federal awards.
- 2 CFR 200.403 *Factors affecting allowability of costs*, which addresses the allowability of costs to be charged to the federal award.

2 CFR 200.306(b) states, “For all Federal awards, any shared costs or matching funds and all contributions, including cash and third party in-kind contributions, must be accepted as part of the non-Federal entity's cost sharing or matching when such contributions meet all of the following criteria:

- (1) Are verifiable from the non-Federal entity's records;
- (2) Are not included as contributions for any other Federal award;
- (3) Are necessary and reasonable for accomplishment of project or program objectives;
- (4) Are allowable under Subpart E—Cost Principles of this part;
- (5) Are not paid by the Federal Government under another Federal award, except where the Federal statute authorizing a program specifically provides that Federal funds made available for such program can be applied to matching or cost sharing requirements of other Federal programs;
- (6) Are provided for in the approved budget when required by the Federal awarding agency; and
- (7) Conform to other provisions of this part, as applicable.”

The Uniform Guidance goes on to address specifics regarding unrecovered indirect costs (indirect costs not charged to an award), property (real and personal, including equipment), and services provided by third parties, including volunteers. We address each of those topics and more below.

2 CFR 200.403 *Factors affecting allowability of costs* states, “Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards:

- (a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.
- (b) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.

- (c) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity.
- (d) Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost.
- (e) Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.
- (f) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period....
- (g) Be adequately documented.”

In essence, in-kind matching resources must meet the same requirements as costs eligible for federal funds. This means that in-kind must be necessary, allowable under the cost principles, and allocable to the award, just as any other costs included in the award budget. This also means that in-kind cannot be counted multiple times in different awards. Once an item is used in an award as in-kind match, it cannot be claimed in other awards as such.

#### 4. What are the FTA requirements for use of in-kind match?

FTA requirements governing eligible match and expenses also govern in-kind. All funding used to match FTA awards must come from non-U.S. Department of Transportation (US DOT) sources, except for Federal Lands Highway Program funds. No FTA program funds can be used as a source of match for other FTA programs, even when the funds are derived from contract revenue. The Fixing America’s Surface Transportation (FAST) Act specifically authorizes two sources of in-kind match—vanpool credits (§53323(i)(1)) and intercity bus service (§5311(g)(3)(F)). FTA provides guidance on the eligibility of match on its website and in its program circulars.

#### 5. What are some in-kind basics?

In-kind contributions come from the recipient or a third party. In-kind is typically in the form of the value of personnel, goods, and services, including direct and indirect costs. Recipients and third parties simply need to document the value of the contributed resource. Here are some of the basics surrounding in-kind match:

- In-kind must be an eligible cost. As discussed above, 2 CFR Subpart E *Cost Principles* addresses what constitutes an eligible cost. Also, FTA specifies in its circulars the kinds of costs that are eligible for each program and type of assistance (e.g. capital, operations,



planning, and administration). Type of match must be consistent with type of assistance. For example, in-kind capital asset (such as donated land) can only match capital assistance; in-kind operating resource (such as donated time of volunteer drivers) can only match operating assistance.

- In-kind must be an eligible source of match. For example, items paid with FTA funds cannot be used to match FTA funds. Also, items used in one award as in-kind cannot be used again in a different award as such.
- In-kind must be simultaneously accounted for as an expense (or an asset) and a revenue transaction. It cannot be treated solely as one financial category type but must appear on both sides of the general accounting ledger when recorded. Viewed as a balanced accounting transaction, in-kind must be both a debit and a credit. For example, if a third party donates supplies to a recipient or subrecipient, the recipient or subrecipient must record the value of these supplies as an increase to expenses (debit) and an increase to revenue (credit) in the general accounting ledger at the same time. In the case where the recipient receives donated capital assets (e.g., land, building, equipment), the debit side of the entry will be to assets instead of expense.
- In-kind must be fully documented, in accordance with 2 CFR 200.403(g). For example, providers must have documentation showing the hours volunteer drivers work.

By definition, in-kind contributions do not have a cash inflow or outflow impact for the recipient or subrecipient receiving the donated item. Thus, for documentation purposes, the recipient or subrecipient may choose to record the value of the in-kind expense/asset and corresponding revenue within or outside of its automated accounting system. Either way, the in-kind value should be tracked and incorporated in a recipient's or subrecipient's award records, which should also include support for the determination of the value of the in-kind.

## 6. What are some examples of use of in-kind for FTA projects?

This guidebook addresses the following types of in-kind:

- [Labor](#)
- [Rental space](#)
- [Land and buildings](#)
- [Equipment](#)
- [Goods and services](#)
- [Indirect costs](#)
- [Intercity bus](#)

- [Vanpool credits](#)
- [Travel expenses](#)

### 6.1. Labor

Labor may be the most common source of in-kind utilized by FTA recipients. Many transit providers in rural areas use the time spent by volunteer drivers as in-kind. MPOs use time spent by third parties at meetings as in-kind. A county may choose to include the services of the county engineer for project management as in-kind instead of seeking reimbursement from the award. When a transit provider or an MPO is part of a city or county, staff support by other departments that are not reimbursed by an award can be used as in-kind. As stated above, in-kind can come from the recipient or a third party. Indirect costs can be used as in-kind as long as they are not included in a cost allocation plan or indirect cost rate proposal.

The following two paragraphs from 2 CFR Part 200.306 *Cost sharing or matching* address use of labor and associated fringe benefits as in-kind.

“(e) Volunteer services furnished by third-party professional and technical personnel, consultants, and other skilled and unskilled labor may be counted as cost sharing or matching if the service is an integral and necessary part of an approved project or program. Rates for third-party volunteer services must be consistent with those paid for similar work by the non-Federal entity. In those instances, in which the required skills are not found in the non-Federal entity, rates must be consistent with those paid for similar work in the labor market in which the non-Federal entity competes for the kind of services involved. In either case, paid fringe benefits that are reasonable, necessary, allocable, and otherwise allowable may be included in the valuation.

(f) When a third-party organization furnishes the services of an employee, these services must be valued at the employee's regular rate of pay plus an amount of fringe benefits that is reasonable, necessary, allocable, and otherwise allowable, and indirect costs at either the third-party organization's approved federally negotiated indirect cost rate or, a rate in accordance with §200.414 Indirect (F&A) costs, paragraph (d), provided these services employ the same skill(s) for which the employee is normally paid. Where donated services are treated as indirect costs, indirect cost rates will separate the value of the donated services so that reimbursement for the donated services will not be made.”

Examples of labor that are allowable as in-kind include:

- Volunteer time for driving, dispatching, or other functions
- Time spent at meetings, such as planning and coordination meetings
- Time spent supporting a study or managing a project

- Time spent providing administrative support, such as legal, information technology (IT), and maintenance services, that is not funded with award funds
- Time spent providing vehicle or facility maintenance
- Time spent by volunteer non-elected board members, when the board serves an administrative or business function and not included in the indirect cost pool

The examples of time above could be either employee or third-party time.

As stated in 2 CFR 200.306, fringe benefits are eligible, including for volunteers.

Examples of labor that are not allowable as in-kind include:

- Time spent by elected officials when acting in the capacity of an elected official. 2 CFR Part 200.444 *General costs of government* states that the salaries of government officials for the purpose of legislation or executive direction are an ineligible award expense.
- Time spent by staff whose activities are included in a cost allocation plan/indirect cost rate. 2 CFR Part 200.412 *Classification of costs* requires that each item of cost incurred for the same purpose be treated consistently in like circumstances either as a direct or an indirect cost in order to avoid possible double-charging of Federal awards.

Here are some tips for using labor as in-kind.

- For **volunteers**, rates must be consistent with those paid for similar work performed by staff at the agency. For example, for volunteer drivers, use the rate and fringe for paid drivers. In those instances, in which the recipient or subrecipient does not have paid staff performing the function, rates must be consistent with those paid for similar work in the labor market in which the recipient or subrecipient competes for the kind of services involved. Therefore, use a rate used by similar agencies in the area.

If comparable services are not performed locally, use other survey data. One source for aggregate wage data is the U.S. Department of Labor Bureau of Labor Statistics (BLS) which publishes data on average hourly and weekly earnings of all employees on private nonfarm payrolls by industry sector. Another source is Independent Sector, a private nonprofit serving the charitable sector, which calculates the national value and value by state of volunteer time using BLS data. Data from these sources are available on the web. Be sure to document the rationale for the rates in the file.

- For **attendance at meetings**, such as MPO meetings, these services must be valued at the employee's regular rate of pay plus fringe benefits. If the third-party charges indirect

costs in accordance with the Uniform Guidance, then indirect costs are allowed at the third party's approved rate. The recipient should:

- Exclude the time spent by attendees who are paid from USDOT sources, such as a planner or transit manager whose salary is paid with FTA funds.
- Exclude the time spent by members of a state legislature, tribal council, or similar elected state or local governmental body, such as a county supervisor, city council, school board, etc., for either legislation or executive direction.
- Exclude any time spent on food or entertainment.
- Maintain a meeting agenda and sign-in on record.

#### Case Study: OATS, Inc.

OATS, Inc. (OATS Transit) is a private nonprofit corporation that provides public transit service in 87 of Missouri's 114 counties. It was founded in 1971 to provide transportation service to seniors. In 1980 when it became a subrecipient of Section 5311 funds, it opened its doors to the general public. It provides approximately 1.5 million rides a year.

It has divided its service area into eight regions, each with its own facility, employs almost 700 drivers, and operates a fleet of over 800 buses. Its FY2019 operating budget is \$28 million.

FTA funds account for approximately 35 percent of its total revenue, including in-kind. The FTA percentage accounts for 42 percent of its cash operating revenue. The balance of cash funding is contract revenue from area agencies on agency and non-emergency medical transportation.

Approximately 20 percent of the match for its \$10 million in Section 5311 operating expenses comes from in-kind services. OATS Transit has a network of approximately 500 volunteers who take reservations, serve as rider helpers, fundraise for bus match, and promote OATS Transit to the cities and counties where they live. The volunteers track hours using an OATS Transit provided form which they mail to OATS Transit which retallies the numbers and enters the time into a spreadsheet. For the hourly rate, OATS Transit uses the value of volunteer time as calculated by the Independent Sector, a national membership organization of nonprofits, foundations, and corporations that supports the charitable sector. The rate as of the writing of this report is \$24.96 per hour. OATS Transit also uses the time of its volunteer board of directors as in-kind for administration.

Another source of in-kind is the donated value of printed bus schedules in local newspapers. OATS Transit has found that the smaller papers in the state are committed to local community news and are willing to print bus schedules at no charge. Based on column inches and each newspaper's rate, the printed schedules are valued at approximately \$100,000 a year.

Other sources of in-kind are donated office and parking space for remote OATS operations and donated professional services.

OATS Transit is facing challenges with its volunteer program. Over the past ten years, it has experienced a decline in volunteers from 1,200 to 500 due to a shift in demographics. As the current volunteers age and become less able to perform some of the tasks, fewer young people are willing to step into those roles. Plus, dispatching and scheduling software is replacing the work performed by volunteers.

OATS Transit is meeting the challenges head on. As volunteers are no longer needed to serve as reservationists, OATS Transit reassigns them to marketing and rider assistance. It is looking into hiring a volunteer coordinator to recruit additional volunteers and develop meaningful tasks for them. Also, it is evaluating the long-term feasibility of its current volunteer model. OATS Transit remains committed to having a volunteer program and is working to adapt to changing circumstances.

## 6.2. Rental Space

Donated use of office space or facilities can be used as in-kind. For example, a private nonprofit Section 5311 provider that uses an office in a municipal building at no charge may claim the value of that foregone rent as in-kind.

For rent to be eligible as in-kind, the recipient or subrecipient must not own the facility. 2 CFR 200.465(c) states that rental costs under “less-than-arms-length” leases are allowable only up to the amount that would be allowed if the entity owned the property. This amount would include expenses such as utilities, depreciation, maintenance, taxes, and insurance. “Less-than-arm’s length” leases include divisions of the entity and an entity under common control through common officers, directors, or members. Examples of “less-than-arm’s length” leases are a county charging rent to the transit program for use of county office space and a private nonprofit human service agency that receives FTA funds to operate a transit service charging rent for use of agency facilities to the transit program. Under both these scenarios, the county and the nonprofit agency can charge the actual costs of owning the space to the award, including utilities, depreciation, maintenance, taxes, and insurance.

2 CFR 200.306(i)(3) states “the value of donated space must not exceed the fair rental value of comparable space as established by an independent appraisal of comparable space and facilities in a privately-owned building in the same locality.” So, the value of donated rental space used as in-kind must be supported by an independent appraisal.

The lease must be in writing.

Public access right-of-way for bus stops cannot be used for in-kind. When a recipient plans to use access to private property as in-kind match, such as a bus stop or use of parking spaces at a

shopping center, the recipient should consult FTA for its eligibility. If that is allowed, the value of the access should be established by an independent appraisal for comparable access and there needs to be a written agreement.

Commercial leases are calculated based on square footage. There are three types of commercial square footage:

1. Usable square feet, which is the space occupied by the tenant
2. Rentable square feet, which is the usable square feet plus a percentage of the common areas
3. Gross square feet, which is the total square footage of the building

Typically, commercial real estate is leased based on rentable square feet.

When determining the market rate, the recipient or its appraiser should consider whether the rate includes utilities. If the comparable market rents on which you have based your determination of market rate do not include utilities (e.g., comparable rents were available for larger spaces where the tenant rather than the landlord provides utilities), then you may request additional reimbursement for utilities.

If the recipient uses office space in a larger municipal building, the municipality would typically be providing utilities along with the space. Actual utilities paid by the municipality may be allocated, typically on the basis of a percentage of square feet. When calculating the percentage, make sure that the same type of square footage, e.g., usable square footage, is used for the numerator and denominator.

The recipient should never claim in-kind for expenses included in the pool of indirect expenses used to compute your indirect cost rate; that would be double counting at least a part of the expense. Make sure that neither the rent, nor the utilities are included in your pool of indirect expenses.

### 6.3. Land and Buildings

Land and buildings can be used as in-kind match for a construction project. As with any other type of in-kind, the buildings and land must be necessary and reasonable for accomplishing the award objectives.

2 CFR 200.306(d) states if a Federal awarding agency authorizes the entity to donate buildings or land for construction/facilities acquisition projects or long-term use, the value of the donated property for cost sharing or matching must be the lesser of:

- (1) The value of the remaining life of the property recorded in the entity's accounting records at the time of donation
- (2) The current fair market value

However, when there is sufficient justification, the Federal awarding agency may approve the use of the current fair market value of the donated property, even if it exceeds the value remaining life of the property. FTA uses the current fair market value of the donated property.

A third-party donation of land or buildings can be used as in-kind. 2 CFR 200.306(h)(1) states that if the purpose of the Federal award is to assist the recipient or subrecipient in the acquisition of buildings or land, the aggregate value of the donated property may be claimed as cost sharing or matching.

2 CFR 200.306(i)(1) states, “the value of donated land and buildings must not exceed its fair market value at the time of donation to the non-Federal entity as established by an independent appraiser (e.g., certified real property appraiser or General Services Administration representative) and certified by a responsible official of the non-Federal entity as required by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (42 U.S.C. 4601-4655) (Uniform Act) except as provided in the implementing regulations at 49 CFR part 24.”

FTA requires an appraisal and appraisal review for all in-kind contributions of land and buildings. FTA considers the appraisal as valid for six months (FTA Circular 5010.1E, Chapter IV, 2. Real Property). FTA must review and concur in appraisals and review appraisals before federal assistance is expended.

When land or buildings are used as in-kind, FTA will have an interest in them. The land and buildings will be subject to FTA management and disposition requirements. FTA will be entitled to its share of disposition proceeds when the land or buildings are sold. For example, if FTA funds are 80 percent of the total project cost, including in-kind, then FTA would receive 80 percent of the disposition proceeds.

Even if the land or buildings are purchased with local funds and then used as in-kind, the recipient must comply with the Uniform Act. The National Environmental Policy Act (NEPA) requirements will apply to the project.

If a recipient is using a portion of a parcel for a project, only that portion for the project can be used as in-kind. The recipient should track which portion parcel is used as local match and which portion is not.

A discount provided by the seller can be used as in-kind for local match. The discount must be off the appraised value.

FTA allows the use of a long-term lease of land from a third party as in-kind for the construction of a facility. The net present value of the appraised lease over the life of the lease, less projected lease payments, is used as in-kind. Under this scenario, FTA has no interest in the land. If the lease is broken before the useful life of the facility is reached, the recipient would have to buy out any unamortized FTA interest in the building.

FTA provides more information on use of real property as in-kind in Circular 5010.1E *Award Management Requirements*.

#### Case Study: Missoula Ravalli Transportation Management Association

The Missoula Ravalli Transportation Management Association (MR TMA) serves Missoula, Ravalli, and Lake counties in Montana. It provides public demand-response service and administers carpooling, vanpooling, ride matching and guaranteed ride home programs.

In 2004, MR TMA used FTA funds to build a transit facility on the campus of the University of Montana. The facility has a public transfer center, offices, and a 438-space parking lot. Both the University bus system (UDASH) and the Missoula Urban Transportation District (Mountain Line), the local Section 5307 recipient, serve the transit center.

Instead of donating the land, the University entered into a long-term lease with MR TMA for \$1.00 a year as rent for 20 years. MR TMA used the net present value of the appraised value of the 20-year lease as local match. MR TMA owns the building. The University owns the land. FTA has an interest in the building but not the land.

The lease with the University contains an automatic renewal for another 20 years. The 40 years covers the useful life of the building. If the University breaks the lease, it will be required to buy out any unamortized FTA interest in the building.

MR TMA recommendations for recipients using land as in-kind: clearly lay out the requirements with FTA; understand what FTA will accept or not accept; hire the right, qualified appraiser; and have an open line of communication with FTA representatives.

## 6.4. Equipment

Recipient-owned equipment can be used as in-kind for the acquisition of new equipment or the execution of the award project. 2 CFR 200.33 defines equipment as “tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the non-Federal entity for financial statement purposes, or \$5,000.”

### Acquisition

To be used as in-kind for acquisition, the original purchase of the equipment must have complied with FTA requirements, including Buy America.



Per 2 CFR 200.306(d), the value of the property for cost sharing or matching must be the lesser of:

- (1) The value of the remaining (useful) life of the property recorded in the entity's accounting records
- (2) The current fair market value

However, when there is sufficient justification, the Federal awarding agency may approve the use of the current fair market value of the property, even if it exceeds the value remaining life of the property. FTA uses the current fair market value of the donated property.

Per 2 CFR 200.306(g) and 200.306(i)(2), the value assessed to property donated by third parties used as in-kind must not exceed the fair market value of the equipment at the time of the donation and the fair market value of equipment of the same age and condition at the time of donation.

Once used as in-kind for acquisition, FTA will have an interest in the equipment and management and disposition of the equipment must comply with FTA requirements.

### **Execution**

When a recipient uses its own equipment during the implementation of an FTA-funded project, such as using its own staff and equipment to grade the land for a construction project, the costs associated with owning the equipment, such as depreciation, maintenance, and insurance, are eligible as in-kind. "Rental" or "lease" of equipment owned by the recipient is not eligible. 2 CFR 200.465(c) states that rental costs under "less-than-arms-length" leases are allowable only up to the amount that would be allowed if the entity owned the property. This amount would include expenses such as depreciation, maintenance, and insurance. "Less-than-arm's length" leases include divisions of the entity and an entity under common control through common officers, directors, or members.

If equipment is donated (title passed) to the recipient or subrecipient to be used in the execution of a project, 2 CFR 200.306(h)(2) states that normally only depreciation charges for equipment and buildings may be made. However, the fair market value of equipment may be allowed, provided that the Federal awarding agency has approved the charges.

FTA has allowed the use of Federal Highway Administration (FHWA)-approved rental rates for contractor-owned equipment when a recipient reports the use of its equipment as in-kind. FHWA calculated the rates to fairly represent the actual cost of owning and operating equipment. Information on equipment rental rates is available on the FHWA website.

## 6.5. Goods and Services

Goods and services provided at no or reduced cost by third parties can be used as in-kind. 2 CFR 200.306(j) states, “For third-party in-kind contributions, the fair market value of goods and services must be documented and to the extent feasible supported by the same methods used internally by the non-Federal entity.”

If transit operations provided by a third party are used as in-kind, the recipient should consult FTA whether the third party’s operations must comply with FTA requirements, including the requirements of the FTA program (5307, 5311) that the service matches.

### Case Study: Lemhi Ride

Lemhi County Economic Development Association, a nonprofit agency formed by Lemhi County, operates Lemhi Ride, the demand response public transportation service for the Salmon, Idaho, area. Lemhi Ride operates four buses with six part-time drivers on weekdays from 8:00 am to 5:00 pm.

In addition to providing cash match, the County provides insurance and maintenance service at no cost to the agency, which uses these services as in-kind. The County also provides a discount on fuel but Lemhi Ride chooses to not use the discount as in-kind due the administrative burden of tracking the discount.

As the County’s insurer is not able to break out the cost of insuring the four buses from the balance of the County’s fleet, Lemhi Ride uses a quote for what it would cost for insurance for in-kind. For maintenance, the County mechanic tracks the time spent working on the buses. Lemhi Ride uses the mechanic’s fully loaded hourly rate (wage and fringe) to calculate the amount of in-kind each month. Lemhi Ride pays for parts, oil, and lubricants. The in-kind totals to approximately \$3,000 a year for insurance and \$2,400 a year for maintenance. The county’s insurance costs are not included in Lemhi’s indirect cost pool, so there is no double-counting in requesting reimbursement for in-kind insurance.

## 6.6. Indirect Costs

Indirect costs may be used as in-kind if the recipient does not charge them to an award. To be eligible as in-kind, the recipient must have an approved cost allocation plan (CAP) or indirect cost rate proposal (ICRP) developed in accordance with the Uniform Guidance to support the distribution of indirect costs to the award program, or have adopted the de minimis rate of 10 percent. The recipient or subrecipient cannot just adopt the de minimis rate for its FTA award; it must adopt it for the whole agency. FTA requires a certification when the de minimis rate is claimed on an award. This documentation must also be submitted for the in-kind application of indirect costs.

2 CFR 200.306(c) states, “Unrecovered indirect costs, including indirect costs on cost sharing or matching may be included as part of cost sharing or matching only with the prior approval of the

Federal awarding agency. Unrecovered indirect cost means the difference between the amount charged to the Federal award and the amount which could have been charged to the Federal award under the non-Federal entity's approved negotiated indirect cost rate.”

As mentioned above in Section 6.1, 2 CFR Part 200.306(f) allows indirect costs of a third party that donates time to be used as in-kind at the approved rate if the third party charges indirect costs in accordance the Uniform Guidance.

#### Case Study: San Carlos Apache Tribe

The San Carlos Apache Tribe in southeastern Arizona operates route-deviation service on the San Carlos Apache Tribe Reservation and to adjacent communities. The reservation encompasses 1.8 million acres in Graham, Gila, and Pinal counties and is sparsely populated. Transit service started in 2003 with one driver and one van, and has grown to 14 full-time drivers, 11 routes, and 26 vehicles.

Transit service, which is branded as Apache Transit, is provided to reservation residents and the general public. The Tribe ensures all individuals who may be considered elders, an individual with a disability, low income, employed, or others needing and/or wanting transit services, have access to transit services. Routes serve areas on and off the reservation for multiple reasons, including employment, medical services, shopping, and recreation. Transit service operates along the US 60/70 corridor east to Safford and west to Globe/Miami, and serves the Reservation districts of San Carlos, Gilson Wash, Seven Mile Wash, Peridot, and Bylas.

Apache Transit is administered by the department called “Nnee Bich’o Nii,” “Helping the People” in Apache. The same department administers the Tribe’s Temporary Assistance for Needy Families (TANF) program.

The Tribe supports its transit program with Tribal Transit Program funds, Section 5311 funds administered by the Arizona Department of Transportation (ADOT), contract revenue, TANF funds, and in-kind. No tribal funds support the program. The Tribe elects to be the direct recipient of ADOT-administered Section 5311 funds.

Of its total fiscal year 2019 capital and operating budget of \$2,336,167, \$350,282 is in-kind and \$93,163 is TANF funds.

In-kind includes indirect costs and volunteer labor, primarily from the Tribe’s TANF program’s Employment Training Project. The TANF Program allows recipients to use the funds as match for federal awards. The Tribe, which has an indirect cost rate agreement with the US Department of the Interior, does not seek reimbursement for all indirect costs from the FTA awards so it is able to use uncharged indirect costs as in-kind. The TANF Program has developed a training project for TANF participants to gain work experience with various departments and projects, including Transit. Transit uses training program participants to clean

and maintain vehicles, facilities, and grounds in good working order, and perform non-confidential secretarial and dispatch functions. Training program participants are not paid when they first start receiving training. These participants, when not paid, are required to complete timesheets and a “volunteer form” to track time spent on activities related to the transit program. As the training program participants gain more experience and obtain a certain level of required skills, they will be compensated for their work with TANF funds and the time is no longer used as in-kind.

The Tribe overcame several challenges when developing the use of in-kind for its transit program. Tribal accounting rules require a separate budget for each award resulting in six separate transit budgets. To effectively manage the individual award budgets and in-kind, the Tribe develops and maintains a master transit budget which enables it to track and manage the revenues and expenses of the whole transit program. The Tribe needed to determine which costs, such as insurance, were paid directly and which were in the indirect cost pool so as not to double charge the FTA awards. The Tribe developed a record-keeping system to track in-kind outside the accounting system. Transit staff also educated the finance department and treasurer on the use of in-kind.

### 6.7. Intercity Bus

A segment of intercity bus service operated by a private intercity bus provider that is not subsidized by FTA can be used as in-kind for intercity feeder service. The FTA-assisted project must be defined as including both the feeder service and an unsubsidized segment of the intercity bus network to which it connects, the “connecting service.” Farebox revenue of the privately-operated intercity bus service may not be used as match to FTA awards. Refer to Sections VIII.5.d. and VIII.5.e. of FTA Circular 9040.1G *Formula Grants for Rural Areas: Program Guidance and Application Instructions* for guidance on calculating the eligible net project cost to operate the private service allowable as in-kind.

The private operator must:

- Agree in writing to the use of its costs for the unsubsidized segment of intercity bus service as an in-kind match
- Provide documentation of the costs of the connecting service

The state should confirm with the private operator that the connecting service is not used as in-kind match for other feeder service.

The net project cost to operate the connecting service is the amount of available in-kind costs. Only the cost of the days the feeder service operates can be used.

### Case Study: West Virginia Department of Transportation

The West Virginia Department of Transportation Division of Public Transit (DPT) uses unsubsidized connecting intercity bus service operated by Greyhound Lines, Inc. as in-kind for intercity feeder service. The feeder service operates along Interstate 77 (I-77) between Charleston and Parkersburg, West Virginia, and along I-79 between Charleston and Morgantown, West Virginia, and serves rural communities along the route. In Charleston, the service connects to Amtrak and to Greyhound service north to Detroit, Michigan, and south to Jacksonville, Florida. The I-77 service continues to Cleveland, Ohio. It feeds connections to interlined service in Parkersburg, West Virginia, and Cambridge and Cleveland, Ohio. In Morgantown, West Virginia, the I-79 service feeds interlined service to Pittsburgh, Pennsylvania, and Washington, DC. Other Section 5311-funded service, though not classified as intercity bus service, connects to the service.

The feeder service is operated by Barons Bus, a private for-profit intercity bus operator, as a subrecipient. The connecting service is operated by Greyhound. The feeder service is “interlined” with Greyhound, that is, the service appears in Greyhound’s reservation system and a rider can purchase a ticket for the whole trip, including the feeder service. Barons Bus uses the Greyhound ticketing system. Data are provided through a third-party platform that allows seamless ticketing across intercity bus providers. Reservations and ticketing are seamless both from the Barons Bus and Greyhound websites, a great convenience for riders. Riders can also purchase tickets at staffed Barons Bus and Greyhound stations.

The I-79 service is branded as I-Ride 79 and the buses are wrapped. The I-77 service is branded as Barons Bus.

The I-79 service started with one round trip originating in Charleston. Now two round trips operate, originating in Charleston and Morgantown.

Annually, the DPT sends a notice that applications for intercity bus service are available to Barons Bus, Greyhound, American Bus Association (ABA), and United Bus Operators of America (UBOA), and posts a notice on its website. DPT coordinates its intercity bus efforts with the adjacent states of Ohio, Maryland, Pennsylvania, and Virginia.

Barons Bus, as the subrecipient of Section 5311(f) funds, works with Greyhound to develop the schedules and to identify in-kind match. In its application to DPT, Barons Bus describes the feeder and connecting service, identifies the locations served by each, and provides the cost of the connecting service which is used as in-kind. Only those Greyhound runs that connect with the feeder service are used. DPT uploads the information provided by Barons Bus to its application to FTA.

## 6.8. Vanpool Credits

A recipient may use as in-kind for the acquisition of rolling stock the capital costs of private vanpools when the recipient enters into an agreement that specifies the private provider will use the rolling stock in the recipient's service area. FTA defines a "private provider of public transportation by vanpool" as a private entity providing vanpool services in the service area of a recipient using a commuter highway vehicle or vanpool vehicle. "Commuter highway vehicle" and "vanpool vehicle" are vehicles with seating capacity for at least six adults (not including the driver); and at least 80 percent of the mileage used can be reasonably expected to be for the purposes of transporting commuters in connection with travel between their residences and their places of employment. The private provider and the recipient enter into an agreement that specifies that the private provider will use the rolling stock in the recipient's service area.

For vehicles that are privately owned, the recipient calculates the local match by applying straight-line depreciation beginning on the date the van was first used in the program and subtracting any federal, state, or local participation. For vehicles leased from a third party, the capital cost of contracting at 50 percent of the lease payment can be used as local match less any federal, state, or local participation. The recipient lists the match as Transportation Development Credits (TDCs) in its application to FTA.

Only the net project cost can be used as a credit toward the local match. To calculate the net project costs, the recipient must subtract the FTA-funded project costs of operating the program from the credit. So, if the recipient uses \$50,000 in operating assistance to administer the program, it must subtract \$100,000 (\$50,000 FTA plus \$50,000 local match, the total cost of the FTA-funded project) from the credit. The balance can be used as the credit.

In addition to details on how the amount credited is calculated, FTA requires the following information:

- Year of purchase
- Vehicle identification number (VIN)
- Certified statement to verify that the van is being used in the recipient's service area

The recipient gains an extra benefit if the vanpool operating data are reported to the National Transit Database (NTD) as doing so will increase the amount of FTA funds apportioned to the urbanized area.

### Case Study: Potomac Rappahannock Transportation Commission

The Potomac Rappahannock Transportation Commission (dba OMNIRIDE) uses the capital cost of vanpool acquisitions and leases by private providers of vanpools as "credits" for capital projects.

An extensive network of privately-operated vanpools operates in Northern Virginia. In July 2012, OMNIRIDE, the Northern Virginia Transportation Commission (NVTC), and the George Washington Regional Commission (GWRC) established the Northern Virginia Vanpool Incentive Program, which does business as the Vanpool Alliance, to support vanpools operating on interstates 66 and 95. The objectives of the program are to:

- Increase vanpooling in Northern Virginia
- Provide governmental assistance in the form of marketing, compiling vanpool rates, providing ride-matching services, and providing a monthly payment to each vanpool owner/ operator as a consideration for assembling and submitting statistical data for NTD reporting
- Increase FTA formula earnings for the program sponsors

The use of credits from the vanpool program was an unanticipated additional benefit of starting the program.

The Virginia Department of Rail and Public Transportation (VDRPT) provided \$1.605 million of matched USDOT Congestion Mitigation Air Quality (CMAQ) and USDOT Regional Surface Transportation Program (RSTP), as well as \$1.5 million residual VDRPT Transportation Efficiency Improvement Fund (TEIF) funds needing 50 percent match and \$0.312 million of 100 percent state funding as seed money. The match was provided by OMNIRIDE and NVTC, which were paid back as the program generated additional apportionment.

OMNIRIDE administers the program with a staff of three. Two positions are funded by OMNIRIDE. One position, which is focused on vanpools in the I-66 corridor during the current construction project, is paid by the state. The vanpool software allows for ride-matching. OMNIRIDE also uses the rideshare matching service, Commuter Connections, run by the Metropolitan Washington Council of Governments. The current budget for the program is approximately \$1.6 million a year. OMNIRIDE uses local funds to administer the program, enabling the use of 100 percent of the vanpool credits to be used as match for FTA capital awards.

A program advisory board of staff of the three commissions meets twice a year to develop the annual budget and review program products, administrative rules, and revenue calculations.

Currently, over 400 vanpools participate in the program. OMNIRIDE recruits participants through radio, wrapped vans, fairs, and the Vanpool Alliance and OMNIRIDE websites.

A vanpool driver receives \$200 a month if data for the annual NTD report are reported. Vanpool drivers along I-66 drivers receive an additional \$200 to promote vanpool use during reconstruction of the roadway. Drivers have direct access to on-line reporting software.

In 2015, OMNIRIDE started filing data for the vanpool program to NTD. In 2016, vanpool operations provided 62 million passenger miles at an operating cost of \$6.9 million.

OMNIRIDE has an inventory of van operators that participate in the Vanpool Alliance. For vans that are owned by the vanpool drivers, depreciation is the match. OMNIRIDE uses straight-line depreciation over the useful life of the vehicle as defined by FTA (four years). For the leased vans, OMNIRIDE uses the capital cost of contracting for turnkey contracts (50 percent). The vanpool program provides approximately \$2 million a year in potential credits.

To date, OMNIRIDE has used credits for the purchase of six replacement over-the-road coaches for use in commuter service. Fredericksburg Regional Transit will use the GWRC share of the vanpool program apportionment and credits to buy buses.

Because of the success of the program, VDRPT is setting up a vanpool program that will enable other areas of the state to benefit from the credits and apportionments.

As OMNIRIDE was one of the first recipients to take advantage of vanpool credits, it worked with FTA for two years before submitting its first application with credits to determine what projects the credits could be used for and how to treat depreciation and lease payments. OMNIRIDE also experienced challenges in setting up NTD reporting. Originally, NTD wanted the 400 vanpool providers to report individually. Eventually, NTD allowed OMNIRIDE to file one report for the all the providers. An additional challenge for OMNIRIDE was settling on a formula to allocate the vanpool program apportionment and credits between the three commissions.

In addition to the vanpool credits, the vanpool program has increased the amount of Sections 5307 and 5339 funds apportioned to OMNIRIDE and the other two commissions. The vanpool program provides OMNIRIDE a greater apportionment of Sections 5307 and 5339 funds than its own operations.

### 6.9. Travel Expenses

Travel costs can be used as in-kind, permitted they are reasonable, necessary to the federal award, and consistent with the agency's travel policy. The Uniform Guidance identifies allowable travel costs as expenses for transportation, lodging, and subsistence (i.e., meals and incidentals). Travelers may charge actual meal expenses or a per diem based on agency policy. If the agency does not have a written travel policy, the rates for business mileage established by the federal government (that is, the U.S. Code, General Services Administration, or Internal Revenue Service) may be used for determining the eligible cost for vehicle miles driven.



## 7. What are source documents for this handbook?

This handbook provides compliance guidance on using in-kind as match through explanation of federal regulations and case studies of real-world examples. The guidance is based on the following list of federal regulations and guidance related to use of in-kind match:

- Title 2 of the U.S. Code of Federal Regulations, Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*
- Title 42 of the U.S. Code, Sections 4601 to 4655, *Uniform Relocation Assistance and Real Property Acquisition Policies for Federal and Federally Assisted Programs*
- FTA Circular 5010.1E, *Award Management Requirements*
- FTA Circular 9040.1G *Formula Grants for Rural Areas: Program Guidance and Application Instructions*