

# FREQUENTLY ASKED QUESTIONS

## Federal Lands Access Program (FLAP)

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# FREQUENTLY ASKED QUESTIONS

## Federal Lands Access Program (FLAP)

### General Information

#### What is FLAP?

FLAP is the Federal Lands Access Program. The goal is to “*Improve transportation facilities that provide access to, are adjacent to, or are located within Federal lands.*”

Learn more here → FHWA FLAP homepage: <https://highways.dot.gov/federal-lands/programs-access>

#### Find Information Specific to Your State

On the FHWA FLAP homepage, navigate to your state for more details.

#### Who is the Central Federal Lands Highway Division (CFLHD) of the Federal Highway Administration?

Learn more about us here → <https://highways.dot.gov/federal-lands/about>

Our Mission is “*Improving transportation to and within Federal and Tribal lands by providing technical services to the highway/transportation community, as well as building accessible and scenic roads that ensure the many national treasures, within our Federal Lands, can be enjoyed by all.*”

#### Who is the Programming Decisions Committee (PDC)?

Each state has a three-party Programming Decisions Committee (PDC), made up of a Federal, State, and Local representative, that make programming decisions for the Federal Lands Access Program. PDC responsibilities include:

- Developing their own state’s processes and evaluation criteria
- Establishing the next ‘Call for Projects’
- Reviewing applications
- Shortlisting and selecting projects
- Monitoring the health of the Program of Projects

### Eligibility

#### Who is Eligible to Apply?

Any State, County, Local Government or Tribe that owns or maintains a public transportation facility providing access to Federal lands is eligible. In most cases, the project should be no farther than 10 miles from the Federal lands. If at the time of submitting your application, the FLMA owns and maintains the transportation facility, but the maintenance responsibility will be transferred to a non-Federal agency (i.e. County), then the project is eligible. The applicant and FLMA must provide a statement indicating the intent to transfer maintenance responsibility if the project is chosen.

#### Other Eligibility Requirements

Your project is eligible when the following criteria are met:

- The project proposes improvement to any public highway, road, bridge, trail or transit system located on or adjacent to Federal lands, typically no farther than 10 miles away.
- The applicant commits to the minimum match requirements.
- The applicant confirms support from the Federal Land Management Agency (FLMA) site the project accesses.
- The project type must meet eligibility under Title 23 of the United States Code (U.S.C.) such as:
  - Rehabilitation / Restoration / Construction / Reconstruction Projects
  - Engineering and Environmental Compliance
  - Operation & Maintenance of Transit Facilities
  - Planning & Research related to Transportation

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### Eligible Federal Land Destinations

Federal lands are lands in the United States owned by the Federal government. Land leased to a Federal Land Management Agency is not an eligible Federal land destination. Most Federal lands are administered by the Bureau of Land Management (BLM), U.S. Fish and Wildlife Service (FWS), the National Park Service (NPS), the U.S. Forest Service (USFS), the Bureau of Reclamation (BOR), the U.S. Army Corp of Engineers (USACE), or the U.S. Department of Defense (DOD). The Federal lands being accessed via the proposed FLAP project must be accessible to the public.

Tribal roads maintained by the tribe are eligible, but the roadway must access Federal lands other than tribal (i.e. a NPS, FWS site, etc.).

In the case of a Bureau of Reclamation (BOR) or U.S. Army Corps of Engineers (USACE) owned or managed reservoir/lake where access to the water is through a State or County Park, the roads leading to or within the Park are eligible, if owned or maintained by a non-Federal entity. The Federal owned reservoir/lake is an eligible Federal land destination.

To verify if your project accesses an eligible Federal land destination, please reach out to CFLHD ([cfl.planning@dot.gov](mailto:cfl.planning@dot.gov)).

### Typical Projects

Per legislation, preference must be given to transportation facilities providing access to Federal high-use recreation sites and economic generators. Those are defined as:

- Federal Recreation Site = Any site used by the public to recreate on Federal public lands.
- “High-use” is defined by the population in your region (whether in local areas or regional); this is not compared to other populations across the state (i.e. Use at Grand Canyon NP will not be compared directly against smaller FLMA sites in another county).
- Federal Economic Generator = Any use of/on Federal lands that generates economy for a local community and/or region.

Please note, the PDC usually gives preference to projects that result in physical construction.

### Maintenance Projects

Yes, maintenance projects are eligible, but the PDC preference is typically not given to maintenance-only projects (i.e. crack sealing, chip seal, potholes, or drainage repair).

### Planning Studies and Design

Yes, transportation planning and research projects are eligible, but the PDC typically gives preference to projects that result in physical construction. If you are considering applying for a planning study or design only, please reach out to CFLHD ([cfl.planning@dot.gov](mailto:cfl.planning@dot.gov)) to discuss your application, what information to provide the PDC, and details about your planning study or design effort.

## Funding Requirements

### Match Requirements

To receive FLAP funding, each state has a minimum match requirement that must be fulfilled. You do not need to have your match secured at time of application, but must commit to having the match available for the programmed year. Please visit FHWA’s FLAP homepage: <https://highways.dot.gov/federal-lands/programs-access> to determine your state’s minimum match requirement.

### Do I Need the Match Funds Now?

No, you do not need the full match to be available at the time of submitting an application. If your project is shortlisted, a small amount of match (typically \$10k) will be required within 45 days of notification to allow CFLHD to scope the project. The remainder of the match will need to be committed in a Funds Transfer

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Agreement (FTA) within 60 days after notification of final selection by the PDC. However, the successful applicant would have the option to transfer the full amount of match all at once or make installments over the duration of the project. If the installment option is chosen, the first installment would typically be made soon after the agreement is signed and the remaining installments would be required no later than 2 to 3 months prior to construction advertisement. The first installment minimum dollar value would be the estimated match for the design and environmental compliance phase of preliminary engineering (PE).

Scenario #1: For a \$10M total-cost project, which includes a 20.00% match and \$1M in PE costs, the applicant is notified of being shortlisted on May 1, 2021, notified of final selection on March 1, 2022, and the project is programmed for construction advertisement in September 2025. The applicant could reasonably expect the following:

- June 15, 2021 (45 days after shortlist notification): FTA executed for **\$10K**. CFLHD will invoice immediately.
- April 30, 2022 (60 days after final selection notification): FTA executed for 20.00% of \$10M = **\$2M**.
- June 1, 2022: 20.00% of \$1M = \$200K minus the \$10K already provided = **\$190K** payment due for remaining PE costs.
- June 1, 2025: \$2M minus the \$10K and \$190K already provided = **\$1.8M** payment due for remaining project costs.

### Eligible Federal Funds for Minimum Match

Generally, most U.S.C. Title 23 Funds are not eligible as minimum match for FLAP. The exception to this includes funds authorized for the Tribal Transportation Program (TTP) and the Federal Lands Transportation Program (FLTP) which may be used to pay the non-Federal share of any project funded under Title 23 or Chapter 53 of Title 49, that provides access to or within Federal or Tribal land. The decision to use FLTP or TTP Funds as a match resides with the FLMA or Tribes. Please reach out to CFLHD ([cfl.planning@dot.gov](mailto:cfl.planning@dot.gov)) if you have questions regarding eligible Title 23 funds.

Federal funds authorized under other Titles of the U.S.C. potentially may also be used to pay the non-Federal share of any transportation project so long as the law pertaining to those funds allow it. Specifically, you will need to verify if there are limitations to using these other Federal funds as match to another Federal program.

### Overmatch

You can make your project application more favorable by supporting your project with an overmatch. Overmatch is additional funding in excess to the minimum match requirements. Other Title 23 funds can be used as overmatch on a project.

### Special Match: In-Kind Allowances

In-kind allowances typically allowed are direct ROW acquisition and utility relocation costs paid by applicant (i.e. Consultant fees, Landowner compensation, Payment to utility companies).

In-kind allowances typically NOT allowed are:

- Labor
- Equipment
- Materials
- Force Account
- Any work done prior to execution of agreement with FHWA

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Hard match (cash) is preferred. All decisions on non-cash match are at the sole discretion of the PDC. Work must be done according to Federal law and costs must be agreed upon upfront in an executed agreement. Paid invoices will be required for the costs to be considered for in-kind match.

## Application

### Submitting my Project Application

Steps for submitting your application include:

- Navigating to the FHWA FLAP homepage: <https://highways.dot.gov/federal-lands/programs-access>.
- Finding your state and confirming a 'Call for Projects' is 'Open'.
- Downloading and completing the required Application Forms for your state.
- Reviewing the Project Application Packet Checklist.
- Sending your completed project application packet via e-mail to [cfl.planning@dot.gov](mailto:cfl.planning@dot.gov) by the stated deadline.

### Supporting Documents

When a 'Call for Projects' is 'Open' in your state, the list of required application packet submittals can be found on your state's FLAP page. Typically, the application packet submittal requirements include:

- Project Application
- Project Endorsement Form
- Federal Land Management Agency Support Form
- Supporting, detailed cost estimate
- Accurate ADT/visitation data
- Photos and maps

### NEPA and Right of Way

NEPA and right of way acquisition do not need to be completed prior to applying for FLAP.

### Delivery Agency

It is typical for the CFLHD to act as the lead agency for duration of the project, from award through project completion. However, if the applicant plans to have a different agency act as lead for the project, the applicant must provide justification for this position, previous experience in delivering Federal Aid (Title 23) funded projects, and ability to satisfy FHWA project delivery requirements in accordance with the North Dakota DOT Local Government Manual.

The final decision for project delivery resides with CFLHD. If delivered by another Agency, the FHWA North Dakota Division Office and the North Dakota DOT will have Stewardship and Oversight responsibility where all costs and overruns will be borne by the applicant.

## Project Evaluation

### Evaluation Criteria

The PDC reviews project applications and evaluates each based on pre-determined criteria. The selection criteria are reflective of needs in that State, Federal regulations, and guidelines. The FLAP criteria typically includes:

- Federal lands access proximity & significance
- High-use recreation site and/or Federal economic generator
- Improvements to public access

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- Safety improvement
- Preservation
- Sustainability & environmental quality benefits
- Project cost & scope risk
- Overmatch & leveraging of funds
- Coordination with FLMA
- Consistency with FLAP's vision

Final project selection resides with the PDC. The PDC will make its final decision based on the project proposal's ability to meet the aforementioned criteria as well as project support, Federal Land Management Agency priorities, and the applicant's share of project costs. Selected projects will be programmed based on availability of funds, both Federal and non-Federal, project development delivery schedules, environmental and Right of Way constraints, and other Federal investments.

### **What if my Project is Selected?**

If your project is selected, the applicant will receive a notification letter via email from CFLHD. Timing will then vary for the following steps based on the programmed year:

- PDC shortlists project for scoping.
- Financial agreement is set up between CFLHD and local agency.
- CFLHD scopes project with applicant and FLMA(s).
- PDC reviews scoping documents and determines if project will be placed in the final Program of Projects.
- CFLHD (typically) delivers project "Cradle to Grave".

### **What if my Project is Not Selected?**

If your project is not selected, the applicant will receive a notification letter via email from CFLHD. At that point, the applicant has an option to set up a debrief meeting with CFLHD to discuss the project application and suggestions for improvement for the next open 'Call for Projects.'