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Title 23 United States Code (23 U.S.C.) Section 129 Toll Agreements

The Federal-aid highway program, when created in 1916, allowed no use of Federal-aid funds on toll facilities. This position remained unchanged until 1927 when Congress enacted legislation that permitted Federal-aid highway funding to be used to construct toll bridges and approaches. Subsequent legislation provided more flexibility on using Federal-aid highway funds for improvements to toll facilities with the last significant changes being made in 1991 with passage of the Intermodal Surface Transportation Efficiency Act of 1991.

Program Announcement

If you are interested in the **Toll Agreements Program**, please refer to the program announcement for [Tolling and Pricing Opportunities under the Federal-aid Highway Program](#).

Although the Interstate System is free of tolls for the most part, Congress decided in 1956 to include some toll facilities in the System. Generally, these were major toll roads built or planned before Federal funding for construction of the Interstate System increased significantly in 1956. Inclusion of these toll roads in the Interstate System enhanced connectivity without having to build competing free routes in the same transportation corridors. Additionally, including these toll segments freed highway user tax revenues to develop other non-toll segments of the System sooner. Approximately 2,900 miles of toll facilities are included in the 46,730-mile System.

Under 23 U.S.C. 129, Federal participation is allowed in the following five types of toll 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 of any existing toll facility;
- Reconstruction or replacement of free bridges or tunnels and conversion to toll facilities;
- Reconstruction of a free Federal-aid highway (except on the Interstate system) and conversion to a toll facility; and
- Preliminary studies to determine the feasibility of the above toll construction activities.

If Federal-aid funds are used for construction of or improvements to a toll facility or the approach to a toll facility or if a State plans to reconstruct and convert a free highway, bridge or tunnel previously constructed with Federal-aid funds to a toll facility, a toll agreement under Section 129(a)(3) must be executed. There is no limit to the number of agreements that may be executed.

The toll agreement must require that all toll revenues are first used for any of the following: debt service, reasonable return on private investment, and operation and maintenance, including reconstructing, resurfacing, restoring, and rehabilitating work.

The agreement may also include a provision regarding toll revenues in excess of those needed for the required uses outlined above. This provision would allow these excess revenues to be used for highway and transit purposes authorized under Title 23 if the State certifies annually that the toll facility is being adequately maintained.

The issue of whether a toll facility is to become free when debt is retired or at some other future point in time or whether tolls are to be continued indefinitely is a matter to be determined by the State.

Decisions regarding the amount of tolls charged are made by the toll authority subject to requirements under State and local laws and regulations. These decisions require no review or input from the Federal Highway Administration (FHWA).

Resources

- [Active FHWA Toll Facility Agreements](#)
- [Why Does The Interstate System Include Toll Facilities?](#)

Program Contact

Greg Wolf

Greg.Wolf@dot.gov

202-366-4655