



U.S. Department
of Transportation
**Federal Highway
Administration**

Alaska Division

April 2, 2024

P.O. Box 21648
Juneau, AK 99802-1648
(907) 586-7418
(907) 586-7420
www.fhwa.dot.gov/akdiv

Dom Pannone
Director, Program Management and Administration
Alaska Department of Transportation and Public Facilities
PO Box 112500
Juneau, AK 99811

Subject: Toll Credits Program [23 USC 120(i)]

Dear Mr. Pannone:

The Federal Highway Administration (FHWA) Alaska Division (Division) has received the Alaska Department of Transportation and Public Facilities' (DOT&PF's) March 18, 2024 request to approve Policy and Procedure (P&P) 09.01.110 *Federal Toll Credits* outlining how the DOT&PF will administer the Toll Credit Program in Alaska, consistent with 23 U.S. Code 120(i). The Division has reviewed P&P 09.01.110 and agree it is in substantial conformance with 23 USC 120(i).

We look forward to continue working with you and your staff on future requests for approval of toll credits.


Sincerely,

Emily Haynes
Engineering and Operations Team Leader

Enclosures: P&P 09.01.110 Federal Toll Credits

Cc:

Gerald Varney, P.E., Deputy Division Administrator, FHWA
Julie Jenkins, Finance Manager and Team Lead, FHWA
Peter Forsling, P.E., Structures/Research/Marine Engineer, FHWA
Katherine Keith, Deputy Commissioner, DOT&PF
Elizabeth Dunayski, Accountant V, DOT&PF
Shawn Miller, Accountant IV, DOT&PF

 <p style="text-align: center;">STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES</p> <p style="text-align: center;">Policy and Procedure</p>	POLICY AND PROCEDURE NUMBER 09.01.110	PAGE Page 1 of 8
	EFFECTIVE DATE NEW	
SUBJECT Federal Toll Credits	SUPERSEDES N/A	DATED January 26, 2024
CHAPTER Planning, Budget and Research	SECTION Capital Budget	APPROVED BY PENDING APPROVAL

PURPOSE

Formalize the process of calculating, requesting, and using Toll Credits on FHWA or FTA funded programs and projects.

POLICY

It is the policy of the Department of Transportation and Public Facilities (DOT&PF) to maximize generation, usage, and manage appropriately to all federal requirements, federal toll credits.

Background

Statutory authority for the use of toll credits was originally established in Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) and the mechanism was further developed in 1998 under the Transportation Equity Act for the 21st Century (TEA-21).

Initially, the calculation of toll credits for a particular state was based on capital investments made on toll facilities, such as the Alaska Marine Highway System or the Anton Anderson Memeorial Tunnel, that were built, improved, or maintained *without the use of Federal funds*.

However, that requirement was eliminated under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) of 2005.

Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) funds usually require non-federal matching funds, state or local (state, metropolitan planning organization, local agency, transit agency, etc.). The match share varies by the type of federal funding.

Toll credits are not actual funds but provide a way to satisfy a required state or local match, dollar for dollar. By satisfying the requirement for non-federal matching funds on

a project, the state or entity providing match uses less of its own dollars. However, the state will still need to use non-federal funds to cover federally ineligible or non-participating costs.

Credits may be applied toward the non-federal share of programs authorized by title 23, of the United States Code (U.S.C.) except for FHWA emergency relief funds or Appalachian Development Highway System (ADHS) program funds. Toll credits may also be applied to transit programs authorized by chapter 53 of title 49, U.S.C. and can be used for the non-federal match in any number of funding categories including operations and capital purchases.

PROCEDURE

Responsibility for Management of the Toll Credit Program

The Alaska Department of Transportation & Public Facilities (DOT&PF) is responsible for calculating, tracking, reporting on, and overseeing the earning and usage of Alaska's earned toll credits. Specifically, the Division of Program Management & Administration oversees and coordinates toll credits.

Toll Revenues

Within the state, the Alaska Marine Highway System (AMHS) and the Anton Anderson Memorial Tunnel generate toll revenues. AMHS is funded as a federal highway under 23 USC 218 and serves as a link between coastal communities within Alaska, as well as a link to the contiguous United States. The Anton Anderson Memorial Tunnel serves as an intermodal connector, a necessary road for the Alaska Marine Highway System, as well as a vital link for the traveling public. Our toll credit program will primarily and initially focus on capturing credits earned from reinvestment of AMHS revenues.

Toll Credits

To accrue toll credits the state reinvests those revenues "to build, improve, or maintain highways, bridges, or tunnels that serve the public purpose of interstate commerce." Debt service, toll collection costs, or routine maintenance are not included in the computation.

Toll credits will be claimed only for capital expenditures supported by toll revenues. When toll revenues are combined with Federal, State, or local agency funds to finance a project, those expenditures must be pro-rated by the share of project costs borne by toll revenues when calculating the toll credit. Toll credits will not be used on Emergency Relief projects.

To be able to earn toll credit, the State will utilize maintenance of effort (MOE) alternative 1 in the MOE determination required by 23 U.S.C. § 120(i)(2). For the MOE determination the State will evaluate the non-federal transportation capital expenditures over a four-year period. The expenditures in the last year of the four-year period must exceed the annual average of the expenditures in the preceding three years of the four-year period. The state will also utilize the two-year rule as allowed and when needed in the MOE calculations.

Revenue Collection and Accounting of Tolls (Unrestricted Revenue Earned)

The Alaska Marine Highway System Fund was established July 1, 1990. All revenues generated from the operation of the Alaska Marine Highway System are accounted for and remitted in accordance with Alaska Statute (AS) 19.65.070 which mandates that the money shall be deposited in the Alaska Marine Highway System Fund.

AS 19.65.060 - Fund

- (a) There is created, as a special account in the general fund, the Alaska marine highway system fund, into which shall be deposited
 - (1) the gross revenue of the Alaska marine highway system;*
 - (2) money that is appropriated to the Alaska marine highway system fund by the legislature in an amount that is consistent from year to year and is the amount necessary, after consideration of gross revenue, to provide stable services to the public consistent with the provisions of AS 19.65.050 (b)(4), which appropriations are not one-year appropriations and the balances of which do not lapse under AS 37.25.010; and*
 - (3) any other money that is appropriated to the Alaska marine highway system fund by the legislature, which appropriations are not one-year appropriations and the balances of which do not lapse under AS 37.25.010.**
- (b) Nothing in this chapter exempts money deposited into the Alaska marine highway system fund from the requirements of AS 37.07 (Executive Budget Act) or dedicates that money for a specific purpose.*

AS 19.65.070 - Revenue

- (a) The Alaska marine highway system shall account for and remit to the Department of Revenue in accordance with AS 37.10.050 all gross revenue generated from the operation of the Alaska marine highway system during each annual operating cycle. The money shall then be deposited in the Alaska marine highway system fund.*
- (b) The Alaska marine highway system shall prepare a written report, no later than the 10th day of each regular legislative session, regarding the previous annual operating cycle and notify the legislature that the report is available. The report must identify*

- (1) gross revenue generated during the previous annual operating cycle;
 - (2) gross revenue generated during the current annual operating cycle and an estimate of gross revenue for the remainder of the current annual operating cycle;
 - (3) projections of the gross revenue to be generated during the next annual operating cycle; and
 - (4) the difference between previous gross revenue estimates prepared under this section and the revenues actually generated.
- (c) The Department of Revenue shall prepare a written report, no later than the 10th legislative day of each regular legislative session, regarding the earnings on gross revenue of the Alaska marine highway system that was deposited into the Alaska marine highway system fund during the prior fiscal year and projected earnings on gross revenue of the Alaska marine highway system that is projected to be deposited into the Alaska marine highway system fund for the current fiscal year and the next fiscal year. The Department of Revenue shall notify the legislature that the report is available.

Alaska DOT&PF has created a report showing revenue generated by fare receipts from the AMHS by state fiscal year. The report will be pulled from the state's financial reporting system, the Alaska Data Enterprise Reporting (ALDER) with the following parameters:

- Earned Revenue Postings
- Fund Alaska Marine Highway System Fund 3224 and 3225-AMHS Capitalization
- Revenue Account 6261 for Marine Highway System Fund - Ferry Traffic Receipts

This report will provide all the unrestricted revenue earned by the toll facilities of the Alaska Marine Highway System, as toll revenues, which may include toll receipts and concession sales.

This report is saved in ALDER within the department's folders, under AMHS, titled "AMHS Toll Receipts". The revenue from this report needs to be reported on the MOE Calculation spreadsheet for the Unrestricted Revenue Earned.

Determination of Amount of Credit (Toll Receipts Spent on Capital Projects)

The amount of credit earned is based on toll reinvested toll revenues. That revenue is expended from the Marine Highway System Fund from, with an initial capture of 2016 to 2022. The toll credit amount earned from expenditures for eligible improvement activities paid for entirely without federal funds. Alaska DOT&PF is not incorporating projects that had federal funding in the determination and calculation of credits earned. Alaska DOT&PF has created a report showing toll receipts spent on capital projects through the AMHS fund by state fiscal year. The report will be pulled from ALDER with the following parameters:

- Expenditure Cash Postings
- Fund Alaska Marine Highway System Fund 3224 and 3225-AMHS Capitalization
- Capital Appropriations
- Excluding items include expenditures not in a capital project and unbilled codes used for conversion to the state's new accounting system.

This report provides all toll revenues used on capital projects for AMHS. This report is saved in ALDER under the department folders under AMHS titled "AMHS Credit Calculation". The expenditure from this report needs to be reported on the MOE Calculation spreadsheet for the Toll Receipts Spent on Capital Projects.

State funds Spent on Capital Projects as Match

The amount of state funds spent on capital projects as match is the final figure to calculate the amount of MOE. Capital transportation projects are all projects authorized by the State of Alaska Legislature as a project with a cost exceeding \$10,000 to acquire or improve an asset with an anticipated life exceeding one year and includes land acquisition, construction, repair or structural improvement of a facility, engineering and design for a facility, and acquisition or repair of equipment. Alaska DOT&PF has created a report showing state funds spent on capital projects by state fiscal year. The report will be pulled from the state's reporting system known as ALDER with the following parameters:

- Expenditure Cash Postings
- Capital Appropriations
- State portion of public highways projects - Marine Highways, Federal Highways, State Highways, and Federal Transit Authority
- The calculation excludes projects or parts of projects that are considered operating in nature and unbilled codes used for conversion to the state's new accounting system.

This report provides all state portions of capital project spending for public highway projects. When running this report for future years projects that are operating in nature will need to be evaluated and included on the exclusion filters for the report. This report is saved in ALDER within the department's folders, under AMHS, titled "State MOE Report". The expenditures from this report are entered on the MOE Calculation spreadsheet for the State Funds Spent on Capital Projects as Match.

Maintenance of Effort (MOE)

Alaska uses a four-year period beginning three years prior to the state fiscal year (SFY) with the fourth year being the SFY itself. For the State to meet its MOE requirement, and qualify for toll credits, non-federal transportation capital expenditures in the fourth state fiscal year must be greater than or equal to its annual average of such

expenditures during the three prior state fiscal years. However, if one of the first three fiscal years of the four-year evaluation period has non-federal transportation capital expenditures that exceed 130 percent of the average level of such expenditures for any two of the three fiscal years, then that fiscal year will be excluded from the average. Non-federal transportation capital expenditures in the fourth fiscal year must be greater than or equal to the average of such expenditures for the other two fiscal years to qualify for toll credits.

All necessary data should be in the MOE Calculation spreadsheet and formulas are utilized to calculate the MOE threshold and if the state has passed the MOE requirements.

Use of Toll Credits

Toll credits may be used to meet the non-federal match on capital and operating projects on the state ferry system. This includes the phases known to FHWA as other (for pre-design), preliminary engineering, right of way, and construction. Toll credits are generally not used when a project already has the required match secured. The Division of Program Management & Administration will review and approve use of the toll credits on a project-by-project basis. A special funding code will be utilized for these projects as appropriated by the State of Alaska Legislature. The state reporting system will be utilized to pull reports based on the special funding code. The toll credits will be reported on the project agreement in FMIS under agreement document remarks. The comment added will indicate the use of soft match for toll credit use. Additionally, the toll credit usage will be noted in the project detail as non-monetary in FMIS.

Below, a list of projects on which toll credits, generally, may be used:

- Capital programs for transportation projects: Alaska DOT&PF plans for the use of toll credits in the state's transportation budget to deliver new construction, reconstruction, and preservation capital assets. This includes planning, pre-design, preliminary engineering, right of way, and construction. The goal is to maximize the use of federal and state funds. Specific capital programs generally eligible for toll credit use include:
 - Facilities
 - Ferries
 - Transit Operations
- Operating program projects: Toll credits can generally be used for preventative maintenance and operations work, and for infrastructure work funded by an operating program. Eligible programs include:
 - Ferries
 - Transit Operations
- Data improvement, planning, and research projects.

Reporting Requirements for Earned and Used Toll Credits

There are reporting requirements for the state to earn and use toll credits. The Division of Program Management & Administration will be responsible for obtaining the information for the required reporting by utilizing the reports named in this document as well as reviewing how the data is obtained for the required reporting. As stated above, toll credit usage will be tracked in the state's financial system through naming of state legislative appropriations and specific fund codes attributable to toll credits. Federal reporting requirements for reporting include:

1. **Annual toll credit usage and balance:** By October 31 each year, all states shall submit an annual update to the FHWA Center for Innovative Finance Support (CIFS) summarizing the state's toll credit usage for the federal fiscal year, and remaining balance. Toll credit tracking will be reconciled with FMIS prior to reporting. The Division of Program Management & Administration will compile this report and work with the necessary staff for review. The report will be reviewed internally by the division director, or delegate, and the chief financial officer prior to submission into the CIFS Input Tool.
2. **Certification of toll credits earned:** States must periodically provide certification information to FHWA to show the amount of toll credits earned to use them on federal projects. On an annual basis, the Division of Program Management & Administration will compile the reports documented in this policy and procedure, and review calculations and documentation to ensure compliance with federal law, federal regulation, and written guidance. The reports and request for credits will be reviewed internally by Internal Review. Internal Review will certify that the reports were pulled accurately and follow the guidance provided for the earning, use of toll credits and the MOE calculation doesn't include non-capital project costs. Additional review will be completed by the division director, or delegate, and the chief financial officer prior to submission through and from the commissioner or their delegate. The department will submit a letter indicating amount of toll credits earned to be certified as a request to the division administrator on or before December 31 of each year. FHWA's Alaska division administrator must provide Alaska DOT&PF written acceptance of toll credits, if approved, prior to use on federal projects.

Definitions

Toll Revenues are defined as income generated by a toll facility that is open to public travel. For purposes of implementing the toll credit program under 23 U.S.C. 120(i). The term "toll revenues" may include toll receipts, concession sales, right-of-way lease revenues, or interest. The term "toll revenues" may also include bond or loan proceeds supported by toll facility revenue.

Toll facilities are defined as tunnels and ferries that serve as a link on a public highway.

Toll Revenue Expenditures are defined as toll revenue expenditures are capital expenditures to build, improve, or maintain a highway or ferry that serves the public purpose of interstate commerce.

Toll Credit are defined as a credit toward the non-Federal share requirement for any funds made available to carry out title 23, United States Code, (other than the emergency relief program authorized by section 125 of such title) or chapter 53 of title 49, United States Code, based on toll revenues that are generated and used by public agencies to build, improve, or maintain highways and ferries that serve the public purpose of interstate commerce (23 U.S.C. 120(i)(1)(A)).

AUTHORITY

SLA 2023 § 14, ch.1/pg.111/ln.3

23 USC § 120(i) and (j)

Surface Transportation Efficiency Act, 1991 (ISTEA)

Transportation Equity Act for the 21st Century, 1998 (TEA-21)

Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, 2005 (SAFETEA-LU)

IMPLEMENTATION RESPONSIBILITY

Division of Program Management & Administration

DISTRIBUTION

All department employees via the DOT&PF website