Expires – Upon Issuance of LPP

Use of Toll Credits in Lieu of Non-Federal Share Match for Local Assistance Federal-aid Highway Projects (Revised July 22, 2010)

Superseded by LPP 12-01

I. BACKGROUND

Federal-aid highway projects typically require the project sponsors to provide certain amount of non-federal funds as match to the federal funds. For example, Surface Transportation Program (STP) funded projects require a minimum of 11.47% of non-federal match funds. Through the use of toll-credits, the non-federal share match requirement can be met by applying an equal amount of toll credit and therefore allow a project to be funded with up to 100% federal funds for federally participating costs.

The statutory authority for the use of toll credit was first established in Section 1044 of ISTEA that permitted the use of certain *toll* revenue expenditures as a *credit* toward the non-Federal matching share of all programs authorized by ISTEA and Title 23, thus the term "Toll Credit". Section 1111(c) of TEA-21 incorporated into 23 United States Code (USC) 120(j) toll credit provisions initially set forth in ISTEA. This provision allows the federal obligation to be increased up to 100 percent of project costs to the extent that credits are available.

The amount of credit a state can earn is determined by the amount of toll revenue used for capital expenditures to build or improve public highway facilities. Once a credit amount is appropriately established, this credit will remain available until used by the state. The state is required to track the use of toll credit on a project-by-project basis and report such use to Federal Highway Administration (FHWA) on a regular basis.

The California Department of Transportation (Caltrans) recently received a conditional approval from the FHWA for $5.7 billion of toll credit. Caltrans is starting a two-year demonstration toll credit program. Caltrans' Division of Budgets has issued a statewide "Toll Credit Use Policy". At this point, toll credit can be used on all federal-aid highway funding programs, except Emergency Relief (ER) Program, Local Safety Programs, and Local On-system Highway Bridge Program (HBP) projects. The limit of toll credit use on Safety program projects and On-system HBP projects is due to the fact that all available funds have been fully programmed. Although FTA transfers are eligible to use toll credit, a tracking system acceptable to both FHWA and FTA will need to be established before toll credit can be used on FTA transfers.

This Office Bulletin prescribes Division of Local Assistance's implementing procedures for the use of toll credit on federally funded Local Assistance projects.

II. POLICY

It needs to be noted that the use of toll credits does not generate any additional federal funding. Its use is merely to meet the non-federal match requirement of the federal participating cost. As such, when toll credit is used in lieu of the non-federal share cash match, it will help those projects that would otherwise be delayed for the lack of matching funds. The amount of toll credit a state can use each year is limited by the amount of annual Federal Obligation Authority (OA). It is also important to point out that one of the conditions for FHWA's approval of toll credit is that its use does not reduce the state's non-federal

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transportation capital expenditures. To meet this requirement, California must demonstrate continued efforts to maintain its non-federal transportation expenditure. While this is done on a statewide basis, it is important that the project sponsors do not redirect local transportation funds intended for non-federal match to other purposes not related to transportation.

Toll credits can be used in any phase of a federal-aid projects, Preliminary Engineering, Right of Way, or Construction, as long as that phase of work has not been authorized. FHWA policy does not allow the retroactive use of toll credit on a phase of work that has received federal authorization. However, subsequent phases can be authorized to use toll credit.

In order to use toll credit, a project must meet the following requirements:

- The intended use of toll credit is explicitly expressed in the Request for Authorization (RFA) to proceed by marking the appropriate toll credit use area;
- Indicate the use of toll credit in the Remarks of the signed project Finance Letter;
- Be fully funded at the maximum allowable federal reimbursement rate, excluding federally non-participating costs;
- Properly programmed in the current Federal Statewide Transportation Improvement Program (FSTIP) as using toll credits;
- The project is funded with funds from one of the programs listed in Caltrans' Statewide Toll Credit Use Policy.

III. PROCEDURE

Section 120(j) of 23 USC allows the use of toll credits on federal-aid highway projects to receive up to 100% in Federal reimbursements for participating work. Consequently, the non-federal matching requirement for a project no longer has to be met with non-federal funds.

The following examples demonstrate how the use of toll credit is different than the normal federal-nonfederal match funding.

Scenario A – Traditional Project Funding with Match

For a project with a total cost of $120,000 including $20,000 of federally non-participating costs ($100,000 federally participating) using a federal reimbursement rate of 88.53%, the funding plan would normally be as indicated in the following Table 1.

Table 1 – Normal Funding

Prog Code	Total Cost	Participating Cost	Federal Funds	Non-Federal Funds	Toll Credit
L240	$120,000.00	$100,000.00	$88,530.00	$31,470.00	$0.00

The Federal Fund amount required in this scenario is 88.53% of the Participating Cost and the non-Federal Funding amount is equal to the Non-Participating amount plus the required 11.47% Non-Federal match.

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Scenario B – Toll Credit Funding

When toll credit is being applied to the project, it will be used as a credit toward the non-federal share or $11,470. Since toll credits are not federal funds, federal share must be increased to accommodate the reduction of Non-Federal funds resulting from the toll credit being used as indicated in the following Table 2.

Table 2 – Use Toll Credit

Prog Code	Total Cost	Participating Cost	Federal Funds	Non-Federal Funds	Toll Credit
L240	$120,000.00	$100,000.00	$100,000.00	$20,000.00	$11,470.00

The federal fund amount required is changed from $88,530 to $100,000, the total Participating Cost, and the non-federal funding amount is equal to the Non-Participating amount.

The various Requests for Authorization (RFA) to proceed forms have been updated to include checkboxes for the use of toll credit and are made a part of this Office Bulletin.

Local Agencies:

- Work with the respective Metropolitan Planning Organization (MPO) to ensure the use of toll credit is appropriate and that such use is properly programmed in the MPO's Federal Transportation Improvement Program (FTIP), and subsequently in the FSTIP;
- Submit RFA and Finance Letter indicating the use of toll credit for the project; Federal funds must equal to 100% of the total participating costs. Include a comment in the Remarks Section of the Finance letter for the use of Toll Credit;
- After receiving Authorization to Proceed and executed Program Supplemental Agreement or State signed Finance Letter, invoices for eligible costs may be billed at up to 100%.

Caltrans District Local Assistance Engineers and HQ Area Engineers:

- Perform normal review to ensure accuracy and completeness of the RFA;
- Enter RFA information into FADS;
- When the RFA and Local Agency signed Finance Letter indicate the use of Toll Credit,
    - Indicate the use of toll credit in the Remark Section of LP2000 Finance Letter.
    - Make "(TC)" to be the last four characters of the "Type of Work" Field on the Fund Sum Screen of FADS. This will allow easier identification of toll credit projects in FADS reporting.

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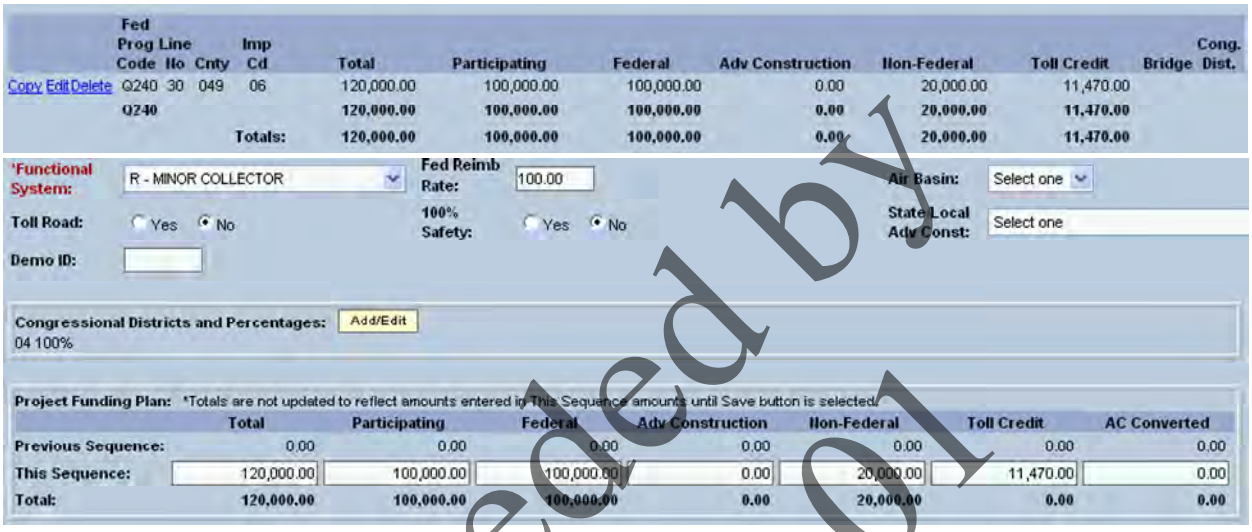
- Enter the amount of toll credit, calculated as 11.47% (STP, HBP, or CMAQ programs) of the total Participating Cost, into the "Toll Credit" Field on Fund Detail Screen of FADS
- Include a special remark in the State Comment Field to indicate the use of toll credit use for the project, e.g., "This project will use toll credit in-lieu of non-federal match, resulting in federal reimbursement rate of 100%."



	Fed Prog Code	Line No	Cnty	Imp Cd	Total	Participating	Federal	Adv Construction	Non-Federal	Toll Credit	Bridge	Cong. Dist.
Copy Edit Delete	Q240	30	049	06	120,000.00	100,000.00	100,000.00	0.00	20,000.00	11,470.00		
	Q240				120,000.00	100,000.00	100,000.00	0.00	20,000.00	11,470.00		
				Totals:	120,000.00	100,000.00	100,000.00	0.00	20,000.00	11,470.00		

*Functional System: R - MINOR COLLECTOR
Fed Reimb Rate: 100.00
Air Basin: Select one
Toll Road: Yes No
100% Safety: Yes No
State Local Adv Const: Select one
Demo ID:

Congressional Districts and Percentages: Add/Edit
04 100%

Project Funding Plan: *Totals are not updated to reflect amounts entered in This Sequence amounts until Save button is selected.

	Total	Participating	Federal	Adv Construction	Non-Federal	Toll Credit	AC Converted
Previous Sequence:	0.00	0.00	0.00	0.00	0.00	0.00	0.00
This Sequence:	120,000.00	100,000.00	100,000.00	0.00	20,000.00	11,470.00	0.00
Total:	120,000.00	100,000.00	100,000.00	0.00	20,000.00	0.00	0.00

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Local Program Accounting:

Review and make payments on project invoices at the reimbursement rate of up to 100% as indicated on the State approved Finance Letter on projects using toll credit.

FTA Transfer Requests

Although FTA transfers are eligible to use toll credit, a tracking system acceptable to both FHWA and FTA will need to be established before toll credit can be used on FTA transfers.

IV. APPLICABILITY/IMPACTS

This will impact all Local Agency federal-aid transportation projects proposed to use toll credit.

Approved: Original Signed By — 7/22/2010
Ray Zhang, Chief — Date
Office of Project Implementation South

Approved: Original Signed By — 7/22/2010
Bill Sandoval, Chief — Date
Office of Project Implementation North

ATTACHMENT: Various Requests for Authorization Forms

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