

# Federal Highway Tolling Programs

## Transportation Finance Innovations

### Quick Facts

- ▶ Any toll facility using Federal funds must qualify for toll authority under one of six toll programs.
- ▶ Each toll agreement between local public authorities and FHWA requires provisions specific to each program.
- ▶ Toll programs require toll revenue to be used first for debt service, to provide a return on investment, and for covering operation and maintenance costs.

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**U**NDER TITLE 23 of the United States Code (Highways), there is a general prohibition on the imposition of tolls on Federal-aid highways. However, Title 23 and other statutes have also carved out certain exceptions to this general prohibition through special programs and provisions. If Federal funds have been used or will be used on the highway, then the public authority responsible for the facility must qualify for toll authority under one of these six Federal toll programs.

### Section 129 (General Toll Program)

Under the General Toll Program, Congress permits Federal participation in the following types of toll construction activities:

- Initial construction (except on the Interstate System) of toll highways, bridges, and tunnels, including the approaches to these facilities.
- Reconstructing, resurfacing, restoring, and rehabilitating work on any existing toll facility.
- Reconstruction or replacement of free bridges or tunnels and conversion to toll facilities.
- Reconstruction of a free highway (except on the Interstate System) and conversion to a toll facility.

There are no restrictions on the number of projects or States that may receive tolling authority under this section.

### Section 166 (HOT Lanes)

Under Section 166(c) of Title 23, States may impose tolls on HOV lanes, both Interstate and non-Interstate, for the purpose of allowing vehicles that do not meet the established occupancy requirements to use HOV facilities. Such lanes are commonly referred to as high occupancy toll (HOT) lanes. There are no restrictions on the number of projects or States that may receive tolling authority under this section.



Traffic on I-495 in VA, site of planned HOT lane

### Interstate System Reconstruction and Rehabilitation Pilot Program (ISRRPP)

The ISRRPP allows the conversion of free Interstate highways into toll facilities in conjunction with needed reconstruction or rehabilitation that is only possible with the collection of tolls. The FHWA may only allow three Interstate facilities, each in a different State, to be tolled under this program, and the State's collection of tolls must be for a specified term exceeding 10 years. To date, two of the slots for this program (for I-81 in Virginia and I-70 in Missouri) have been reserved.

### Interstate System Construction Toll Pilot Program (ISCTPP)

The ISCTPP was established to authorize the Secretary to permit the construction of three new Interstate facilities as toll facilities. The program is largely identical to the ISRRPP, but is limited to new Interstate construction. The three eligible facilities under the ISCTPP are also not required to be located in separate States, which effectively allows the slot to be "shared" by other States to construct their portions of the same Interstate.

The FHWA's authority to approve applications for participation in this program expires on August 20, 2015. Currently, the FHWA has reserved one slot for I-73

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in South Carolina. This slot could also be utilized for I-73 construction in other states in the corridor, provided those States apply and meet the applicable criteria.

### Value Pricing Pilot Program (VPPP)

The VPPP is an experimental program designed to assess the potential of different value pricing approaches for reducing congestion. The VPPP encourages implementation and evaluation of projects encompassing a variety of strategies to manage congestion on both existing and new highways, including both tolling of highway facilities (including Interstates) and other pricing strategies not involving tolls.

Under the VPPP, the FHWA may enter into cooperative agreements with up to 15 State or local governments to establish value pricing programs, which may be used to support an unlimited number of value pricing projects within each State. All 15 slots are currently being occupied by a total of 14 States and one city. However, should a slot become available in future (e.g., due to inactivity by a current VPPP state), FHWA could consider for participation in the program any new State with a viable project involving variable tolls.

### Express Lanes Demonstration Program (ELDP)

The ELDP authorizes the Secretary to carry out 15 demonstration projects to collect tolls at eligible toll facilities in order to manage high levels of congestion, reduce emissions in a nonattainment or maintenance area, or to finance the expansion of a highway for the purpose of reducing congestion by constructing one or more additional lanes. Eligible facilities include toll facilities and HOV Lanes in existence on August 10, 2005 and facilities modified or constructed after August 10, 2005 to create additional tolled lane capacity. Where a new lane is added to a previously non-tolled facility, only the new lane may be tolled.

Five of the 15 slots originally authorized for this program have been reserved to date. The FHWA's authority to approve ELDP

projects currently expires on December 31, 2010.

### Toll Program Applications and Toll Agreements

A public authority that would like more information concerning tolling or pricing authority or funding for a specific project is asked to submit an Expression of Interest to FHWA providing the rationale for tolling authority and information about the intended project. A complete Expression of Interest enables FHWA to provide the best assistance in helping the public agency to identify the range of options possible to meet intended goals and timeframes. The four toll demonstration and pilot programs (ISRRPP, VPPP, ELDP, and ISCTPP) also require an application in addition to the Expression of Interest.

Local public authorities are required to execute a toll agreement with the FHWA in order to receive authorization to impose tolls under any of these six programs. The required provisions in these toll agreements are specific to each program and include such elements as the eligible uses of toll revenues; the types of vehicles that may or may not be subject to tolls; methods of collecting tolls; the maintenance of performance standards on the facility; and the use of other Federal funds on the facility while tolls are in place.

In general, each of the tolling programs identified above require toll revenue to be used first for debt service, to provide a reasonable return on investment to any private party financing a project, and for the costs that are necessary for the proper operation and maintenance of the facility. With the exception of the ISRRPP and ISCTPP, toll revenues in excess of these uses may be applied to other projects eligible for assistance under Title 23, including certain costs for transit projects.

### For More Information

More information on these Federal tolling programs and the Expression of Interest can be found at <http://www.fhwa.dot.gov/ipd/revenue/programs/index.htm>. ■



### PROGRAM AREAS OF THE OFFICE OF INNOVATIVE PROGRAM DELIVERY

IPD provides a one-stop source for expertise, guidance, research, decision tools, and publications on program delivery innovations. Our Web page, workshops, and other resources help build the capacity of transportation professionals to deliver innovation.

#### PROJECT DELIVERY

IPD's project delivery team covers cost estimation, financial planning, and project management and assists FHWA Divisions with statutory requirements for major projects (e.g., cost estimation, financial plans, and project management plans).

#### PROJECT FINANCE

IPD's project finance program focuses on alternative financing, including State Infrastructure Banks (SIBs), Grant Anticipation Revenue Vehicles (GARVEEs), and Build America Bonds (BABs).

#### PUBLIC-PRIVATE PARTNERSHIPS

IPD's P3 program covers alternative procurement options (e.g., toll concessions and availability payments), which can reduce cost, improve project quality, and provide additional financing options (e.g., Private Activity Bonds [PABs]).

#### REVENUE

IPD's revenue program focuses on how governments can use innovation to generate revenue from transportation projects (e.g., value capture, developer mitigation fees, air rights, and road pricing).

#### TIFIA

The Transportation Infrastructure Finance and Innovation Act (TIFIA) program provides credit assistance for significant projects. Many surface transportation projects—highway, transit, railroad, intermodal freight, and port access—are eligible to apply for assistance.



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