National Capital Region Transportation Planning Board

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MEMORANDUM

ITEM 5

TO: Transportation Planning Board

FROM: Ronald F. Kirby
Director, Department of Transportation Planning

SUBJECT: Submitting an Application to the FY 2009 Value Pricing Pilot Program of the Federal Highway Administration (FHWA)

DATE: October 15, 2008

In February 2008, the TPB received the report, *Evaluating Alternative Scenarios for a Network of Variably Priced Highway Lanes in the Metropolitan Washington Region*, which was funded under a grant from the FHWA in 2006. In this report, several topics were identified for further consideration.

On September 16, 2008, the FHWA released a solicitation for grants from the FY 2009 Value Pricing Pilot Program with an application deadline of November 7, 2008. This solicitation anticipates awarding grants to up to 10 MPOs to “develop comprehensive multimodal regional transportation packages that include congestion pricing as a key component, for eventual incorporation into the region’s transportation plan. Studies are encouraged to include evaluation of benefits, costs, revenues, environmental impacts, distributional impacts, and financial feasibility of each alternative, in comparison with the region’s currently adopted long range transportation plan.” A copy of the solicitation is attached.

The Board is being asked to support TPB staff working in cooperation with the Virginia Department of Transportation (VDOT) to submit an application to FHWA for a $400,000 grant for a one year period to build upon the current work for the “CLRP Aspirations” scenario. COG would provide the 20 percent local match for this grant. The additional resources would enable staff to do more in-depth analyses of certain aspects of the “CLRP Aspirations” scenario than is possible under the current $315,000 budget.

The study under this new grant would address the following major topics:

- Given the high costs of building new interchanges and new lane miles, assess the potential of tolling more existing lanes.
- Examine the potential for a Bus Rapid Transit (BRT) network to support high-density, mixed-use densities at activity centers with high transit accessibility.
- Explore the potential use of Variably Priced Lanes (VPLs) by trucks and other commercial vehicles.
- Identify the phasing of high priority segments in the studied VPL networks for expanding beyond the three facilities currently included in the CLRP.
- Conduct a comprehensive evaluation of the benefits and costs of the VPL system with respect to users and the community at large.

In-depth examination of these topics would help further this region’s understanding of variable pricing strategies as ways to link land use with high-quality transit services and VPLs.

of Oregon: Highway 199 Expressway Upgrade. This project will improve U.S. 199 from two lanes in each direction to three lanes in each direction from Tussey Lane to Dowell Road. Redwood Avenue at Allen Creek Road will be realigned to the north to accommodate future traffic volumes and queues. Median barrier and/or raised curb median will be constructed from Dowell Road to Midway Avenue to improve safety and eliminate crossing turn movements. The intersections of U.S. 199 at Midway Avenue and U.S. 199 at Hubbard Lane will be improved to allow U-turns. The existing signals on U.S. 199 at Redwood Avenue and Fairgrounds Road will be removed. A new signal will be installed on U.S. 199 at Hubbard Lane. The actions by the Federal agency and the laws under which such actions were taken are described in the Environmental Assessment, Supplemental Environmental Assessment, Revised Environmental Assessment and FONSI issued on August 6, 2008, and in other documents in the FHWA project records. This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General:* National Environmental Policy Act (NEPA) [42 U.S.C 4321–4351]; Federal-Aid Highway Act [23 U.S.C. 109 and 23 U.S.C. 128].

2. *Air:* Clean Air Act [42 U.S.C. 7401–7671(q)].

3. *Land:* Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303].

4. *Wildlife:* Endangered Species Act [16 U.S.C. 1531–1544 and Section 1536]; Fish and Wildlife Coordination Act [16 U.S.C. 661–667 (d)]; Migratory Bird Treaty Act [16 U.S.C. 703–712].

5. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) *et seq.*].

6. *Social and Economic:* Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)].

7. *Executive Orders:* E.O. 11990 Protection of Wetlands; E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 13112 Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(l)(1)

Issued On: September 4, 2008.

Michelle Eraut,

Environmental Program Manager, Salem, Oregon.

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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Value Pricing Pilot Program Participation, Fiscal Year 2009

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice; solicitation for participation.

SUMMARY: This notice invites State and local governments and other public authorities to apply to participate in the Value Pricing Pilot (VPP) program and presents guidelines for program applications. This notice supersedes three previous notices about the VPP program under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) published in the **Federal Register** on January 6, 2006 (71 FR 970), July 17, 2006 (71 FR 40578), and December 22, 2006 (71 FR 77084). A January 6, 2006, notice covering non-grant tolling programs, which was a companion to the original January 6, 2006, VPP program notice, remains in effect. That notice was entitled ''Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU); Opportunities for States and Other Qualifying Agencies to Gain Authority to Toll Facilities Constructed Using Federal Funds'' (71 FR 965). Today's new notice and the previous companion notice covering non-grant tolling programs are together intended to cover all of the opportunities for States and other qualifying transportation agencies to obtain approval to toll their respective facilities.

DATES: Applications for tolling authority only may be submitted at any time. Formal grant applications, however, must be submitted no later than November 7, 2008, for FY 2009 funds.

Application Submission: All Federal agencies, including FHWA, are required to use *http://www.grants.gov*, an electronic format for receiving applications. Grants.gov was developed as part of the President's Management Agenda and related E-Government Strategy, which charged Federal grant-making agencies with developing a single electronic system to help prospective applicants find and apply for Federal grant opportunities. Therefore, applicants requesting funding under the VPP program must file their applications online at *http://www.grants.gov*.

FOR FURTHER INFORMATION CONTACT: For questions about this notice, please contact Mr. Wayne Berman, FHWA Office of Operations, (202) 366–4069, *wayne.berman@dot.gov*. For technical questions related to project development, please contact Mr. Patrick DeCorla-Souza, FHWA Office of Operations, at (202) 366–4076, *patrick.decorla-souza@dot.gov*. For legal questions, please contact Mr. Michael Harkins, FHWA Office of the Chief Counsel, (202) 366–4928, *michael.harkins@dot.gov*. Office hours for the FHWA are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded from the **Federal Register**'s home page at: *http://www.archives.gov* and the Government Printing Office's database at: *http://www.access.gpo.gov/nara*.

Background

Section 1012(b) of the Intermodal Surface Transportation Efficiency Act (ISTEA) (Pub. L. 102–240; 105 Stat. 1914), as amended by section 1216(a) of the Transportation Equity Act (TEA–21) (Pub. L. 105–178; 112 Stat. 107), and section 1604(a) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) (Pub. L. 109–59; 119 Stat. 1144), authorizes the Secretary of Transportation (the Secretary) to create a Value Pricing Pilot program. Value pricing encompasses a variety of strategies to manage congestion on highways, including tolling of highway facilities, as well as other strategies that do not involve tolls, such as congestion pricing at port facilities, mileage-based vehicle taxes and leasing fees, parking pricing, and car sharing. The value pricing concept of assessing relatively higher prices for travel during peak periods is the same as that used in many other sectors of the economy to respond to peak-use demands. For example, airlines, hotels, and theaters often charge more at peak periods than at non-peak periods.

The FHWA is seeking applications for the FY 2009 VPP program that are consistent with the objectives of the DOT's National Strategy to Reduce

Congestion, announced on May 16, 2006, which seeks to dedicate substantial Departmental resources toward addressing the growing problem of urban congestion. This national strategy, and its linkage to the VPP program applications that are being solicited by this notice, are discussed in greater detail later in this notice. Consistent with this national strategy, the primary objective of the VPP program for fiscal year 2009 will be to facilitate cities in systematically progressing toward implementation of broad congestion (variable) pricing in the relatively near term.

According to the statutory requirements of the VPP program, FHWA may enter into cooperative agreements with up to 15 State or local governments or other public authorities (henceforth referred to only as ''States'') to establish, maintain, and monitor value pricing pilot programs, each including an unlimited number of projects. The FHWA invites interested States to apply to participate in the VPP program for FY 2009. As of the date of this notice, there are already 13 State-led programs and 1 city-led program currently in the VPP program: California, Colorado, Florida, Georgia, Illinois, Maryland, Minnesota, New Jersey, North Carolina, Oregon, Texas, Virginia, Washington State, and New York City. Therefore, at this time, only one additional State or other public authority is eligible to participate. Any value pricing project included under these programs may involve the use of tolls on the Interstate system. This is an exception to the general provisions prohibiting tolls on the Interstate system as contained in 23 U.S.C. 129 and 301.

To comply with the statutory cap on the number of partnering States and other public authorities in a manner that maximizes program participation, FHWA will only consider an ''active'' cooperative agreement sufficient to hold one of the 15 available value pricing slots. An agreement will be considered ''active'' by FHWA under either of the following two conditions: (1) During the period encompassing the time between when a cooperative funding agreement for a project or projects has been signed and when the project or projects has or have been completed, and (2) if VPP program tolling authority has been granted and is still needed to toll a new or existing highway. Absent one or both of these conditions being met, an agreement will not be considered active for the purposes of the VPP program. If the State's progress in moving forward to use its VPP tolling authority is unsatisfactory, FHWA reserves the right to withdraw that State's authority in favor of other applicants seeking to obtain VPP tolling authority. A State that does not maintain an active agreement with FHWA risks being denied the opportunity to participate in the program in the future if no participation slots are left.

A maximum of $12 million is authorized for fiscal year 2009 to be made available to carry out the VPP program. Of this $12 million, $3 million per fiscal year must be set-aside for value pricing pilot projects that do not involve highway tolls. The Federal share payable under the program is 80 percent of the cost of the project. Funds allocated by the Secretary to a State under this section shall remain available for obligation by the State for a period of 3 years after the last day of the fiscal year for which funds are authorized. If, on September 30 of any year, the amount of funds made available for the VPP program, but not allocated, exceeds $8 million, the excess amount will, to comply with the statutory requirements of the VPP program, be apportioned to all States as Surface Transportation Program funds.

Funds available for the VPP program can be used to support pre-implementation study activities as well as to pay for pricing-specific implementation costs of value pricing projects. Pursuant to section 1012(b)(2) of ISTEA, FHWA may not fund pre-implementation or implementation costs for more than 3 years. Also, section 1012(b)(6) of ISTEA provides that a State may permit vehicles with fewer than two occupants to operate in high occupancy vehicle (HOV) lanes if the vehicles are part of a local value pricing pilot program under this section. In addition to this authority under the VPP program, 23 U.S.C. 166 authorizes States to convert HOV lanes into high occupancy toll (HOT) lanes in which vehicles without the number of occupants required for HOV status are permitted to use a HOV lane if such vehicles are charged a toll. Since the authority to establish and operate a HOT lane (including HOT lanes on the Interstate System) is no longer experimental and has been ''mainstreamed'' in 23 U.S.C. 166, the provisions of 23 U.S.C. 166 will generally be used for HOT projects in order to more effectively allocate VPP funds and program slots.

Pursuant to section 1012(b)(7), the potential financial effects of value pricing projects on low-income drivers shall be considered. Where such effects are expected to be significant, possible mitigation measures should be identified, such as providing new or expanded transit service as an integral part of the value pricing project, toll discounts or credits for low-income motorists who do not have viable transit options, or fare or toll credits earned by motorists by use of regular lanes which can be used to pay for tolls on priced lanes. Mitigation measures can be included as part of the value pricing project implementation costs.

Also, section 1012(b)(6) of ISTEA requires the Secretary to monitor the effect of value pricing programs for a period of at least 10 years and report to Congress every 2 years on the effects such programs are having on driver behavior, traffic volume, transit ridership, air quality, and availability of funds for transportation programs. Project partners will be expected to assist FHWA by providing data on their programs for use in these reports throughout the length of the monitoring and reporting period.

In addition to the VPP program, other authorities are available that permit States to use tolling to finance highway construction and reconstruction, promote efficiency in the use of highways, and support congestion reduction by providing expanded flexibility under the following programs: HOV facilities; Interstate System Reconstruction and Rehabilitation Pilot; Interstate System Construction Toll Pilot; Express Lanes Demonstration Program; and Section 129 toll agreements. For more information on these programs, please refer to the notice in the January 6, 2006, **Federal Register** entitled, ''Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU); Opportunities for State and Other Qualifying Agencies to Gain Authority to Toll Facilities Constructed Using Federal Funds'' (71 FR 965).

Applicable Terms

''Value pricing,'' ''congestion pricing,'' ''peak-period pricing,'' ''variable pricing,'' and ''variable tolling'' are all terms used to refer to direct non-constant charges for road use, possibly varying by location, time of day, severity of congestion, vehicle occupancy, or type of facility. By shifting some trips to off-peak periods, to mass transit or other higher-occupancy vehicles, to non-motorized modes, or to routes away from congested facilities, or by encouraging consolidation of trips, value pricing charges are intended to promote economic efficiency both generally and within the commercial freight sector. They also achieve congestion reduction, improved air quality, energy conservation, and transit productivity goals.

A ''value pricing project'' means any pre-implementation activities or implementation of value pricing concepts or techniques discussed in the ''Potential Project Types'' section of this notice and included under a State or local ''value pricing pilot program.'' A State is considered to have a value pricing pilot program if it has one or more approved value pricing projects. While the distinction between ''project'' and ''program'' may appear to be merely a technical one, it is significant in that, as described in the ''Background'' section of this notice, the number of total VPP programs is statutorily limited to 15, while there is no limit to the number of VPP projects allowed under each VPP program.

A ''value pricing program'' means the combination of all value pricing projects within a State or local government or public authority. Any State or local government or public authority with a cooperative agreement for a value pricing program is deemed to have a value pricing program.

''Cooperative agreement'' means the agreement signed between the FHWA and a State to establish and implement value pricing pilot projects.

''Toll agreement'' means the agreement signed between the FHWA and a State and/or local government or public authority to provide for the statutorily authorized uses of toll revenues.

Program Objective

The overall objective of the VPP program is to support efforts by State and local governments or other public authorities to establish local value pricing pilot programs, to provide for the monitoring and evaluation of value pricing projects included in such programs, and to report on these effects. The VPP program's primary focus is on value pricing with road tolls, with a secondary focus on other market-based approaches for congestion relief that do not involve road tolls, such as congestion pricing at port facilities, mileage-based vehicle taxes and leasing fees, parking pricing, and car sharing.

The FHWA is seeking applications for funding and/or tolling authority to use value pricing to reduce congestion, improve system performance, and promote mobility in a manner consistent with the DOT's National Strategy to Reduce Congestion on America's Transportation Network, announced in May 2006. This strategy consists of a six-point plan, designed to both reduce congestion in the short-term and to build the foundation for successful longer-term congestion reduction efforts. One of the six elements of the plan is to ''relieve urban congestion,'' under which ''[t]he Department will seek to enter * * * [a]greements with model cities, pursuant to which the cities and Department will commit to * * * implementing a broad congestion pricing or variable toll demonstration * * *'' Consistent with this objective, all proposals should incorporate significant pricing mechanisms intended to reduce the level of congestion.

With successful examples of facility-specific pricing projects in operation in the U.S., the next step under the Value Pricing Pilot Program will focus on developing broader regionwide approaches. Metropolitan areas will be encouraged to develop pricing concepts and to collaborate with stakeholders to refine them and plan the process to deploy them in a phased manner. Some metropolitan areas, e.g., Los Angeles, San Francisco, Seattle, and Washington, DC, have begun the process for adoption of congestion pricing as a long-term strategy to finance and manage their transportation systems. An objective of this solicitation is to expand the number of metropolitan areas that are developing regionwide approaches to congestion pricing by providing incentive grants to a limited number of Metropolitan Planning Organizations on a competitive basis.

Potential Project Types

To help meet the objectives of DOT's National Strategy to Reduce Congestion on America's Transportation Network, FHWA is interested in funding projects that have the greatest potential to lead to significant, broad, and relatively near-term congestion relief. The FHWA will consider applications for funds that show that a project will achieve at least one of the following: (1) Build public support and a technical foundation for relatively near-term implementation of congestion pricing; (2) develop a pricing program with detailed plans and specifications leading to near-term implementation of congestion pricing; (3) perform a rigorous regional congestion pricing scenario study around a scenario that is both comprehensive and realistic, and/or; (4) implement broad-based pricing and evaluate its effectiveness. For pre-implementation projects, applicants should demonstrate that there is already sufficient political support for their implementation, or that the project is well designed to bring about such support.

Value pricing charges need to be targeted at a sizable number of vehicles that are causing congestion, and prices should be set at levels significantly variable to encourage drivers to use alternative times, routes, modes, or trip patterns, or to telecommute during congested periods.

The FHWA is seeking VPP program applications from public entities to study or implement pricing that is broad and/or regional in nature and will no longer entertain applications for studying or implementing smaller projects. Applications should cover a significantly-sized geographical area and include multiple roadway facilities that are priced, an interconnected managed lane network, or cordon pricing, where, as in London and Stockholm, cars are charged a substantial fee to drive in a congested area on weekdays. Variable pricing of currently free and tolled facilities, pricing of multiple facilities or corridors, and/or combinations of road pricing and parking pricing will generally be required. Area-wide pricing applications that use technologies that provide travelers (including drivers and transit riders) with pre-trip and real-time congestion and pricing information on alternative travel modes and routes are especially encouraged to assist travelers in making efficient travel destination, mode and route choices. Cashless tolling (i.e., no toll booths) is required and dynamic pricing regimes based on real-time traffic conditions are preferred.

As part of broad, regional pricing projects, the inclusion of new, innovative value pricing approaches is encouraged. Such approaches might entail pricing at major traffic bottlenecks, shifting from fixed to variable toll schedules on existing toll facilities (i.e., combinations of peak-period surcharges and off-peak discounts), and pricing of queue jumps, where paying motorists can bypass motorists who choose not to pay, typically by using special lanes with priority signals at freeway entrance ramps.

Projects should be designed to reflect the needs of low-income or other transportation-disadvantaged groups. Mitigation strategies to address equity concerns may include bus rapid transit or other enhancements of transportation alternatives for peak-period travelers, special reduced toll rates for low-income travelers, limited monetary credits to all or just to low-income travelers that can be used to pay for tolls or transit fares (thereby allowing a limited amount of free travel before having to pay full fees), and credit-based tolling programs such as toll credits earned by motorists in regular lanes or by transit users in the corridor which can later be used to pay tolls on priced lanes or for free transit trips.

The FHWA is also interested in grant applications for projects that do not involve highway tolls. As discussed earlier, SAFETEA–LU sets aside at least $3 million per fiscal year for such projects. The FHWA encourages applicants to design such projects, to the extent possible, to complement or offer the potential for ''broad'' pricing as called for in the DOT's National Strategy to Reduce Congestion on America's Transportation Network. The FHWA in particular seeks tests of innovative port facility congestion pricing projects, such as the PierPass project currently operational at ports in the Los Angeles metropolitan area, and parking pricing strategies, including time-of-day pricing and charges reflective of congested conditions, provided the level and coverage of proposed parking charges is sufficient to reduce congestion. Among the parking pricing strategies that could be considered innovative include: surcharges for entering or exiting parking facilities during or near peak periods; citywide, on-street parking pricing that varies by demand; and a range of parking cash-out policies, where cash is offered to employees in lieu of subsidized parking, parking operators reimburse monthly patrons for unused parking days, or renters or purchasers in multifamily housing developments are provided direct financial saving for not availing of car parking spaces.

It is the intent of FHWA to additionally set aside approximately $5 million to be made available to up to 10 Metropolitan Planning Organizations to develop comprehensive multimodal regional transportation packages that include congestion pricing as a key component, for eventual incorporation in the region's transportation plan. Studies are encouraged to include evaluation of benefits, costs, revenues, environmental impacts, distributional impacts, and financial feasibility of each alternative package of transportation improvements, in comparison with the region's currently adopted long range transportation plan. Development of alternative packages may involve stakeholder groups, including (among others) business groups, environmental groups, and advocates for social equity. Examples of the types of regional transportation studies already conducted include the Traffic Choices Study conducted by the Puget Sound Regional Council for the Seattle Metropolitan Area, and the Value Pricing Study conducted by the Metropolitan Washington Council of Governments.

Pre-Implementation Studies

States are encouraged to carry out pre-implementation study activities designed to lead to implementation of a regional value pricing project in the relatively near-term, consistent with the objectives of the DOT's National Strategy to Reduce Congestion on America's Transportation Network. The intent of the pre-implementation study phase is to support efforts to identify and evaluate value pricing project alternatives, and to prepare the necessary groundwork for relatively near-term regional implementation. As indicated above, FHWA intends to set aside approximately $5 million to fund region-wide studies by Metropolitan Planning Organizations. So as to focus VPP program resources in a manner consistent with the DOT Congestion Initiative, FHWA will not fund purely academic studies of value pricing or studies that involve major expansions of existing facilities or area-wide planning studies covering many topics besides pricing and incorporating value pricing only as one of a number of options. Such studies may be funded with regular Federal-aid highway or transit planning funds. Applications for pre-implementation studies will be evaluated based on the likelihood that they will lead to relatively near-term implementation of broad value pricing conforming to the objectives described in the previous section.

Project Costs Eligible for Grant Funding

The FHWA will provide up to the statutorily allowable 80 percent share of the estimated costs of an approved project. Funds available for the VPP program can be used to support pre-implementation study activities and also to pay for implementation costs of value pricing projects. Costs of planning for, setting up, managing, operating, monitoring, evaluating, and reporting on local value pricing pilot projects are eligible for reimbursement, but neither pre-implementation study costs nor implementation costs may be reimbursed for longer than 3 years. The 3-year funding limitation will begin on the date of the first disbursement of Federal funds for project activities. Examples of specific pre-implementation and implementation costs eligible for reimbursement include the following:

1. *Pre-Implementation Study Costs*—Covered activities include those undertaken to advance two key priority focus areas: foundation building and regional program development.

a. Foundation building activities may be reimbursed, such as public participation, consensus building, marketing, modeling, and technology assessments; and

b. Regional program development activities are also eligible for reimbursement, including project and financial planning, project design, creating project specifications, and activities required to meet Federal or State environmental or other planning requirements.

2. *Implementation Costs*—Allowable costs for reimbursement under this priority focus area include those for setting up, managing, operating, evaluating, and reporting on a value pricing project, including:

a. Necessary salaries and expenses, or other administrative and operational costs, such as installation of equipment for operation of a pilot project (*e.g.*, Electronic Toll Collection (ETC) technology, video equipment for traffic monitoring, and other instrumentation), enforcement costs, costs of monitoring and evaluating project operations, and costs of continuing public relations activities during the period of implementation;

b. ''[M]itigation measures to deal with any potential adverse financial effects on low-income drivers[,]'' per section 1012(b)(7) of ISTEA as amended, including costs of providing transportation alternatives, such as new or expanded transit or ridesharing services provided as an integral part of the value pricing project. Funds are not available to replace existing sources of support for these services.

Project implementation costs can be supported until such time that sufficient revenues are being generated by the project to fund such activities without Federal support, but in no case for longer than 3 years. Each implementation project included in a value pricing pilot program will be considered separately for this purpose.

Funds may not be used to pay for activities conducted prior to approval for VPP program participation. Also, funds made available through the VPP program may not be used to construct new highway lanes or bridges, even if those facilities are to be priced, but toll ramps or minor pavement additions needed to facilitate toll collection or enforcement are eligible. Complementary actions, such as lane construction, the implementation of traffic control systems, or transit projects can be funded through other highway and transit programs under SAFETEA–LU and from new revenues raised as a result of a pilot. VPP program applicants are encouraged to explore opportunities for combining VPP program funds with other funds. Federal funds may not, however, be used to match VPP program funds unless there is specific statutory authority to do so.

Eligible Uses of Revenues

Section 1012(b)(2) of ISTEA provides that revenues generated by any value pricing pilot project must be applied first to pay for pilot project operating costs. Any project revenues in excess of pilot project operating costs may, according to section 1012(b)(3) of ISTEA, be used for any projects eligible under Title 23, United States Code. A project's operating costs include, but are not limited to, any costs necessary for a project's execution; mitigation measures to deal with adverse financial effects on low-income drivers; the proper maintenance of the facility; any construction (including reconstruction, rehabilitation, restoration, or resurfacing) of the facility; any debt service incurred in implementing the project; and a reasonable return on investment by any private entity financing the project. States are encouraged to consider using excess revenue for projects designed to provide benefits to those traveling in the corridor where the project is being implemented.

For VPP toll projects, FHWA and the public authority (including the State transportation department) having jurisdiction over a facility must enter into a toll agreement concerning the use of toll revenue to be generated under a value pricing project. The toll agreement will provide that the public authority use the revenues in accordance with the applicable statutory requirements. The execution of a toll agreement will facilitate oversight of a State's compliance with revenue use requirements of the VPP program.

Who Is Eligible To Apply?

Qualified applicants for either tolling authority or grants (or both) include State or local governments or public authorities, such as tolling agencies. Although project agreements must be with the aforementioned public entities, and preferably with State departments of transportation in order to preserve participation slots, a VPP program partnership may also include private tolling authorities, for-profit companies, and non-profit organizations.

The Value Pricing Pilot Program Applications

Formal applications should be submitted online directly by the State department of transportation to *http://www.grants.gov.*

There is no particular format that is required for tolling authority applications or grant applications, although specific information is requested. Applications should include the following background information:

a. The name, title, e-mail address, and phone number of the person who will act as the point of contact on behalf of the requesting agency, authority, or authorities;

b. A description of the agency, authority, or authorities requesting funding and/or tolling authority;

c. A statement as to whether only funding, both funding and tolling authority, or only tolling authority via the VPP program is being sought to support either pre-implementation or implementation activities as permitted; and

d. A description of the public agency or agencies that will be responsible for operating, maintaining, and enforcing the tolling program, if applicable.

The core of the application should include the following:

1. A description of the congestion problem being addressed (current and projected);

2. A description of the proposed pricing program and its goals;

3. An identification of the facilities that will be covered, including whether any of the subject facilities is an Interstate facility, whether any HOV lanes currently exist on any of the facilities, and whether any construction related activities would be needed to implement the project and, if so, whether this is new construction, expansion, rehabilitation, reconstruction, or other;

4. Where applicable, a plan for implementing or modifying tolls, and a related timetable. Where known, the range of anticipated tolls and the strategies to vary toll rates (i.e., the formulas for variable pricing), the technology to be used, enforcement programs, and operating details;

5. Anticipated effects of the pricing program on reducing congestion, altering travel behavior, and encouraging the use of other transportation modes;

6. Preliminary estimates of the social and economic effects of the pricing program, including potential equity impacts, and a plan or methodology for further refining such estimates;

7. The role of alternative transportation modes in the project;

8. A description of the tasks to be carried out as part of each phase of the project;

9. A detailed project timeline broken down by tasks and phases;

10. An itemized budget broken down by task and funding year (i.e., Year 1, Year 2, etc.), which is only required for grant applications;

11. Plans for monitoring and evaluating implementation projects, including plans for data collection and analysis, before and after assessment, and long-term monitoring and documenting of project effects;

12. A detailed finance and revenue plan, including (for implementation projects) a budget for capital and operating costs; a description of all funding sources, planned expenditures, and proposed uses of revenues; and a plan for projects to become financially self-sustaining (without Federal support) within 3 years of implementation, all of which is only required for grant applications;

13. A discussion of previous public involvement, including public meetings, in the development of the proposed pricing program; any expressions or declarations of support from State or local government officials or the public; future plans for involving key affected parties, coalition building, and media relations, and more broadly for ensuring adequate public involvement prior to implementation;

14. Plans for meeting all Federal, State and local legal and administrative requirements for project implementation, including relevant Federal-aid planning and environmental requirements;

15. A description of how, if at all, any private entities are involved in the project either in the up-front costs to enact tolling, or the cost sharing or debt retirement associated with revenues; and

16. An explanation about how electronic toll collection project components will be compatible with other ETC systems in the region.

If some of these items are not available or fully developed at the time the formal application is submitted, applications will still be considered for grant funding support if they meet the interests of FHWA, as described earlier in the section entitled ''Potential Project Types,'' and if there is a strong indication that these items will be completed within a short time.

VPP Program Process

A. Requests for Funding

To ensure that all projects receive fair and equal consideration for the limited available funds, FHWA requires formal grant applications to be submitted no later than November 7, 2008, for FY 2009 funds to *http://www.grants.gov.*

B. Projects for Which No Funds Are Requested

Although most projects under the VPP program involve program funds, some projects do not, and instead only seek tolling authority under the program. In such cases, and especially where a State is not already part of the VPP program, FHWA recommends that the public authority investigate the other opportunities to gain authority to toll that are listed in the notice in the January 6, 2006, **Federal Register**, entitled ''Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU); Opportunities for State and Other Qualifying Agencies to Gain Authority to Toll Facilities Constructed Using Federal Funds'' (71 FR 965).

Post-Selection Process

If approved, a formal cooperative agreement will be prepared between the FHWA and the State. The cooperative agreement will include a refined scope of work developed from the original funding application and subsequent discussions with FHWA. Federal statutes will govern the cooperative agreement. Regulations cited in the agreement, and 49 CFR Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, will also apply. As a practical matter, each value pricing project must have a separate cooperative agreement. Although, in the past, the FHWA has allowed some States to have a master cooperative agreement that is subsequently amended for each approved project, in the future the FHWA will execute a separate agreement for each project. For value pricing projects that involve only toll authority and that do not involve requests for Federal funds, a cooperative agreement must still be executed.

Where the implementation of tolling is part of the VPP project, Federal tolling authority is required. To secure such authority for a VPP project, a cooperative agreement will be executed, regardless of whether VPP program funding is being provided. The cooperative agreement must include all of the information normally required as part of a tolling agreement (stipulating the terms of the tolling, providing details on the dispensation of revenues, etc.). A separate tolling agreement will not be required. As discussed previously, revenues must generally first be used to cover debt service, provide reasonable return on private party investments, and operate and maintain the facility. Any remaining revenues may then be used for other Title 23, United States Code eligible purposes.

Where tolling authority is secured through a VPP program cooperative agreement, such an agreement, like tolling agreements providing the authority to toll under other Federal provisions and programs, will be signed by the Executive Director of FHWA. If tolling authority is not required, the cooperative agreement will be signed by the FHWA Division Administrator of the State Division Office. All cooperative agreements will be administered jointly by FHWA's Office of Operations and FHWA's State Division Office.

Other Requirements

Prior to FHWA approval of pricing project implementation, value pricing programs must be shown to be consistent with Federal metropolitan and statewide planning requirements (23 U.S.C. 134 and 135; and, if applicable, 49 U.S.C. 5303 and 5304).

Implementation projects involving tolls outside metropolitan areas must be included in the approved statewide transportation improvement program and be selected in accordance with the requirements set forth in section 1204(f)(3) of the TEA–21.

Implementation projects involving tolls in metropolitan areas must be: (a) Included in, or consistent with, the approved metropolitan transportation plan (if the area is in nonattainment for a transportation related pollutant, the metropolitan plan must be in conformance with the State air quality implementation plan); (b) included in the approved metropolitan and statewide transportation improvement programs (if the metropolitan area is in a nonattainment area for a transportation related pollutant, the metropolitan transportation improvement program must be in conformance with the State air quality implementation plan); (c) selected in accordance with the requirements in section 1203(h)(5) or (i)(2) of TEA–21; and (d) consistent with any existing congestion management system in Transportation Management Areas, developed pursuant to 23 U.S.C. 134(i)(3).

Authority: 23 U.S.C. 315; sec. 1216(a), Pub. L. 105–178, 112 Stat. 107; Pub. L. 109–59; 117 Stat. 1144.

Issued on: September 9, 2008.

Thomas J. Madison, Jr.,

Federal Highway Administrator.

[FR Doc. E8–21517 Filed 9–15–08; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2004–18898]

Comprehensive Safety Analysis 2010 Initiative

AGENCY: Federal Motor Carrier Safety Administration, DOT.

ACTION: Notice of public listening session.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) announces a public listening session to obtain feedback from interested parties on the Agency's Comprehensive Safety Analysis 2010 (CSA 2010) initiative, a comprehensive review, analysis, and restructuring of FMCSA's current safety fitness determination process and enforcement programs. FMCSA will use the listening session to brief participants on the direction and progress of CSA 2010 and obtain feedback from its partners and stakeholders. FMCSA also requests comments on the CSA 2010 operational model described in this notice.

DATES: The Public Listening Session will be held on October 16, 2008, from 8 a.m. to 2:45 p.m. Participant registration will be from 8 a.m. to 9 a.m. Written comments must be received by January 31, 2009.

ADDRESSES: The Public Listening Session will be held at the Key Bridge Marriott, 1401 Lee Highway, Arlington, VA 22209. You may submit comments identified by FDMS Docket ID Number FMCSA–2004–18898 and by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Each submission must include the Agency name and the docket ID for this Notice. Note that DOT posts all comments received without change to *http://www.regulations.gov*, including any personal information included in a comment. Please see the Privacy Act heading below.