



FEDERAL FUND EXCHANGE PROGRAM GUIDELINES

Program Description

The federal fund exchange program is a voluntary program that allows a local public agency (LPA) to trade all or a portion of its federal fund allocations in a specific federal fiscal year with the Kansas Department of Transportation (KDOT) in exchange for state transportation dollars or with another LPA in exchange for their local funds.

Eligible Participants

Only LPAs that are eligible to receive a federal funding allocation may participate in the federal fund exchange program. Eligible LPAs include all counties in the state and cities with population greater than 5,000 that are not located in a Transportation Management Area (TMA). Currently the only TMAs in Kansas are the Mid America Regional Council (MARC – Kansas City Region) and the Wichita Area Metropolitan Planning Organization (WAMPO).

Participation in the program is optional. An eligible LPA may choose to exchange its federal funds or it may use the funds to develop a federal-aid project following the established procedures.

Federal Fund Distribution

A portion of the federal-aid transportation dollars that are made available to the State of Kansas are shared with LPAs. The majority of this “pass-through” of federal funds is comprised of the Surface Transportation Program (STP). The funds under this category are distributed to cities and counties based on federal law, state statute, or the policy of the KDOT. Following is a brief summary of the methods of distribution of the federal funds.

Counties

STP funds are allocated to each of the counties in the state in accordance with KSA 68-402(b), which provides that the distribution to each county be in the same proportion as the Special City and County Highway Fund and the County Equalization and Adjustment Fund. Factors that determine this distribution are number of vehicle registrations, total miles of roads, and estimated average daily vehicle miles traveled in a county.

Small Urban (Cities not in a TMA with population greater than 5,000)

Federal STP funds that are made available for the small urban cities are distributed to each city in proportion to its population relative to the total population of all eligible cities.

Off-System Bridge Program

Federal law and regulations established under MAP-21 require that not less than 15 percent of a state's apportionment of BR funds in FFY 2009 be used for replacement or rehabilitation of eligible bridges located on roads that are not on the federal-aid system. To comply with this requirement, KDOT has established a Federal-Aid Off-System Bridge Program. The federal funds for this competitive program are set aside prior to distribution of the remainder to eligible LPAs.

Exchange Rate

The exchange rate for the program is \$0.90 of state funds for every \$1.00 of local federal obligation authority exchanged.

Available Funds

In general, KDOT will determine the amount of state funds available for exchange annually at the time the federal funding is confirmed for a federal fiscal year. KDOT may conduct more frequent reviews of available funding when necessary as a result of funding or budgetary considerations.

Allowable Uses of State Funds

The LPA is required to use the state funds for specific types of transportation improvement projects. This program allows a wider variety of projects and ranges of scope than the federal-aid program would permit. Acceptable project scopes include but are not limited to the following.

- Roadway construction, reconstruction, or rehabilitation.
- Pavement preservation including overlay, mill/overlay, chip and seal, pavement patching, or crack sealing.
- Purchase of aggregate to be placed exclusively on a specific section(s) of public road by LPA forces.

- Safety improvements including signing, traffic signals, pavement marking, removal of roadside obstacles, installation or upgrade of guardrails, or installation of turn lanes.
- Installation of erosion protection measures in roadside ditches or around drainage structures.
- Construction or reconstruction of sidewalks, ADA ramps, or pedestrian signals.
- Replacement of deteriorated curb and gutter.
- Storm sewer repairs to restore or enhance positive drainage.
- Bridge construction or replacement.
- Bridge rehabilitation or repair.
- Bridge painting.
- Bridge removal.
- Construction of low-water crossings.
- Improvements to transit or other multi-modal systems

The state funds may be used for all phases of a project. These include, but are not limited to: 1) preliminary engineering; 2) right-of-way acquisition; 3) utility relocations; 4) construction; and 5) construction inspection.

When work is performed by the LPA's forces, the cost of labor, equipment, material and supplies are eligible for reimbursement. No reimbursement shall be made for costs of mobilization, depreciation, profit or overhead. The LPA will be required to provide detailed work records documenting the actual costs incurred for labor and equipment provided by the LPA. Reimbursable equipment rates used by the LPA shall not exceed the KDOT equipment rates compiled periodically by KDOT's Bureau of Maintenance unless approved prior to construction.

The LPA may develop the project following its own procedures, criteria, and standards. All work performed shall be consistent with the Kansas Statutes, applicable regulations, and normal engineering practices for the work being done. Any work performed on the state highway or city connecting link will require coordination with the local KDOT Area Office.

Although funds may be "stockpiled" at KDOT for up to 3 years in order to accumulate sufficient dollars for a project, it is strongly discouraged. KDOT prefers that the LPAs "stockpile" funds locally after being reimbursed for work by this program. An LPA that chooses to stockpile funds at KDOT will be required to have project(s) to use the stockpiled funds underway in order to exchange a fourth year of funding unless approval is obtained from KDOT based on special considerations.

Fund Exchange Agreement

Upon approval, KDOT and the LPA will enter into a master agreement for the exchange of funds. This agreement will outline the terms and method for payment of the state funds to the

LPA, any limitations that may apply to the use of these funds, and the specific responsibilities of each party. Attachment #1 is a sample federal fund exchange master agreement.

Application

An LPA that wishes to exchange its federal funds will submit to the KDOT Bureau of Local Projects a “Request to Exchange Federal Funds” outlining the amount of federal funds the LPA wants to exchange, and providing the contact information for the person designated to be the main contact for the LPA. Attachment #2 is a sample “Request to Exchange Federal Funds”.

Payment of State Funds

State fund exchange dollars will be paid to the LPA on a reimbursement basis up to the maximum amount as determined by KDOT. The LPA will need to submit to KDOT a request for reimbursement (see Attachment #3) that includes appropriate documentation for the expense. A request for reimbursement may be submitted at the completion of the project, or progress payments may be made during the development and construction of the project and as the LPA expends dollars. Expenses for any project that are incurred after the maximum dollar amount is reached will be the responsibility of the LPA.

Final Review

Upon completion of the project, the LPA will notify KDOT Bureau of Local Projects. KDOT staff may perform a final review of the project to confirm compliance with the terms of the agreement.

Questions

Any questions regarding the Federal Fund Exchange Program should be directed to the KDOT Bureau of Local Projects at (785)296-3861 or at KDOT’s toll-free number, 1-877-550-5368. As an alternative you may email us at Lpeplans@ksdot.org.

FUND EXCHANGE MASTER
 \ _____ COUNTY, KANSAS

**FEDERAL-AID
FUND EXCHANGE
MASTER AGREEMENT**

This MASTER AGREEMENT is between _____, the **Secretary of Transportation**, Kansas Department of Transportation (KDOT) (the “Secretary”) and _____ **COUNTY, Kansas** (the “County”), **collectively**, the “Parties.”

RECITALS:

- A. The Secretary has authorized a Federal Fund Exchange Program under which local units of government may exchange some or all of the Federal Funds allotment by KDOT to the local unit in a specific federal fiscal year for State Funds allocated to the Secretary.
- B. The County desires to exchange all or a portion of the County’s annual allotment of Federal Funds for State Funds at the Exchange Rate or to bank all or a portion of its annual allotment, such amount to be used in the future for either a Federal-Aid Project or exchanged for State Funds at the Exchange Rate.
- C. The Secretary and the County are empowered by the laws of Kansas to enter into agreements incident to the financing, construction, and maintenance of county roads utilizing federal or state funds.
- D. The Parties have determined the Federal Fund Exchange Program would be most efficiently administered under this Master Agreement.

NOW, THEREFORE, the Parties agree as follows:

ARTICLE I

DEFINITIONS:

As used in this Agreement, the capitalized terms below have the following meanings:

- 1. **“Agreement”** means this written document, including all attachments and exhibits, evidencing the legally binding terms and conditions of the agreement between the Parties.
- 2. **“Banked Funds”** means the County’s annual allotment of Federal Funds which the County has decided to use in the future for either a Federal-Aid Project or to be exchanged for State Funds.
- 3. **“County”** means the \ _____ County, Kansas.

4. **“Effective Date”** means the date this Agreement is signed by the Secretary or his designee.
5. **“Exchange Rate”** means the exchange of Federal Funds allotment for State Funds at a rate of ninety percent (90%) of State Funds for one hundred percent (100%) of local federal obligation authority for costs incurred pursuant to this Agreement, on a reimbursement basis.
6. **“Exchanged Funds”** means the funds from the County’s annual allotment of Federal Funds exchanged for State Funds at the Exchange Rate.
7. **“Exchanged Portion”** means a portion of funds from the County’s annual allotment of Federal Funds exchanged for State Funds.
8. **“Federal Funds”** means federal-aid transportation funds, including Surface Transportation Program funds, for use on state and local federal-aid transportation projects.
9. **“Fund Exchange Request”** means the attached form “Attachment A” which is submitted by the County to KDOT to request the exchange of Federal Funds for State Funds in any given year, and the terms of which are incorporated herein by reference.
10. **“KDOT”** means the Kansas Department of Transportation, an agency of the state of Kansas, with its principal place of business located at 700 SW Harrison Street, Topeka, KS, 66603-3745.
11. **“Parties”** means the Secretary and KDOT, individually and collectively, and the County.
12. **“Secretary”** means _____, the Secretary of Transportation of the state of Kansas, and his or her successors and assigns.
13. **“State Funds”** means State of Kansas transportation funds.

ARTICLE II

TERMS OF AGREEMENT:

1. **Secretary Authorization.** The Secretary is authorized by the County to take such steps as are deemed by the Secretary to be necessary or advisable for the purpose of securing the benefits of the current Federal-Aid Transportation Act for this exchange.
2. **Incorporation of Program Application.** The County will submit a Fund Exchange Request when it desires to exchange its Federal Funds. The Fund Exchange Request will be incorporated into and made a part of this Agreement for all purposes.
3. **Exchange of Funds.**

- (a) When the County submits a Fund Exchange Request to use the Banked Funds for a Federal-Aid Project, the Secretary will apply one hundred percent (100%) of the requested amount to said project, up to the amount indicated on the Fund Exchange Request.
- (b) When the County submits a Fund Exchange Request, to use the Exchanged or Banked Funds pursuant to the Federal Fund Exchange Program, the following terms will apply to the exchange:
 - (i) The County authorizes the Secretary to retain and use the Exchanged Portion of the County's annual allotment of Federal Funds for the federal fiscal year indicated in the Fund Exchange Request in exchange for State Funds at the Exchange Rate.
 - (ii) The Secretary shall reimburse the County, with State Funds, for one hundred percent (100%) of costs incurred pursuant to this Agreement, up to ninety percent (90%) of the amount of funds as indicated on the Fund Exchange Request. All costs incurred in excess of the fund exchange amount will be the sole responsibility of the County.
 - (iii) Any State Funds exchanged pursuant to this Agreement may be carried over in the next federal fiscal year by the County. Banking of Exchanged Funds is limited to three (3) consecutive fiscal years, unless written approval is obtained from the Secretary.
 - (iv) The County understands that the Secretary may use the retained Federal Funds exchanged by the County for any federally eligible purpose or project within the State.
 - (v) The Secretary will make partial payments to the County for amounts not less than \$1,000 and no more frequently than monthly. Such payments will be made after receipt of proper billing showing costs paid by the County and any reimbursement form required by KDOT.

4. **Limitations on Use of State Funds.**

- (a) The County shall not deposit the exchanged State Funds into the operating budget for the County.
- (b) The County shall use the State Funds exchanged pursuant to this Agreement for:
 - (i) transportation projects, as approved by the Secretary, which are eligible under KDOT's Federal Fund Exchange Guidelines; and

- (ii) for all phases of approved transportation project(s) including, but not limited to preliminary engineering, right of way acquisition, utility relocation, construction and inspection.
 - (c) Upon completion of the transportation project, the County shall notify Secretary and allow the Secretary to participate in a final review of the project. Reviews by the Secretary are not done for the benefit of the County or its contractors, or agents, or other political subdivision, or the traveling public. The Secretary makes no representation, express or implied warranty to any person or entity concerning the adequacy or accuracy of the design plans, specifications, estimates, surveys, and any necessary investigations or studies, including, but not limited to, environmental, hydraulic, and geological investigations or studies for the Project, or any other work performed by the County.
5. **Availability of State Funds.** The total dollars exchanged under this Agreement are contingent upon the availability of State Funds. If, in the judgment of the Secretary, sufficient State Funds are not appropriated to continue the function performed in this Agreement, the Secretary may terminate this Agreement without further notice. The Secretary will not be responsible to the County for any reduction in State Funds.
 6. **Availability of Federal Funds.** The total dollars exchanged under this Agreement are also contingent upon the availability of Federal Funds. If, due to Congressional funding restrictions, sufficient Federal Funds have not been allocated to the County, the Secretary shall exchange funds in the amount available.
 7. **Audit.** The County will participate and cooperate with the Secretary in an audit which will occur either annually or by project. The County shall make its records and books available to representatives of the Secretary for audit for a period of five (5) years after date of final payment under this Agreement. If any such audits reveal payments have been made with State Funds to the County for items considered non-participating, the County shall promptly reimburse Secretary for such items upon notification by Secretary.
 8. **Compliance with Federal and State Laws.** The County shall comply with all applicable federal, state, and local laws, regulations, executive orders, and ordinances governing the projects undertaken pursuant to this Agreement.
 9. **Legal Authority.** The County shall adopt all necessary ordinances and/or resolutions and take such administrative or legal steps as may be required to give full effect to the terms of this Agreement.
 10. **Indemnification.** To the extent permitted by law, the County agrees to defend, indemnify, hold harmless, and save the Secretary and his or her authorized representatives from any and all costs, liabilities, expenses, suits, judgments, damages to persons or property or claims of any nature whatsoever arising out of or in connection with the provisions or performance of this Agreement by the County or the County's employees.

ARTICLE III

GENERAL PROVISIONS:

1. **Civil Rights Act.** The “Special Attachment No. 1,” pertaining to the implementation of the Civil Rights Act of 1964, is attached and made a part of this Agreement.
2. **Contractual Provisions.** The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 06-12), which is attached hereto, are hereby incorporated in this contract and made a part thereof.
3. **Binding Agreement.** This Agreement and all contracts entered into under the provisions of this Agreement shall be binding upon the Secretary and the County and their successors in office.
4. **No Third Party Beneficiaries.** No third party beneficiaries are intended to be created by this Agreement, nor do the parties herein authorize anyone not a party to this Agreement to maintain a suit for damages pursuant to the terms or provisions of this Agreement.
5. **Headings.** The captions of the various articles and sections of this Agreement are for convenience and ease of reference only, and do not alter the terms and conditions of any part or parts of this Agreement.
6. **Effective Date.** This Agreement will become effective as of the date signed by the Secretary or his designee.

The signature page immediately follows this paragraph.

IN WITNESS WHEREOF the Parties have caused this Agreement to be signed by their duly authorized officers as of the Effective Date.

ATTEST: \ _____ COUNTY, KANSAS

COUNTY CLERK (Date)

(SEAL)

CHAIRPERSON

MEMBER

MEMBER

Kansas Department of Transportation
_____, Secretary of Transportation

By: _____
Catherine M. Patrick, P.E. (Date)
State Transportation Engineer



**KANSAS DEPARTMENT OF TRANSPORTATION
BUREAU OF LOCAL PROJECTS
REQUEST TO EXCHANGE FEDERAL FUNDS UNDER THE FEDERAL-AID FUND
EXCHANGE MASTER AGREEMENT**

Date: _____

County/City: _____

Federal Funds to Be Exchanged: _____

The Secretary of Transportation is hereby requested to make available to the city/county State Funds in exchange for the city's/county's allotment of Federal Funds in the amount stated above. The Exchange will be made under the Terms and Conditions as set forth in the city/county's Federal Fund Exchange Master Agreement previously executed between the city/county and the Secretary. This request shall be attached to and become a part of the city/county's Federal Funds Exchange Agreement.

Contact Person: _____ Title: _____

Address: _____

Phone: _____ Email: _____

*Signature** *Date*

Typed or Printed Name

Title

**The representative signing this request must be authorized by law to bind the city/county to an agreement.*



KANSAS DEPARTMENT OF TRANSPORTATION
Federal Fund Exchange
Request for Reimbursement

City/County: _____

Date of Request: _____

Description of Work and Location: _____

Project Name: _____

Work begin date: _____

Work completed date: _____

The undersigned officer of the city/county states that (1) the following items, quantities and services of work have been completed and incorporated into the Project and (2) a warrant has been issued by the City/County for the expenses included in this request and the City/County is submitting the request for reimbursement for payment issued, and (3) the same have been approved and paid by the City/County. Therefore reimbursement is hereby requested to be paid in accordance with Federal Fund Exchange Agreement No. _____.

Firm/Supplier	Invoice No.	Description of Services/Materials	Amount
Total amount request			\$ -

Please attach copies of all invoices.

Print Name _____

Signature _____

CITY OR COUNTY OFFICIAL

TITLE