

Memorandum

Date	February 21, 2023
To	Regional Toll Advisory Committee Members
From	ODOT Project Team
Subject	Responses to questions from Meeting 4

This memorandum provides responses to several of the questions received from members of the Regional Toll Advisory Committee at the January 23, 2023, meeting.

Question/Response

Have we analyzed to see if we have sufficient traffic willing to pay high enough toll to fully cover costs?

[The Level 2 Traffic and Revenue Study for the I-205 Toll Project](#) provides the results of an analysis for funding capacity of tolls for the future phases of the I-205 Improvements Project. The Level 2 Toll T&R Study shows a net revenue forecast that has the capacity to provide \$500-800 million in toll funding, inclusive of an allowance for a low-income toll program. An investment grade Level 3 Traffic and Revenue Study will be conducted in 2024 to refine the Level 2 results and support decision-making by investors and lenders.

Financial studies will begin for the Regional Mobility Pricing Project later this year.

What is the estimated annual gross and net toll revenue?

See answer above.

How will we use revenue and when do we get to talk about it? What do we consider transit projects under title 23? I would like us to consider figuring out ways that the revenue could contribute to public transportation.

RTAC will begin discussing revenue at the February 27 committee meeting. See the RTAC workplan for additional meeting where funding will be discussed.

The Public Transportation Strategy (PTS) Project Management Group (PMG) is in the process of developing their workplan. By the end of 2023, the Public Transportation Strat workgroup is expected to have developed a list of priority public transportation projects and supportive services with potential funding sources. The RTAC will receive briefings as the Public Transportation Strategy is developed and be asked to endorse the final document.

Is there a decision role for FHWA in use of revenue? Is there federal or state law imposing restrictions on the use of toll revenue?

[FHWA](#) on use of toll revenue:

“The Federal tolling programs also come with restrictions on the use of toll revenues generated by the facilities that receive tolling authority. Under the mainstream tolling programs (Section 129 and Section 166), toll revenue may be used for debt service, to provide a reasonable return on investment to any private party financing a project, for the operations and maintenance (including capital improvements) of the toll facility, and payments between public and private partners involved in a public-private partnership. If the public authority with responsibility for the toll facility certifies that the facility is being adequately maintained, then toll revenues may also be used for other purposes eligible under Title 23.

The VPPP allows toll revenues to be used to mitigate the adverse effects of tolls on low-income drivers, in addition to project-related costs and other Title 23 uses. Toll facilities are required to undergo annual audits to ensure compliance with the limitations on the use of toll revenues. The results of these audits must be transmitted to FHWA.”

“If the public authority certifies annually that the tolled facility is being adequately maintained, toll revenue may be used to fund transit projects that are eligible for assistance under title 23, United States Code, which generally include the capital costs of transit projects eligible for assistance under chapter 53 of title 49, United States Code.”

The Oregon Constitution (Article IX, Section 3a) specifies that revenues collected from the use or operation of motor vehicles is spent on roadway projects, which could include construction or reconstruction of travel lanes, as well as bicycle and pedestrian facilities or transit improvements in or along the roadway. In addition, the cost of projects or services needed to address negative effects of tolling could be paid using toll revenue. For example, if a local roadway was made less safe by drivers rerouting to avoid a toll, it could be upgraded with improved sidewalks, bike facilities and traffic calming measures to discourage rerouting and preserve neighborhood livability.

Once tolling is implemented, will those roads be eligible to receive federal funding?

[FHWA](#) on Federal participation:

“The Federal share payable for a tolling project defined under 23 U.S.C. 129(a)(1) shall be a percentage determined by the State, but may not exceed 80 percent (regardless of whether the project would have qualified for a higher Federal share if advanced as a non-toll facility). (23 U.S.C. 129(a)(5)). The Federal share limitation under 23 U.S.C. 129(a)(5) applies to all projects defined in section 129(a)(1), including a preliminary tolling feasibility study under section 129(a)(1)(I). The section 129(a)(5) limitation also applies to preliminary engineering activities. When Federal-aid funds participate in preliminary engineering activities that will prepare a project to advance to physical construction of a project defined in 23 U.S.C. 129(a)(1), the Federal-aid funds are subject to the limitation on Federal participation not to exceed 80 percent under 23 U.S.C. 129(a)(5). Because the Federal share for projects identified at 23 U.S.C. 129(a)(1) is determined under 23 U.S.C. 129(a)(5) and not 23 U.S.C. 120, the Federal share provisions of 23 U.S.C. 120 do not apply to activities that lead to, or involve, physical construction on section 129(a)(1) projects.”

What does self-sustaining of these two facilities look like? What are some revenue projections? Vs the cost of the projects?

Analysis is ongoing related to revenue projections and cost of the projects. Please see the first question above related to the Level 2 Traffic and Revenue Analysis for the I-205 Toll Project.

What will be the risk sharing arrangement if toll revenue fall short of expectations?

Revenue from tolling will first be used for operations and maintenance of the tolling program and maintenance of the tolled highway segment. Net toll revenue available after covering these expenses will be invested in improvements in the transportation system. Under NEPA, ODOT will be required to mitigate impacts of tolling that are identified in the environmental review process. The remainder of funding will be available to pay for other improvements, either on a pay as you go basis or through bonding. If net toll revenue falls short of expectations, the funding available for improvements (other than mitigation) would be impacted, so the risk will fall on ODOT. Therefore we are undertaking an investment-grade traffic and revenue analysis that will give us a strong sense of revenue.

What percentage of the revenue collected will be the toll collection costs?

See an accompanying memorandum on this topic.

The narrative that we have already paid for these roads to be tolled and the concern for double taxation, will there be some type of credit back between the difference of gas taxes and paid tolls?

Unfortunately, Oregon's transportation system isn't keeping up with current needs. Hours of delay and traffic congestion come at a high cost to individuals, businesses, and communities. The system is vulnerable to a major earthquake, and ODOT faces a \$510 million shortfall annually just to maintain the existing state system. Tolling is part of ODOT's long-term strategy to manage congestion and sustainably raise revenue for roadway and multimodal investments.

ODOT is investing in transit, bicycle, and pedestrian facilities and changing how we manage roads for safety and traffic flow. Variable-rate tolling – also known as "congestion pricing" – is another necessary tool to fix the transportation system to make trips more reliable, address traffic congestion, reduce greenhouse gas emissions, and fund bottleneck-relief projects.

Has the project team completed an analysis that considers the impacts of trucking rerouting and diversion from I-205 to I-5 after tolling is implemented on I-205?

The EA will address freight impacts and economic impacts. Toll rates on I-205 are lower during mid-day hours when truck demand is highest

I-5 vs I-205 Routing Choice

- Through trips that have an option of using I-5 and I-205 are a small minority of travelers
- Substantial travel time savings on I-205 will be realized during peak hours, which could attract some trips to I-205 despite the tolls
- The analysis also assumes tolling on I-5 via the IBR Program, so both I-5 and I-205 would have tolls
- Analysis of existing vehicle routing of through trips does not show a big shift from I-5 to I-205 during peak hours

What is the process used to recruit for STRAC membership and ensure BIPOC voices and local government voices are heard during the rulemaking process?

ODOT created a [Statewide Toll Rulemaking Advisory Committee](#) (STRAC) to ensure that the voice of the customer is heard in the rulemaking and rate-setting process. The STRAC membership focuses on those who will use or are impacted by the toll program. ODOT held an open application process for the STRAC,

with about 100 people applying. In selecting members, ODOT sought toll program customers who could provide their unique insights based on their experience as well as a geographically and demographically balanced committee. ODOT appointed members who represent small businesses, various industries across the state which includes the trucking industry, commuters, emergency response, and public transportation. The STRAC includes a member from both RTAC and EMAC who will bring the voices of these committees to the STRAC's discussions. We did reach out to an extensive list of BIPOC and transportation-justice organizations to serve on the rulemaking committee and did not receive commitments. We were recruiting for both EMAC and RTAC committee members at the time and were able to have representatives commit to those opportunities. We plan to conduct equitable and specific engagement during the rulemaking process.

Please provide examples of case studies of other cooperative agreements under VPPP.

Examples of two cooperative agreements are attached.

What is the exact timeframe used in the Level 2 Traffic and Revenue Analysis for I-205 Toll Project?

Two scenarios were studied: 32 and 35 years.