the Coast Guard project manager identified in **FOR FURTHER INFORMATION CONTACT**.

## Privacy Act

The electronic form of all comments received into the Federal Docket Management System can be searched by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). The DOT Privacy Act Statement can be viewed in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70, pages 19477–78) or you may visit *http://www.regulations.gov.*

**Authority:** 49 CFR 1.66.

Dated: July 28, 2009.

By order of the Maritime Administrator.

**Murray Bloom,**

*Acting Secretary, Maritime Administration.*

[FR Doc. E9–18682 Filed 8–4–09; 8:45 am]

**BILLING CODE P**

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# DEPARTMENT OF TRANSPORTATION

## Federal Highway Administration

## Value Pricing Pilot Program Participation, Fiscal Years 2009 and 2010

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice; solicitation for participation.

**SUMMARY:** This notice invites States, along with their local government partners and other public authorities, to apply to participate in the Value Pricing Pilot (VPP) program and presents guidelines for program applications for fiscal years 2009 and 2010. Unlike with previous notices, the purpose of this notice is to seek only applications for statewide, regionwide, or areawide transportation pricing studies and for transportation pricing implementation projects that do not entail tolling roadways. This notice seeks applications for fiscal year 2009 funding, and if Congress chooses to extend Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) VPP program funding, for such funds made available in fiscal year 2010.

**DATES:** 1. Applications for tolling authority only may be submitted at any time.

2. Formal grant applications, however, must be submitted no later than November 3, 2009, to be assured consideration.

3. Applicants may also submit an optional ''sketch'' or draft proposal by September 21, 2009, which FHWA will review and provide general feedback on for the applicant to use in its formal grant application. Sketch or draft proposals received after this date may still be reviewed by and commented upon by FHWA at its discretion.

4. For applications that had been submitted under the September 16, 2008 (73 FR 53478) solicitation that were not funded (for a list of projects funded from that solicitation, *see: http://www.fhwa.dot.gov/pressroom/fhwa0913.htm*), and where such applications would still be eligible for funding under the criteria provided by this notice, applicants may submit a letter to the Department by September 4, 2009, requesting comments on their previous applications.

*Application Submission:* Applications may be submitted through *http://www.grants.gov.*

**FOR FURTHER INFORMATION CONTACT:** For questions about or to provide information to FHWA that responds to this notice, such as to submit a letter or sketch plan, please contact Ms. Angela Jacobs, FHWA Office of Operations, at (202) 366–0076, *angela.jacobs@dot.gov.* For technical questions related to the development of pricing projects not involving tolls, please contact Mr. Allen Greenberg, FHWA Office of Operations, at (202) 366–2425, *allen.greenberg@dot.gov.* For technical questions related to the development of regional pricing projects, please contact Mr. Patrick DeCorla-Souza, FHWA Office of Innovative Program Delivery, at (202) 366–4076, *patrick.decorla-souza@dot.gov.* For legal questions, please contact Mr. Michael Harkins, FHWA Office of the Chief Counsel, at (202) 366–4928, *michael.harkins@dot.gov.*

**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 (VPP) program. Congestion 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 mileage-based car insurance and parking pricing. The congestion pricing concept of charging variable fees based upon usage and 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.

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 VPP programs, each including an unlimited number of projects. The FHWA invites interested States to apply to participate in the VPP program for the remainder of FY 2009 and also for FY 2010, if SAFETEA–LU funding is extended. While direct submissions by local governments and public authorities are allowable under SAFETEA–LU, FHWA strongly prefers applications to be submitted through State departments of transportation, since that would allow the potential for multiple VPP program projects within a State counting as only 1 of the 15 allowable partnerships.

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 1 of the 15 available VPP program slots, as also noted in the September 16, 2008, notice for VPP program participation (73 FR 53478). An agreement will be considered ''active'' by FHWA under either of the following two conditions: (1) During the period of 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 progress in moving forward to use its VPP program funding or tolling authority is unsatisfactory, FHWA may withdraw its approval for inactive agreements in favor of other applicants seeking to obtain VPP program funding or tolling authority.

A maximum of $12 million is authorized for FY 2009 to be made available to carry out the VPP program, and Congress may choose to authorize additional funds for FY 2010. Of the $12 million, $3 million per fiscal year must be set-aside for VPP projects that do not involve highway tolls. FHWA previously solicited for FY 2009 applications in a September 16, 2008, **Federal Register** notice (73 FR 53478) and on May 14, 2009, announced the awarding of five grants totaling $6,137,000, thereby leaving less than $6 million to fund additional grants in FY 2009 under this notice. Since none of the five most recent grants are supporting projects that do not involve highway tolls, at least $3 million of the remaining FY 2009 funds must be used for such projects. If Congress does provide additional VPP program funds for FY 2010, it is FHWA's intention to subsequently award these funds based upon responses to this solicitation, if merited by the applications that are received.

The Federal share payable under the VPP program is up to 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 congestion 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 VPP 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 an HOV lane if such vehicles are charged a toll. Since the authority to establish and operate an 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) of ISTEA, the potential financial effects of congestion pricing projects on low-income drivers shall be considered. Where such effects are expected to be both negative and significant, possible mitigation measures should be identified, such as providing new or expanded transit service as an integral part of the congestion 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 congestion 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. Expanded flexibility to toll is provided 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, ''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'' and ''congestion pricing'' refer to direct and transparent charges for vehicle use and parking, as well as variable charges for road use, possibly fluctuating based upon 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 alternative routes away from priced facilities, or by encouraging consolidation of trips, congestion pricing promotes economic efficiency. It also helps achieve congestion reduction, improved air quality, energy conservation, transit ridership, and revenue generation goals.

A ''value pricing project'' means any pre-implementation activities or implementation of congestion 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 VPP program if it has one or more approved congestion 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 congestion 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 public agency to establish and implement congestion 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 VPP programs, to provide for the monitoring and evaluation of congestion pricing projects included in such programs, and to report on these effects. The effects of interest include impacts on congestion, travel behavior, traffic volumes, transit ridership, air quality, and funding for transportation improvements. For the purpose of this solicitation, the VPP program focuses both on market-based approaches for congestion relief that do not involve road tolls, such as mileage-based car insurance and parking pricing, and congestion pricing with road tolls, such as pricing all lanes on limited access highways or all roads within a zone or network.

The FHWA is seeking applications for funding and/or tolling authority to use congestion pricing to reduce congestion, improve system performance, and advance the Department's priorities of growing the economy, enhancing livability, and promoting environmental sustainability. All proposals should incorporate significant pricing mechanisms, whether through non-toll pricing strategies or toll pricing applications, that are designed to substantially advance these objectives.

With successful examples of facility-specific pricing projects already in operation in the U.S., this solicitation, in addition to its focus on non-toll pricing applications, focuses on developing broader areawide approaches to toll-based pricing. Some metropolitan areas, such as Los Angeles, San Francisco, Seattle, and Washington, DC, have begun the process of developing areawide or regionwide congestion pricing scenarios and modeling their effects on long-term system performance and financing. An objective of this solicitation is, as described below, to provide incentive grants to expand the number of metropolitan areas that are developing areawide or regionwide approaches to congestion pricing.

Similar to the case with facility-specific tolling applications, some non-toll pricing applications, such as carsharing, have already proven their success and do not require VPP program funding for their success to be sustained. Deployment of other strategies, such as pricing of parking meters to achieve a certain occupancy level, are much newer in the U.S., but the advancement of such strategies has already secured substantial funding under the VPP and other programs (e.g., in San Francisco), and thus other non-tolling strategies, discussed below, will instead receive priority consideration under this solicitation.

**Potential Project Types**

The FHWA will consider applications for funds that show that a project will achieve at least one of the following: (1) Perform a rigorous areawide or regionwide congestion pricing scenario study around one or more scenarios that are comprehensive and potentially acceptable to the public; or (2) implement new and innovative non-toll pricing strategies, as detailed below. For pre-implementation projects, applicants should demonstrate that there is already sufficient political support for their implementation, or that the project is designed to bring about such support.

Congestion pricing charges need to be targeted at a sizable number of vehicles that are causing congestion, and prices should be set at levels significant enough to encourage drivers to use alternative times, routes, modes, or trip patterns, or to telework and avoid commuting during congested periods.

The FHWA is particularly interested in grant applications for projects that do not involve highway tolls. As discussed earlier, SAFETEA–LU sets aside a minimum of $3 million per fiscal year for such projects. The FHWA in particular seeks tests of non-toll pricing strategies that will substantially improve livability in an area and advance environmental sustainability in a major way, either directly through the benefits the project itself brings, or by demonstrating especially promising strategies such that their implementation will likely be replicated broadly.

Strategies that FHWA believes would meet this test include: (1) Pay-per-mile car insurance, where insurance premiums are converted from an annual or bi-annual charging scheme to one that is instead based primarily on miles or minutes of driving (with rates that still reflect actuarial risks and the coverages that are selected); and (2) highly innovative parking pricing strategies, provided the level and coverage of parking charges is sufficient to bring about substantial and measurable reductions in congestion. For parking pricing, FHWA seeks applications for: (1) Citywide surcharges for entering or exiting parking facilities during or near peak travel periods; (2) parking cash-out, where a city or State passes, and then requests financial support to implement, an ordinance requiring employers to offer cash to their employees in lieu of subsidized parking, or provides substantial incentives for employers to offer such cash-out options; and (3) a city or State seeking support to implement a law that requires or provides sizable financial incentives for housing developers to build more livable communities with reduced car parking, in part by offering renters or purchasers in multifamily housing developments direct and substantial financial savings for not using car parking spaces. Applications are also encouraged that utilize appropriate technologies and provide sufficient participation incentives to deploy dynamic ridesharing (flexible, single-trip carpooling) with the necessary critical mass of users to succeed. To be considered eligible, dynamic ridesharing applications must be coupled with some transportation pricing, such as parking pricing, thereby expanding affordable transportation options while mitigating equity issues associated with pricing.

The FHWA is also seeking VPP program applications from public entities to study one or more scenarios for broad-scale areawide or regionwide tolling and pricing that have a high probability of getting public support. Applications for areawide or regionwide pricing studies should cover a significantly-sized geographical area and include multiple roadway facilities that are priced, including zone-based pricing, where, as implemented in London and Stockholm, vehicles are charged a substantial fee to drive in a congested area on weekdays. Consideration of variable pricing of multiple facilities or corridors, or of an entire area, will generally be required. Area-wide pricing applications using technologies that provide travelers (including drivers and transit riders) with pre-trip and real-time congestion and pricing information for multiple travel modes and a variety of routes, and that facilitate dynamic ridesharing, are especially encouraged to assist travelers in making efficient travel destination, mode and route choices. Cashless tolling (i.e., no toll booths) is a required element of these approaches in order to be considered for VPP program funding.

As part of broad, areawide or regionwide pricing scenario studies, the inclusion of new, innovative congestion pricing approaches is encouraged. Examples of new ideas that FHWA would like to have further explored are included in an article on congestion pricing published in the March/April issue of *Public Roads,* available at: *http://www.tfhrc.gov/pubrds/09mar/04.htm.*

Areawide or regionwide transportation pricing 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. An example of the sort of regional transportation study that has already been undertaken for which FHWA seeks new applications is the Traffic Choices Study conducted by the Puget Sound Regional Council for the Seattle Metropolitan Area, which led to the Transportation 2040 Draft

Environmental Impact Statement (May 2009), available at: *http://psrc.org/projects/trans2040/deis/index.htm.*

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 travelers 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.

**Pre-Implementation Studies**

Applicants are encouraged to carry out pre-implementation study activities designed to lead to implementation of an areawide or regionwide congestion pricing project in the relatively near-term. The intent of the pre-implementation study phase is to support efforts to identify and evaluate congestion pricing project alternatives, and to prepare the necessary groundwork for relatively near-term implementation.

FHWA will not fund purely academic studies of congestion pricing or studies that involve major expansions of existing facilities or area-wide or regionwide planning studies covering many topics besides pricing and incorporating congestion 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 congestion 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 congestion pricing projects. Costs of planning for, setting up, managing, operating, monitoring, evaluating, and reporting on local congestion 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 congestion 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, 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 congestion 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. 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 congestion 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 cooperative agreement concerning the use of toll revenue to be generated under a congestion pricing project. The cooperative agreement will provide that the public authority use the revenues in accordance with the applicable statutory requirements. The execution of a cooperative agreement is necessary to the establishment of a project under the VPP program, and 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 toll 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 shall be submitted through Grants.gov at *http://www.grants.gov* by close of business November 3, 2009.

No particular format 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 spending grant funds or in cost sharing or debt retirement associated with revenues; and

16. If tolling authority is sought, an explanation about how electronic toll collection project components will, if applicable, be compatible with other electronic toll collection systems in the region.

If some of these items are not available or fully developed at the time a formal application for grant funding is submitted, applications will still be considered for 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 to *http://www.grants.gov* by close of business November 3, 2009, to be assured consideration for FY 2009 funds and, if made available, FY 2010 funds, as well. Applicants may also submit an optional ''sketch'' or draft proposal, in a format selected by the applicant, to *angela.jacobs@dot.gov* by September 21, 2009, which FHWA will review and provide feedback on for the applicant to use in its formal grant application. Sketch or draft proposals received after this date may still be reviewed by and formally commented upon by FHWA at its discretion. For applications that had been submitted under the September 16, 2008 (73 FR 53478) solicitation that were not funded (for a list of projects funded from that solicitation, see: *http://www.fhwa.dot.gov/pressroom/fhwa0913.htm*), and where such applications would still be eligible for funding under the criteria provided by this notice, applicants may submit a letter to *angela.jacobs@dot.gov* at FHWA September 4, 2009, requesting comments on their previous applications.

*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 ''SAFETEA–LU; Opportunities for State and Other Qualifying Agencies to Gain Authority to Toll Facilities Constructed Using Federal Funds'' (71 FR 965).

Proposal Evaluation Criteria

All proposals will be evaluated based on:

(1) The degree to which they reduce congestion, improve system performance, and support economic growth, enhance livability through support of alternatives to driving, and promote environmental sustainability by reducing fuel consumption and greenhouse gas emissions;

(2) The degree to which they encourage drivers to use alternative times, routes, modes, or trip patterns, or to telework and avoid commuting during congested periods;

(3) The degree to which new, innovative congestion pricing approaches are included; and

(4) The degree to which proposals are designed to reflect the needs of low-income or other transportation-disadvantaged groups.

In addition, area-wide and region-wide pricing proposals will be evaluated based on:

(5) The degree to which proposals 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;

(6) The degree to which further development of alternative packages will involve stakeholder groups, including (among others) business groups, environmental groups, and advocates for social equity;

(7) The degree to which they are likely to lead to relatively near-term implementation;

(8) The scale of the congestion pricing strategy, i.e., the extent of the geographic area, or the number of roadway facilities or corridors that are to be priced;

(9) The degree to which the proposed pricing scenarios are comprehensive involving synergistic combinations of multimodal investment strategies, Intelligent Transportation System technologies and travel demand management strategies; and

(10) The degree to which proposed pricing scenarios have a probability of getting public support.

Further, non-toll pricing proposals will be evaluated based on the degree to which they demonstrate especially promising strategies such that their implementation will likely then be replicated broadly.

**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. Each congestion 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 congestion 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 the project's operating costs, including debt service, provide reasonable return on private party investments, and be used for the costs necessary to properly 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, congestion 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 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), Public Law 105–178, 112 Stat. 107; Public Law 109–59; 117 Stat. 1144)

Issued on: July 30, 2009.

**Víctor M. Mendez,**

*Federal Highway Administrator.*

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Form 8928

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8928, Return of Certain Excise Taxes Under Chapter 43 of the Internal Revenue Code.

**DATES:** Written comments should be received on or before October 5, 2009 to be assured of consideration.

**ADDRESSES:** Direct all written comments to R. Joseph Durbala, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to Dawn Bidne, (202) 622–3933, at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Dawn.E.Bidne@irs.gov*.