

December 27, 2010

Pass-Through Finance Program  
2011 Program Call

To All Interested Parties:

The Texas Department of Transportation (department) would like to announce the 2011 Program Call accepting proposals for highway projects for development under the Pass-Through Finance Program. Pass-through financing is a tool our Legislature created (see Transportation Code §222.104) to stretch the already limited transportation funds dedicated to highways by allowing local entities to fund upfront costs for constructing a state highway project. Under this program, the department reimburses a portion of a project cost to the community over time by paying amounts based on the number of vehicles that drive on the new highway. Projects must be on the state highway system prior to submission of the proposal to be eligible for development under this program.

On January 29, 2009, by Minute Order 111669 the Texas Transportation Commission (commission) adopted revised rules, codified as Title 43 Texas Administrative Code §§5.51-5.60 (rules), that prescribe the policies and procedures governing the department's implementation of the pass-through finance program under Section 222.104(b), Transportation Code. On December 16, 2010, the commission by Minute Order 112526 approved a call for submission of projects under this program. Unfortunately, the funding for this program call is very limited. Depending on the pass-through proposals received and then negotiated, the commission could allocate no more than \$250 million among the pass-through proposals selected under this program call.

The program call to solicit and accept proposal submissions for pass-through finance projects will be published in the *Texas Register*, on December 31, 2010 with the call to begin on the same date. The deadline for the submission of pass-through financing proposals is 3:00 p.m. on March 1, 2011. The department will accept proposals from both public and private entities that are submitted in accordance with the terms of the notice in the *Texas Register*, Minute Order 112526, and the rules. Enclosed is a draft copy of the notice to be published in the *Texas Register*.

Information regarding the proposal application guidelines for pass-through financing of highway projects is available electronically on a department website, [http://www.txdot.gov/business/governments/pass\\_finance.htm](http://www.txdot.gov/business/governments/pass_finance.htm), and at your local district

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office. Information about local district office locations and phone numbers is also available at the website. Applicants considering the submission of proposals should specifically review the *Application Guidelines for Pass-Through Financing of Highway Projects* located under "Publications" at the above website.

Please contact your local district office if you have any questions. Your interest in the pass-through finance program is appreciated.

Sincerely,

A handwritten signature in blue ink that reads "Mark E. Tomlinson". The signature is fluid and cursive, with the first name "Mark" being the most prominent.

Mark E. Tomlinson, P.E.  
Director, Texas Turnpike Authority Division

Enclosure

cc: Texas Transportation Commission



## **PASS-THROUGH TOLL FINANCE PROGRAM CALL - 2011**

In accordance with Minute Order 112526 approved by the Texas Transportation Commission (commission) on December 16, 2010, and pursuant to Transportation Code, §222.104(b), and Title 43, Texas Administrative Code (43 TAC), Chapter 5, Subchapter E, the Texas Department of Transportation (department) issues this 2011 Program Call for highway projects to be developed on the state highway system under a pass-through toll agreement. Pursuant to 43 TAC §5.54, the commission determined that (i) monies available that can be allocated among all proposals selected under this program call will be limited to an estimated total of \$250 million in Category 12 funds; (ii) only the following category of project costs described in 43 TAC §5.53(a)(11) will be considered as eligible for reimbursement under this program call: construction cost, exclusive of construction engineering cost, and in the case of a pass-through toll project submitted as a design-build project, the construction cost, exclusive of construction engineering costs must be broken out separately as one component of the total project cost (The cost categories of design, development (including environmental clearance, right of way acquisition, utility adjustment, contingencies), financing, maintenance, and operation are specifically excluded and are not eligible for reimbursement); (iii) proposals for a new location facility or realignment of an existing roadway will only be considered if a commission minute order exists at the time of submission that designates the new location or realignment as part of the state highway system; (iv) the value of development and implementation services and products for the project, including but not limited to environmental studies and mitigation, right-of-way acquisition, engineering, and construction inspection services that have been or will be provided by the department, will be deducted from the eligible reimbursement amounts; and (v) federal and state funding that is otherwise programmed for or committed to a proposed pass-through toll project will not be considered as part of the proposer's contribution, nor may it be reimbursed under the program.

The department will accept proposals from both public and private entities that are submitted in accordance with the terms of this notice, Minute Order 112526, and 43 TAC Chapter 5, Subchapter E. The due date for acceptance of proposals is 3:00 p.m., Tuesday, March 1, 2011. The submission must be an electronic copy of the proposal in Adobe PDF format on a labeled compact disk, along with one hard copy, addressed to John Barton, P.E., Assistant Executive Director for Engineering Operations, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701. An additional electronic copy of the proposal, along with one hard copy, should be addressed to the local District Office where the proposed project will be located. The addresses of the district offices are available on the department's internet website, [www.txdot.gov](http://www.txdot.gov).

The department will evaluate the submitted proposals using the items of criteria set forth in 43 TAC §5.55 and present its analyses to the commission. Based on the staff's analysis and the commission's evaluation of the proposals, the commission may select the proposals that provide the best value to the state and direct the department staff to attempt to negotiate the financial terms of a potential pass-through toll agreement with the selected public entity proposers, and will solicit competitive proposals under 43 TAC §5.56 for the selected private entity proposers.



In the event that an alternative funding source or a significant increase in Category 12 funding becomes available for use in the program prior to August 31, 2011, or any extended date, the commission may authorize an additional deadline period for submitting proposals to be in compliance with conditions specific to the new period, in accordance with the requirements of 43 TAC §5.54. Provided further, that in the event a critical transportation need arises which can be addressed with a pass-through toll agreement, or an alternative funding source becomes available for a specific transportation project, the commission may, at any time and irrespective of the limitations set forth in this program call, authorize acceptance of an individual proposal for development of a pass-through toll project to meet that need or utilize those funds, provided that the proposal otherwise complies with 43 TAC Chapter 5, Subchapter E.

Information regarding the proposal application guidelines for pass-through toll financing of highway projects will be available electronically on the department's website, [www.txdot.gov/business/](http://www.txdot.gov/business/), and at the following address: Texas Department of Transportation, Attn: Mark E. Tomlinson, P.E., 125 East 11th Street, Austin, Texas 78701, (512) 936-0903, on or after December 31, 2010.