



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

**NEBRASKA DIVISION**

February 6, 2012

100 Centennial Mall North  
Room 220  
Lincoln, NE 68508  
(402)742-8460

In Reply Refer To:  
HDA-NE

Monty W. Fredrickson, P.E.  
Director – State Engineer  
Nebraska Department of Roads  
Lincoln, NE

Dear Mr. Fredrickson:

**Financial Integrity and Evaluation (FIRE)  
FY10 Soft Match Process Review Report**

In response to your corrective action plan of November 15, 2011 for the soft match program, we offer the following comments:

We concur with the Nebraska Department of Roads (NDOR) not accepting new applications for soft match credit until a new soft match policy is in place. By doing this, NDOR is preventing the accumulation of additional funds that potentially could exacerbate, rather than alleviate, the current situation.

The joint effort to agree on specific methodology and criteria to be applied to eligibility reviews of soft match “source” projects is under way.

We recognize the first eligibility reviews are under way with a review of the Saline County balance. We concur that the priority should be given to reviewing counties that will need to use some of their “source” funds in FY12 as they have a “use” project programmed in FY12 and to resolve the specific project findings from our review. Our only additional recommendation is that when NDOR reviews the soft match credit balance accrued after July 14, 2004, they verify the entire balance for the county rather than just sufficient balance to cover the funds needed for the FY12 use project. By doing this, a county’s balance just needs to be reviewed once. Also, this would prevent the tendency to review the newest balance first, making subsequent reviews of the older balances more difficult with the passage of time.

We concur with the February 1, 2012 response date for the project specific findings from our review.

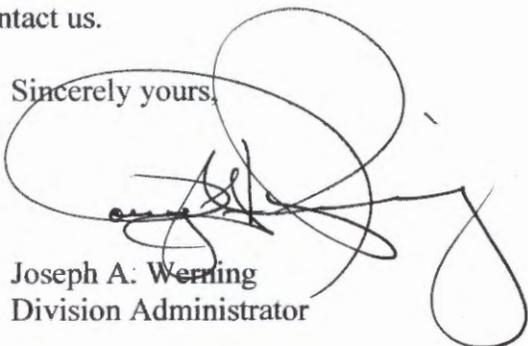
We concur with NDOR notifying the LPAs with clarifying guidance regarding the need to retain documentation for the “source” projects until three years after closure of the related “use” projects.

With regards to whether construction engineering was eligible for soft match credit, we believe all parties agree that construction engineering can be an eligible expense, that the current policy was ambiguous at best and that the eligibility of construction engineering should be clarified in the policy revision. With regards to construction engineering costs incurred from July 14, 2004 until the suspension of the program, FHWA believes that the current policy is ambiguous. Federal Regulations allow the state flexibility in determining specific allowable costs. With the understanding that additional funds allowed to cover "soft match" takes away from the general pool of funds (BR funds) available for bridge replacement, NDOR, in the 2004 policy, chose to limit eligible items to those items specifically related to the actual construction costs of the bridge. Based on your response, it appears that it was not the intent to limit construction engineering as an eligible item. If NDOR chooses to accept construction engineering as an eligible item, FHWA does not have any objection; however, the policy will need to be updated to clarify this practice before reinstating the Bridge Soft Match Program. With regards to the applicability of the Brooks Act to the "source" projects, FHWA concurs with NDOR that the requirements do not apply. However, the procurement of engineering services should follow state and local laws.

We commend NDOR on their commitment to resolve the issues from the review and look forward to providing NDOR with the necessary assistance to reinstate the Soft Match Bridge Program.

If you have any questions, please feel free to contact us.

Sincerely yours,



Joseph A. Werring  
Division Administrator