Solicitation / Funding Opportunity Number DTFH61-12-RA-00002
"Highways for LIFE Technology Partnerships Program"
Questions and Answers #1

The following list of Questions and Answers (Q&As) represents a summary of questions received from PAST, potential applicants under the subject program grant competition. If you have further questions, please email them to Julie.Zirlin@dot.gov.

*NOTE: Actual questions have been paraphrased for the purposes of this Q&A.

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QUESTIONS ON PROGRAM PURPOSE / ELIGIBILITY

1. **QUESTION:** What is the purpose of the program?

   ANSWER: This program is targeting a very narrow niche in the technology development continuum which is defined as concept exploration through the commercialization and implementation of an innovation.

   The program is intended to fund ***proven*** innovations, (i.e, proof of concept is well-established) that have been developed to a late-stage prototype and require further refinement, testing, evaluation and first application in a real-world setting before they would be available for purchase. The prototype must be full scale and full capability. The program is NOT intended to fund innovations that have moved beyond the prototype stage and into multi-unit production or commercialization. Incremental improvements to existing technologies, or demonstrations and evaluations of existing technologies are also not within the scope of this program.

   The Technology Partnerships Program is not a research program. It is intended to take the results of late-stage prototype development to commercialization. FHWA is strongly committed to seeing the innovations funded through these grants reach market and become available to provide improved solutions for America's highways. If the applicant intends to work with a second party to commercialize the innovation, early, substantial, and continuous participation of that party is deemed essential for success. For example, if the applicant plans to licensee the innovation to another organization for commercialization, that organization must be substantially involved throughout the project.

2. **QUESTION:** Section I of the solicitation, Paragraph E.2.C, refers to a "significant" refinement of an existing innovation. How will you judge significant?

   ANSWER: Examples of significant refinements could be, but are not limited to, a large reduction in cost of equipment, operating or deployment expense, or a change in the rate of operation that results in a change in the time or performance or output of the product, or improvements in the benefits or ease of deployment.

3. **QUESTION:** Please provide clarification of when a device or concept is no longer considered a late-stage prototype. Our equipment is still in the late prototype stage but our innovative equipment has been sold which has enabled us to strengthen real world applications in the industry and perfect the design. Is this considered eligible?

   ANSWER: No. For this grant competition, we do not consider equipment that is available for purchase or that has already been sold to be a prototype. The intent is to fund innovations before they are available for purchase. The solicitation states, "The program is intended to fund *proven* innovations that have already been developed to a late-stage prototype but require further refinement, testing, evaluation and first application in a real-world setting before they would be available for purchase, conventional practice or widespread application… The program is not intended to fund innovations that have moved beyond the prototype stage and into multi-unit production or that are currently available for purchase."

4. **QUESTION:** If we had orders for our innovation we would sell it today. But we have no orders yet. There is a lot more room for testing and refinement. Does this meet the definition of prototype?

   ANSWER: No. If you are positioned to sell your innovation as it exists today, for purposes of this solicitation it would not be considered a prototype.

5. **QUESTION:** We have orders for our innovation but have not been able to deliver it due to glitches that have not been ironed out. Do you consider this a prototype and therefore eligible, or does the fact that we have offered it for sale make us ineligible?

   ANSWER: The fact that you have offered it for sale would make it not eligible.

6. **QUESTION:** For clarification purposes, what is meant by multi-unit production?

   ANSWER: The issue is the intended use of the multiple units. Limited multi-unit production of the innovation for the exclusive purpose of internal testing and evaluation is ok. However, if the company is making multiple units for the purpose of selling the innovation, it would no longer be considered a prototype.

7. **QUESTION:** What determines if a finished product goes from being a prototype to no longer eligible for the grant? The statement of objectives states, "The program is NOT intended to fund innovations that have moved beyond the prototype stage and into multi-unit production or that are currently available for purchase". Multi-unit production for software isn't like most other tools/devices, as if you have one working copy then multi unit production is as simple as copying some files.

   ANSWER: A software product is considered to be a prototype when it is ready to begin beta testing. A company making multiple copies for the purpose of internal testing only is acceptable. However, if the company is accepting pre-orders or making copies of the software for the purpose of selling it, or if the software is available for an on-line download purchase, than the software would no longer be considered a prototype.

8. **QUESTION:** Could you give a more detailed explanation of what defines a prototype for software? More specifically, what criteria must a software product meet to go from a development/exploratory tool to being an appropriate prototype?

   ANSWER: For purposes of this solicitation, a software product is considered to be a prototype if all the required components have been incorporated into the software and the package is complete, the alpha stage testing has been completed and the software is ready to begin beta testing. Alpha stage is defined as an in-house test of a pre-production software product to find and eliminate the most obvious defects, either conducted in a laboratory setting or in some part of the software manufacturer's regular operations. Beta stage is defined as an external test of a pre-production software product at a limited number of end-user sites with the purpose of testing the product for all functions in a breadth of field situations to find those failures that are more likely to show in actual use than in the software manufacturer's more controlled in-house alpha test before release to the end-user(s). The software will no longer be considered a prototype if the software is currently available for sale. A “bug” fix for commercially available software is not eligible for a grant.

9. **QUESTION:** Hypothetical: Process A and Process B are tested and proven and both are currently being utilized in the field. There is an interest to combine Process A and Process B. The combination of A and B has been lab tested but needs to be applied and evaluated on highways. Does this last stage meet your prototype definition?

   ANSWER: It is possible. The question is whether one lab test of the current combination of Process A and B is sufficient to fully demonstrate the proof of concept, and whether the innovation would be considered to be in late-stage development with only limited additional refinements necessary before it can be demonstrated, full-scale, full-capability, under real-world conditions.

10. **QUESTION:** We have a product that is in wide use throughout the highway industry, but we are looking to create a new system that our current product would be one smaller part of. Would the new system be eligible given its inclusion of an existing product, and if so how far developed must its prototype be?

    ANSWER: The new system may be eligible if there is a late-stage prototype of the new system demonstrating proof of concept and if there is limited additional development required before the new system can be demonstrated on a real-world project.

11. **QUESTION:** I have an existing product that I believe can be automated. I have a first generation prototype demonstrating how the automation works. Would the grant cover the development of the next generation prototype?

    ANSWER: In the development of any particular technology it is not uncommon for several generations of prototypes to be made before the technology is ready to market. Each technology is different. We would look at the technical merits including functionality and testing results of the current prototype and what additional development work would need to be completed before the prototype could be demonstrated, full scale and capability, on a real-world project.

12. **QUESTION**: I have an existing product or late-stage prototype that I am currently testing and it has capability A, but I want to market capability B. Would this solicitation cover refinements of capability B?

    ANSWER: Possibly. The proof-of-concept of "capability B" must already be well-established. There must already be a late-stage "capability B" prototype.

13. **QUESTION**: What if I have an existing product that is already available for purchase but I want to take it to the next level? Will this grant cover those activities?

    ANSWER: If you have an existing product that is already available for purchase and you want to take it to the "next level," you must have a late-stage prototype of the "next-level" and the proof-of-concept of the "next level" must be well established.

    However, if you have an existing product and just have <u>an idea</u> of how you want to take it to the "next level", this program would not fund the development of the prototype. A late-stage prototype of the "next level" must already exist.

14. **QUESTION**: We have already proven that a particular concept will work but the prototype is not very practical. We proceeded to make a more practical prototype that will work in the field. We are in the final stage of making the new prototype. Would this be eligible? The first prototype has already been tested, but we need the new more practical prototype.

    ANSWER: Based on the information provided it is not possible to discern whether the first "field- practical" prototype would be considered a late-stage prototype for purposes of this solicitation. Some innovations need more than one "field-practical" prototype before the innovation is ready to be commercialized. The Technical Evaluation Panel would need to review the technical aspects of the innovation in its current state, and your proposed project management plan, in order to determine whether your proposal would be eligible for grant funding.

15. **QUESTION:** If a product has been mentioned in 'new product announcements' at a couple of trade shows, but not sold it to anyone, would it be eligible?

    ANSWER: It is not uncommon for companies to announce new products prior to their release. If it is available as a pre-order, or for immediate purchase it would no longer be considered a prototype.

16. **QUESTION:** Can international companies apply?

    ANSWER: Yes.

17. **QUESTION:** In order to test our prototype we'll need extended physical access to a highway and a bridge nearby. Can you discuss the details of how we can be permitted to

physically install the proposed technology on an active Federal interstate highway?

ANSWER: The prototype can be tested on any state highway or local road project. It does not have to be on an interstate highway. Applicants are responsible for identifying and working directly with a State, local municipality, or contractor that is interested in the innovation and would consider using the innovation during the award period. Applicants needing assistance in making a first contact with someone in a State Highway Agency or local municipality can contact the Highways for LIFE Coordinator in the FHWA Division Office or Local Technical Assistance Program (LTAP) Center in their State. For further information on FHWA Division locations, please visit http://www.fhwa.dot.gov/field.html#fieldsites. For further information on the LTAP Centers please visit http://www.ltapt2.org/.

18. **QUESTION:** The Detailed Project Management Plan states, "FHWA anticipates awards will be made by June 15, 2012 for applications submitted by January 26, 2012 and awards will be made by September 22, 2012 for applications submitted by May 3, 2012. Accordingly, the project management plan should indicate what work is expected to be completed on the innovation from the application date to the award date." Please elaborate on this statement.

ANSWER: FHWA anticipates that some applicants are currently working on refining or adapting an innovation and will continue to do so regardless of whether they receive an award. Such applicants should indicate what work is expected to be completed on the innovation from the application date to the anticipated award date.

19. **QUESTION:** We have tests that will not be completed until after the application deadline? Can we provide refined data after the application?

ANSWER: The Project Management Plan should indicate what work is expected to be completed on the innovation from the application date to the anticipated award date. You cannot submit data after the application due date unless specifically asked to do so by the FHWA.

20. **QUESTION:** Can a product, which is subject to evaluation in a project that is awarded, be commercialized during the project timeline?

ANSWER: Without knowing the specifics, it seems unlikely that a product would be ready for commercialization at the same time that it is being evaluated in a first demonstration project.

TECHNICAL ACTIVITIES AND TECHNICAL APPLICATION REQUIREMENTS

1. **QUESTION:** In Round I, are we to write and submit Phase I and Phase II durations together under the 10-page limit? Or should we write/submit the Phase II duration only after the Phase I duration is completed?

   ANSWER: Phase I and Phase II durations must be submitted together and be under the 10-page limit.

2. **QUESTION:** Allowable Activities - Are we expected to perform one or all of the items identified in solicitation Section I, Paragraph F, Allowable Activities? Please confirm: Every project "must include both Phase-I and Phase-II durations," correct?

   ANSWER: The activities listed in the solicitation Section I, paragraph F, Allowable Activities are not intended to be all inclusive. Rather, they represent examples of activities which the applicant may propose to perform. Applicants should propose to perform the <u>activities relevant to the proposed innovation</u> in order to meet the project deliverables described in Section VI of the RFA. For example, some of the activities listed in the solicitation may have already been completed by the applicant and should be documented accordingly in the application. FHWA anticipates that applications will include both Phase I and Phase II durations that, when combined, total no more than two years.

3. **QUESTION:** Are Phase I and Phase II intended to last one year each? Is there flexibility in the period of performance?

   ANSWER: The duration of Phase I and Phase II does not have to be one year each. The applicant may propose durations of Phase I and Phase II based on their innovation. The total period of performance shall not exceed two years, and may be less than two years.

4. **QUESTION:** Does Phase I include field activities?

   ANSWER: In some instances it might. For example, before a product is assembled, individual components may have to be field tested to determine operating characteristics. Such activities could be done in Phase I. One those characteristics are established, the product would ready for a full-scale first application demonstration which would take place in Phase II.

5. **QUESTION:** Does “refining technology” fall under Phase I?

   ANSWER: Yes.

6. **QUESTION:** What is the timeframe anticipated for FHWA to decide upon authorization of Phase II? What are the decision criteria that FHWA will use for authorizing Phase II?

   ANSWER: After receiving the Phase I report, FHWA anticipates two weeks to decide upon authorization of Phase II. The decision will be based on the testing results and performance specifications and, as applicable, whether the innovation can be manufactured, purchased and operated economically.

7. **QUESTION:** With regards to the submission of the hard copy, is there an order of preference of information?

   ANSWER: We recommend you provide the information in the order in which the solicitation requests it.

8. **QUESTION:** How much proprietary information that is already owned by the applicant is typically revealed in the application process?

   ANSWER: Applicants must provide technical and budget information sufficient to comply with the application requirements. Applicants should follow data marking directions with respect to proprietary information.

9. **QUESTION**: Regarding the technical part of the Round 1 application, do the 10 pages include charts/graphs, surveys?

   ANSWER: The Round 1 Technical Application cannot exceed 10 pages. Charts, graphs and surveys DO count against the page limit.

QUESTIONS ON LETTERS / CONTACTING STATE DOT OR LOCAL GOVERNMENTS

1. **QUESTION:** Is one letter from a governmental body sufficient for both phase I and II, or are two separate letters required?

   ANSWER: One letter is fine if it is the same entity that supports the applicant in both Phase I and Phase II. The letter must specifically address Phase I and Phase II activities that are proposed for the innovation. A letter expressing general interest in the technology is not sufficient.

2. **QUESTION:** In order for states to provide letters of interest, they need to understand the impact of testing on their roads ... could states contact the U.S. DOT directly?

   ANSWER: The applicant is responsible for working directly with the State DOT, local municipality, or contractor. However, if the State DOT has questions about the program, they are encouraged to contact the Highways for LIFE program office.

3. **QUESTION:** Who are the right people to talk with at our State DOT for discussing field testing our technology? Also, how do we find independent laboratories for assessing our demonstration (as described in RFA Section I, Paragraph F)?

   ANSWER: Depending on the innovation, the appropriate industry association can be also be contacted for information on testing laboratories such as the American Traffic Safety Services Association.

   Applicants needing assistance in making a first contact with someone in a State Highway Agency or local municipality can contact the Highways for LIFE Coordinator in the FHWA Division Office or Local Technical Assistance Program (LTAP) Center in their State. For further information on FHWA Division locations, please visit http://www.fhwa.dot.gov/field.html#fieldsites. For further information on the LTAP Centers please visit http://www.ltapt2.org/.

4. **QUESTION:** Does a letter of endorsement from a sitting congressperson in your District help or hurt, or neither?

   ANSWER: Section IV of the RFA clearly explains the required and recommended letters of support. Any letters not cited in Section IV will neither help nor hurt an application.

5. **QUESTION:** What is the role of the State DOT in this application process? Doesn't the State DOT own the roads?

   ANSWER: In some States the State DOT owns or operates all the roads, but it depends on the State. Letters of support and assistance during Phase I and Phase

II can be from the State DOT, or local municipalities, or a contractor. Applications to this program are not submitted by the State DOTs but they may be involved in reviewing some proposals.

6. **QUESTION:** Does an applicant need a State DOT evaluation?

   ANSWER: No.

7. **QUESTION:** Can past support from a State DOT satisfy the requirement for a Letter of Support?

   ANSWER: No, you need to submit current letters in your application as required by the solicitation that are specific to your proposed work plan.

QUESTIONS ON GRANT ADMINISTRATION AND BUDGET APPLICATION REQUIREMENTS

1. **QUESTION:** Does the proposed funding and the period of performance have to be split equally between Phase I and Phase II?

   ANSWER: No, the overall funding does not have to be split equally between Phases I and II. The applicant may propose amounts of funding needed for each Phase based on the applicant's situation and innovation. Further, the durations of Phases I and II do not have to be split equally across the two years. The applicant must propose a schedule for Phases I and II that, when combined, totals the two-year period of performance.

2. **QUESTION:** Is this a fixed price grant or a cost reimbursable effort?

   ANSWER: Awards under this solicitation will be either cost reimbursable, or fixed price with clearly defined milestone payments (see solicitation Section IIE) as agreed upon by the parties at grant award. In both cases, all Round II Budget Applications must include the budget detail information required in solicitation Section IV. Since some organizations are unable to accumulate and calculate their indirect rates, they may propose fully burdened (without profit) hourly labor rates in a fixed price application budget. For fixed price application budgets, FHWA will consider proposals of loaded (fully burdened) hourly labor rates in the Round II Budget Proposal in lieu of unloaded labor rates with corresponding indirect rates delineated separately.. In such cases, prime applicants must ensure their proposed fully burdened hourly labor rates exclude profit since profit is not allowable for the prime awardees.

3. **QUESTION:** What will the indirect cost percentage be for this project?

   ANSWER: Indirect cost rates are unique to the company proposing, so your indirect rate should be based on your company. If you are a consulting firm that typically proposes and bills customers using only fully burdened labor rates, it will be acceptable to propose those fully burdened rates, with profit eliminated from the fully burdened rates since profit is not allowable for the prime awardees.

4. **QUESTION:** Who should submit the application, parent company or a division?

   ANSWER: That decision is up to the applicant to decide. Either is acceptable to FHWA.

5. **QUESTION:** The solicitation includes Section VI - Award Administration Information. If there are any exceptions to these contract clauses, should the applicant so designate in their application? Or, is this normally handled after applicants are selected for award?

ANSWER: The Section VI clauses will appear in the resulting award document. If an applicant takes exception to any of the clauses, the application should so designate in the Round I application. Note that most of the clauses are direct excerpts from OMB Circulars (OMB Circular A-110 in particular, which is codified by DOT at 49 CFR Part 19) which may not be waivable.

6. **QUESTION:** Given reference to FAR 31, can we assume that a general and administrative and labor overhead rate audited by another Federal agency (DCAA or DFAS) is acceptable to FHWA for our budget? Is overhead cost allowed as part of the project cost?

    ANSWER: Under grants, the cost principles that govern allowability can vary depending upon the type of organizations. Per solicitation Section IV, the cost principles for non-profit organizations can be found in OMB Circular OMB A-122. The cost principles for for-profit companies reside in FAR 31.2.

    Overhead cost is allowable. Generally, indirect rates audited by another Federal agency will be acceptable to FHWA. Please include in your Round II budget application supporting information regarding the audit, such as a copy of the resulting indirect rate agreement or letter from the Federal agency.

7. **QUESTION:** The solicitation states under Round II - Budget Application, "Profit is not allowable for payment with Federal funds for the prime awardee under this agreement. Profit may be allowable for subawardees under this agreement." Please provide clarification on this.

    ANSWER: The prime applicant shall not propose to collect and retain any profit or fee. Payment of profit or fee to the prime grantee is unallowable on a cost sharing award. If, however, the prime grantee has a paid subcontractor on board, that subcontractor is eligible to receive profit or fee. In this case the prime grantee may propose to the FHWA, bill to the FHWA, collect from the FHWA and pay out to the subcontractor a reasonable fee for completed work.

8. **QUESTION:** Question from a State DOT agency: Would the Contractor be considered the subawardee, if so, who would then be the awardee?

    ANSWER: As for the Question from the State DOT agency: the awardee is the prime applicant, i.e., the for-profit or non-profit organization or individual who submits the application. The Contractor would be the prime awardee.

9. **QUESTION:** What types of financial statements are acceptable? Internally prepared? Externally prepared? Audit required?

    ANSWER: The solicitation requests, “A statement to indicate date of most recently completed financial statements or annual report. (FHWA may request a copy of such information prior to award if selected).” Type of financial statements will vary by applicant type and situation, so FHWA is unable to answer the question as to what types are acceptable. Applicants are asked to provide description and date of most recently completed financial statements or annual reports. Applicants are advised that FHWA may request a copy of such statements or reports as necessary prior to award.

10. **QUESTION:** Standard Forms (SF) 424A and SF424B are required as part of the submission through www.grants.gov. Should the information we provide in these forms encompass 24 months of budget information?

    ANSWER: Yes, the forms should reflect the amounts for the total period of performance, up to 24 months.

11. **QUESTION:** On form SF424A Block 1c, there is only one box for the answer. Is the request for total Federal funds requested plus total cost share proposed?

    ANSWER: Block 1(c) should cite Federal funds requested in total for the grant period of performance (up to 24 months). Block 1(d) should cite cost share (non-federal share) proposed for the grant period of performance (up to 24 months).

12. **QUESTION:** Form SF424A – do sections B - F need to be completed for Round I?

    ANSWER: No, you do not need to fill in Sections B through F for Round I.

13. **QUESTION:** Does the application have to include an SF424 for each subcontractor?

    ANSWER: Only the prime applicant has to complete the SF424. Subcontractor costs proposed and corresponding supporting information shall be included by the applicant in the budget detail.

14. **QUESTION:** If you are a for-profit organization, what regulations will apply to the grant? (see solicitation Section VI, subsection A, subsection 1 on Governing Regulations)

    ANSWER: For-profit organizations are subject to the following. Note that US DOT <u>does</u> require for-profit grantees to comply with 49 CFR Part 19.

    - “Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-profit Organizations (49 CFR 19)”, [*located at: http://www.dot.gov/ost/m60/grant/49cfr19.htm*]; (Note: 49 CFR Part 19 also applies to for-profit companies.)
    - FAR Part 31 Cost Principles for Commercial Organizations
    - Any other applicable Federal statute or regulation.

15. **QUESTION:** Can a subcontractor to a nonprofit provide project management for the grant?

ANSWER: Yes.

16. **QUESTION:** If the electronic forms are submitted on the due date, can the hard copies be submitted later?

    ANSWER: No, the due date is the same for both electronic submittal and hard copies.

17. **QUESTION:** How much time should be allowed for US DOT security to clear delivery of hard copies to the designated Highways for LIFE office of Ms. Julie Zirlin?

    ANSWER: Applicants may deliver hard copies in one of the following three ways.

- Direct delivery services (i.e. typical uniformed delivery services such as FedEx, UPS, etc.) typically have direct access the building and individual offices. Packages delivered by these services go through the US DOT security procedures on the spot and the delivery service personnel hand-deliver packages to individual offices.
- Courier services can hand deliver packages to the US DOT visitor entrance and call Ms. Julie Zirlin at (202) 366-9105 to meet the courier service personnel at the visitor entrance. Rather than drop off the package for US DOT security to deliver (which may add days to deliver direct to Ms. Zirlin's office), we recommend the courier service ensure hand delivery to Ms. Zirlin by coordinating with her to arrange an agreeable time to meet at the US DOT visitor entrance.
- If using US mail or courier drop-off services, please allow up to three days for the US DOT security screening and internal mail delivery process.

Note: In the event FHWA receives a timely application via grants.gov, but the hard copy delivery is late, as long as the applicant is able to show adequate documentation to support reasonable attempts to deliver the hard copy material in a timely fashion, the Agreement Officer will consider the overall submittal timely and accept it for evaluation.

18. **QUESTION:** If one of the subcontractors is going to be the project manager would it be acceptable for the subcontractor to submit the application on behalf of the prime, given that the subcontractor has experience with grants.gov?

    ANSWER: Yes, that would be acceptable.

19. **QUESTION:** What is the difficulty in the registration on grants.gov?

    ANSWER: The registration process is multi-step and may take some time to complete. We recommend applicants read the guidance contained at www.grants.gov as to how to register, frequently asked questions, etc. There is a grants.gov help line and email address set up to help you navigate use of the website. Any grants.gov questions should be directed to the grants.gov help desk staff.

20. **QUESTION**: Is the profit restriction applicable to subcontractors and consultants?

    ANSWER: The profit restriction is limited to the prime awardees. Reasonable profit is allowable on subcontractors and consultants.

21. **QUESTION:** The Standard Form (SF) 424 contains a line called "Program Income." What do we put on that line?

    ANSWER: Block 18 of the SF 424 is entitled "Estimated Funding ($)" and contains rows a – g. Program income is unlikely to apply to this grant program. Program income refers to the amount the applicant expects to earn (from fees or sales) during the grant period as a direct result of the activities funded under the grant. This is not anticipated to apply to this program.

QUESTIONS ON COST SHARE

1. **QUESTION:** Is the cost share firm at 80/20?

   ANSWER: Cost share minimum is 20% of total project costs. Exceeding the minimum is encouraged and may be considered favorably in the award selection. Please note the text in Section III of the soliciation, under COST SHARING OR MATCHING, which explains that the 20% match required relates to the “total project cost” and provides guidance on how to calculate the 20%.

2. **QUESTION:** Where can we find information on what the rules are for cost-sharing? For example, what constitutes and how do we put value on "in-kind" contributions?

   ANSWER: See 49 CFR Part 19.23 (DOT’s codification of OMB Circular A-110) and relevant cost principles (OMB Circular A-122 or FAR 31.2). Generally, the value of contributions should equal the fair market value for the item, be verifiable from records, and be necessary and reasonable for performance of the grant. Following are relevant excerpts from 49 CFR Part 19.23, which is available in full text at http://www.dot.gov/ost/m60/grant/49cfr19.htm#19.23.

   49 CFR Sec. 19.23 Cost sharing or matching.
   a. All contributions, including cash and third-party in-kind, shall be accepted as part of the recipient's cost sharing or matching when such contributions meet all of the following criteria.
   • Are verifiable from the recipient's records.
   • Are not included as contributions for any other federally-assisted project or program.
   • Are necessary and reasonable for proper and efficient accomplishment of project or program objectives.
   • Are allowable under the applicable cost principles.
   • Are not paid by the Federal Government under another award, except where authorized by Federal statute to be used for cost sharing or matching.
   • Are provided for in the approved budget when required by the Federal awarding agency.
   • Conform to other provisions of this part, as applicable.

   d. Volunteer services, furnished by professional and technical personnel, consultants, and other skilled and unskilled labor, may be counted as cost sharing or matching if the service is an integral and necessary part of an approved project or program. Rates for volunteer services shall be consistent with those paid for similar work in the recipient's organization. In those instances in which the required skills are not found in the recipient organization, rates shall be consistent with those paid for similar work in the labor market in which the recipient competes for the kind of services involved. In either case, paid fringe benefits that are reasonable, allowable, and allocable may be included in the valuation.
   e. When an employer other than the recipient furnishes the services of an

employee, these services shall be valued at the employee's regular rate of pay (plus an amount of fringe benefits that are reasonable, allowable, and allocable, but exclusive of overhead costs), provided these services are in the same skill for which the employee is normally paid.
f. Donated supplies may include such items as expendable equipment, office supplies, laboratory supplies or workshop and classroom supplies. Value assessed to donated supplies included in the cost sharing or matching share shall be reasonable and shall not exceed the fair market value of the property at the time of the donation.
h.2. The value of donated equipment shall not exceed the fair market value of equipment of the same age and condition at the time of donation.
h.4. The value of loaned equipment shall not exceed its fair rental value.
h.5. The following requirements pertain to the recipient's supporting records for in-kind contributions from third parties.
i. Volunteer services shall be documented and, to the extent feasible, supported by the same methods used by the recipient for its own employees.
ii. The basis for determining the valuation for personal service, material, equipment, buildings and land shall be documented.

3. **QUESTION:** Does the cost share contribution have to come from the prime awardee, or can it come from the sub-awardees (subcontractors) or some combination thereof?

   ANSWER: Cost share does not have to come solely from the prime awardee; it can come solely from subcontractors/consultants or partners, or any combinations thereof. Cost share can come from any combination of the prime grantee, subcontractors, industry partner groups, outside investors, state/local governments, or any other third parties. Note that cost share can generally not come from other sources of Federal Government funds/awards. Commitment to cost share from other than the primary awardee must be clearly documented (i.e., a letter documenting the amount and type of cost shared resources planned) in the Round II Budget Application.

4. **QUESTION:** Can you give examples of cost sharing that is expected?

   ANSWER: The selection of proposed cost sharing is up to the applicant to decide in accordance with the required cost share requirements and regulations. Examples of typical cost share include labor hours (generally valued at the individual’s actual pay), fringe on the labor hours, equipment (fair market rental price or purchase), supplies, and travel costs. For example, the applicant might choose to contribute the cost of one or more employees’ labor during the duration of the project. Or, the applicant might choose to contribute the cost of equipment purchased in support of the project.

5. **QUESTION:** If the primary grantee is a for-profit company and donates its product to the program, is this a countable cost contribution?

ANSWER: No, the intent of cost share is to be the services or equipment directly related to carrying out the activities of the grant, which are the Phase I and Phase II activities. Also the intent is to incur the cost shared costs during the period of performance. See 49 CFR Part 19.23 (DOT's codification of OMB Circular A-110) and relevant cost principles (OMB Circular A-122 or FAR 31.2). Value of contributions should equal the fair market value for the item, and be verifiable from records.

6. **QUESTION:** If "in-kind services" means services only, does the for profit company charge the program for its product and then contribute the time of its investigators as services to the program?

    ANSWER: The "charge for the product" is not an allowable cost share expense. Time of staff labor spent carrying out the activities of testing and refinement under the term of the grant, is allowable cost share expense.

7. **QUESTION:** The solicitation states that cost sharing is discussed in terms of direct financial support for the product development, testing or through "in-kind" services - could you elaborate with regard to this?

    ANSWER: In-kind services are donated services from a third party that directly support carrying out the activities of the grant, and are to be quantified at the fair market value for those services.

8. **QUESTION:** If an applicant is continuing to do improvements from the application time to time of award, can the work done during this lapsed time count toward the cost share?

    ANSWER: No, cost share is intended to occur during the grant period of performance.

9. **QUESTION:** What will the indirect cost percentage be for this project?

    ANSWER: Indirect cost rates are unique to the company proposing, so your indirect rate should be based on your company. If you are a consulting firm that typically proposes and bills customers using only fully burdened labor rates, it will be acceptable to propose those fully burdened rates, with profit eliminated from the fully burdened rates since profit is not allowable for the prime awardees.

QUESTIONS ON DATA RIGHTS/ INTELLECTUAL PROPERTY

1. **QUESTION:** (a) Will the innovations protected by patents and copyright prior to the work conducted under the award remain the sole propriety of the awardees and/or its subcontractors and consultants? (b) Would this protection be extended to the various configurations, bundling, and other combinations of these innovations which could be used to achieve the goals of Phases I and II?

   ANSWER: (a) Please refer to the solicitation Section VI, Intangible Property, which provides that "Recipients are subject to applicable regulations governing patents and inventions, including government-wide regulations issued by the Department of Commerce at 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements." In general, the federal government has no rights to an invention that is not a "subject invention" of a funding agreement. See 37 CFR 401.1(2) ("An invention which is made outside of the research activities of a government-funded project is not viewed as a "subject invention" since it cannot be shown to have been "conceived or first actually reduced to practice" in performance of the project."). (b) Anything that becomes protectable by patents and/or copyright during performance under federal funding will be subject to 49 CFR part 19 and 37 CFR part 401.

2. **QUESTION:** Please clarify ownership of intellectual property. Does the inventing company exclusively retain all rights to inventions?

   ANSWER: In general, per 49 CFR 19.36 and in accordance with 37 CFR 401.14(b). *Allocation of Principal Rights* "The *Contractor* may retain the entire right, title, and interest throughout the world to each subject invention subject to the provisions of this clause and 35 U.S.C. 203. With respect to any subject invention in which the *Contractor* retains title, the Federal government shall have a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the subject invention throughout the world."

3. **QUESTION:** Pursuant to 49 CFR Part 19.36, *Intangible Property*, The Data Rights clause in the solicitation states "The Federal Government has "a royalty-free, nonexclusive and irrevocable right to reproduce, publish or otherwise use the work for Federal purposes, and authorize others to do so." Does the awardee retain design and patent rights to the prototype? Is "data" the final report, or is it the actual prototype/invention itself (either a physical device or software algorithm)? How would this grant affect intellectual property rights for innovative ideas/products/methods/ etc.? Does the "SBIR rights in data" clause apply for small businesses?

   ANSWER: The Government will have rights to work funded by the agreement in accordance with the applicable regulations. In general, the federal government has no rights to an invention that is not a "subject invention" of a funding agreement. See 37 CFR 401.1(2) ("An invention which is made outside of the research activities of a government-funded project is not viewed as a "subject invention" since it cannot be shown to have been “conceived or first actually reduced to practice” in performance of the project."). The solicitation’s Data Rights clause allows for Recipients to mark proprietary documents and products in accordance with the text of the clause, to define the Recipient’s rights. The clause also provides definitions, including a definition of “data.” Applicants are encouraged to check with their attorney with questions on intellectual property rights and data rights. Since this solicitation is not from a SBIR program, the SBIR rights in data clause is not directly applicable.

4. **QUESTION:** If an innovation or prototype can be protected by a patent in the current stages of development, does the Federal Government reserve the right to use the potentially protected technology for Federal purposes, and authorize others to do so, if the Federal funding helps bring the innovation to market? See Sections 8.a-b-c.

   ANSWER: The Government’s and the awardee’s intellectual property rights are detailed in 49 CFR Part 19.36 and 37 CFR Part 401 as contained in the solicitation. Applicants should consult with their attorneys if there is any concern with these Governmental rights granted by regulation. Note however, the solicitation states, “Note: Under this award, FHWA interest and focus resides in the performance of the innovation and how the innovation contributes to the goals of the Highways for LIFE program, not in whether the innovation is potentially proprietary.”

5. **QUESTION:** We are currently in the process of completing a patent search for our machine. Will this make a difference in the application process?

   ANSWER: The solicitation (Section IV, Application and Submission Information) requests applicants to describe patent information in the Round II technical application. FHWA recognizes that awardees may have obtained, or be in the process of pursuing, patents for proposed innovations. Applicants who have obtained or are pursuing patents related to their innovations are not excluded from award. Although FHWA requests applicants to describe patent information related to proposed innovations, such information is for informational purposes only. In the award selection process, proposed innovations are neither advantaged nor disadvantaged by the presence or lack of patent activity.

QUESTIONS ON AWARDEE SELECTION

1. **QUESTION:** This does not appear to be a small-business set-aside program. Given Congressional guidelines, can you explain why the program isn't a small-business set-aside program?

    ANSWER: FHWA evaluated the program and decided to limit competition to for-profit and non-profit organizations, to best serve the objectives of the program. While there are agency goals with respect to socioeconomic programs, including small-business set-aside programs, those goals and programs generally apply to contract awards and not grant awards.

2. **QUESTION:** Will any preference be given to companies that have a state, federal, local, university or other type of private partnership? Is any preference given to 8(a), Small Disadvantaged Businesses, Alaskan Native, or other similar groups?

    ANSWER: No such preference program is applicable to this solicitation.

3. **QUESTION:** If we propose a project with a $500K budget and it is not deemed appropriate for that funding level by HfL, will you reduce the level if there is still interest? Should we propose two budget/scope options?

    ANSWER: If a project proposed at $500K has merit but available funding will not fully fund the proposed amount, FHWA will enter into negotiations with the applicant to discuss funding the project at a lower amount. Therefore, you should not apply for differing funding levels. Rather, applicants should diligently assess their needs with respect to their innovation and propose an appropriate budget accordingly.

4. **QUESTION:** Is the $1,000,000 funding level the maximum that will be awarded under one agreement?

    ANSWER: At initial award, the $1,000,000 funding level is the maximum that will be awarded under one agreement. Per Section II of the RFA, the FHWA **may** provide additional funding at completion of the agreement period of performance for supplemental or continuation projects such as a Product Demonstration Showcase. Such supplemental or continuation projects may be awarded as new awards or as modifications to the existing awards.

5. **QUESTION:** What's the determining factor for awarding the grant?

    ANSWER: Section V of the RFA contains the evaluation criteria and explains the review and selection process.

6. **QUESTION:** What makes a project distinct and suitable for the higher $1,000,000 award level?

ANSWER: FHWA will apply the same evaluation criteria (Section V of the RFA) regardless of funding levels. Applicants should diligently assess their needs with respect to their innovation and propose an appropriate budget accordingly.

7. **QUESTION:** Can an applicant apply for multiple grants under this solicitation, provided that they meet the objectives of the program?

    ANSWER: Yes, applicants may submit separate applications for separate innovations, and possibly receive multiple awards resulting from the multiple applications.

8. **QUESTION:** What if the company does not have much experience with commercialization, specifically for eventual use of a technology with respect to highways?

    ANSWER: FHWA will evaluate applications using the criteria contained in Section V of the RFA, which includes under Round II Applications, "Commercialization Commitment and Capability" including an understanding of the industry.

9. **QUESTION:** Will other proposals or attempts at private funding be viewed as a strength or weakness under the criteria mentioned in the RFA?

    ANSWER: Such other proposals or attempts at private funding would be viewed as a strength under the technical criteria "Commercialization Commitment and Capability." However, such proposals or attempts at private funding are not a requirement for award.

10. **QUESTION:** How will additional cost share impact award?

    ANSWER: Per the solicitation, "Applications proposing to exceed the required minimum cost share may receive preference in the evaluation process." This means that the award selections may favorably take into account cost share that exceeds the required minimum.

11. **QUESTION:** Is a point system used in the evaluation process of the responses? If yes, can we obtain a copy of the point allocation?

    ANSWER: The FHWA will apply a consistent and pre-determined evaluation rating scale for the evaluation. Criteria for selection have been provided in the solicitation. Rating scale/point allocation will not be provided.

MISCELLANEOUS QUESTIONS

1. **QUESTION:** If you award a project and it is successful, will you aid the company in bringing our technology to market for highway use? For example, will FHWA issue an endorsement or mandate to use the product on highways?

    ANSWER: It is expected that the applicants have a commercialization plan to bring the innovation to market. This is not to be confused with a marketing plan promoting awareness of the product through professional meetings, conferences, and advertising. In addition to the award funding, FHWA may provide additional funding at the completion of the award period for supplemental or continuation projects such as a Product Demonstration Showcase. FHWA will not issue an endorsement or mandate product use on highways.

2. **QUESTION:** Approximately how many applicants apply for this type of grant?

    ANSWER: In the 2007 competition there were 55 applications and FHWA made 5 awards. In the 2008 competition, there were 24 applications and FHWA made 2 awards. In the 2009 competition, there were 28 applications and FHWA made 1 award. In the 2010 competition, which was not for a grant award, there were 10 applications and FHWA selected one company. A second company selection is pending. A list of previously awarded projects can be found on the HfL website at http://www.fhwa.dot.gov/hfl/tech.cfm

3. **QUESTION:** Do you know of other opportunities to assist industry in promoting faster implementation of high payoff innovations.

    ANSWER: For informational purposes only, other programs to consider include:

    a. (1) The Local Technical Assistance Program (LTAP) is a program funded by the Federal Highway Administration and individual state Departments of Transportation. It is a national initiative consisting of state level transportation technology transfer centers in all fifty states, Puerto Rico and seven Tribal Centers serving our Native American citizens. The LTAP administers the Product Demonstration Showcase Program (PDS). The primary goal of the PDS is to encourage and hasten implementation of field-proven technologies and processes among America's local road and bridge agencies. As new technologies often begin at the state, county and municipal level, the LTAP created the Showcase program to be a neutral information exchange environment that provides a real-world opportunity for decision-makers to gain practical, unbiased, well-rounded, hands-on experience with new and in-use products and services.

       Each PDS focuses on unique, new solutions to local road and bridge problems and has three parts: a presentation from the agency and vendor, a site visit/s to observe past performance and a live demonstration of the installation process. A PDS request may be submitted at any time by a municipality, academia, state DOT, FHWA or industry representative. Visit http://pdshowcase.org/

(2) The American Association of State Highway and Transportation Officials (AASHTO) Technology Implementation Group (TIG) is another organization that champions innovations. Funding for the TIG is provided by AASHTO and FHWA, and the purpose of the TIG is to identify and champion the implementation or deployment of a select few "ready-to-use" technologies, products, or processes that are likely to yield significant economic or qualitative benefits to the users. Once a year, the TIG conducts a solicitation to identify technologies on which to focus implementation efforts. Technology champions within the AASHTO member State departments of transportation that are committed to the deployment of the chosen technologies are identified, and an approach to achieve rapid deployment of the technology is developed.

Innovative technologies are accepted for consideration from the AASHTO member departments of transportation and the Federal Highway Administration. Interested producers of innovative technologies are encouraged to work with eligible submitters who have successfully used these technologies. Visit http://tig.transportation.org.

4. **QUESTION**: Where can I find out information on other sources of funding to help me bring my innovations to market?

   ANSWER: One resource for information on funding sources for Transportation Research is the Transportation Research Board. They have created a comprehensive website of various programs available at www.trb.org. Click on Resources & Databases, then select Research Funding.