Workshop Summaries

Welcoming Comments

Atlanta has a 30 year strategic plan—Concept 3—for the expansion and maintenance of transit for the region. Atlanta has long been an important city in the south and continues to see large increases in its population, but congestion is reducing the region's ability to cope with the population increases. Concept 3 includes a 25 percent expansion of the bus fleet and service and 514 miles of new transit service. The Transit Planning Board (renamed the Transit Implementation Board because it's in the implementation phase) developed the plan and advocated for its implementation; all counties and cities affected by the plan have agreed to the plan. Leaders in the Atlanta region on the workshop's welcoming panel discussed the current regional transit system development effort and all the success it has had thus far. Several of the leaders discussed the importance of the partnership and the strong relationships that developed.

Statutory and Regulatory Environment

PPPs cannot take place in states unless legislatures give agencies the authority to do so. As a result, planning for transit will always be just planning without the political will and statutory environment to implement the changes and the same applies for PPP legislation. PPP legislation in Georgia is an excellent example of what happens when political will changes. In 2003, the GA legislature, using PPP legislation from Virginia and Texas as models, passed PPP legislation, which even allowed unsolicited bids. While some project proposals were submitted, no projects were accomplished under the law, possibly because GDOT (Georgia Department of Transportation) was taken out of the planning process and some of the projects did not fit into the master plan priorities of GDOT. The law was changed in 2005 to create a more favorable environment for PPPs and allowed both solicited and unsolicited bids, as well as extended the amount of time given to competitors to submit bids. However, despite this progress, there is a new bill in the state Senate that, if passed, will virtually eliminate the state's PPP legislation. If the law is passed and PPP legislation must start again from scratch, the following components should be considered—whether included or not (this is true of PPP legislation for any state):

- Scope of legislation (project specific, agency specific, industry specific, all inclusive)
- Ability to enter into multi-year contracts
- Best value versus lowest bid
- Ability to short lists
- Procurement regulations (might not be compatible with PPPs)
- Competition in bidding process
- Sealed proposals
- Market limitations on bonds
- Innovative Financing
- Labor protections
- Stipends for bidding companies
- Sovereign immunity for states

Case Studies: State of Good Repair

State of good repair is about keeping existing assets in good working order. In the U.S. many transit systems are not in a state of good repair and the amount of funding required to get them there is enormous. An estimated 35 percent of rail assets are in marginal (should be replaced immediately) or poor (will need to be replaced in next 2-3 years) condition. There is an estimated $80 billion backlog in our national reinvestment needs and about $12 billion a year would be needed to keep all systems in a state of good repair after the backlog is addressed. Alternatively, about $16 billion a year over the next 20 years would be required to address both state of good repair and normal replacement needs. To add prospective, the current investment is about $9.3 billion annually and ARRA gave $8 billion to transit. PPPs can help meet some of the needs of transit systems because they can do more cost-effectively, improve efficiency, reinvest at a faster rate and response more quickly to deficiencies in the system. In order to maximize benefits from PPPs for state of good repair work, transit agencies must have an accurate and comprehensive asset inventory that includes what the agency owns, condition and remaining service life. Examples of how to use PPPs for a state of good repair were presented on the London Underground and Washington Metropolitan Area Transit Authority.

The Language of Public-Private Partnerships

The term public-private partnership refers to a wide range of projects and the acronyms can be confusing for people unfamiliar with PPPs. To simplify the language of PPPs, the letters of the acronyms were explained with the following:

- D – Design
- B – Build
- O – Operate or Own (set by context)
- F – Finance
- M – Maintain/Manage
- T – Transfer to public ownership

This presentation outlined several different types of PPP projects and explained the benefits of each (list is not exhaustive): (1) O&M, (2) OMM, (3) DB, (4) DBOM, (5) DBFOM, (6) DBFOMT, (7) Developer Finance, (8) EUL and (9) Lease/Purchase. It is important to keep in mind that no two projects are identical and there is no defined way to do a PPP—the project type should be selected and created to fit the needs to be addressed.

Financing Transit PPPs

In addition to the funds required for state of good repair for transit, funding is needed to expand service. FTA currently provides funding to transit agencies, but the system is unsustainable unless steps are taken to increase revenue in the highway trust fund (80 percent of FTA funding comes from the trust fund). Even though the ARRA is providing $8.4 billion to transit, other funding sources are necessary to meet state of good repair and expansion needs. Despite the negative situation in the credit markets today, some projects are still getting done. These projects are utilizing PPPs and other types of innovative financing. One useful financing tool that has not been applied to transit projects, but could, is the Transportation Infrastructure Finance and Innovation Act (TIFIA) program. TIFIA funding can be used for projects costing at least $50 million, cannot make up more than 1/3 the project cost and pushes the payments of principal to later into the project life. Although not transit projects, TIFIA projects from Washington, DC, Miami, FL and Providence, RI were presented to highlight its usefulness and its applicability to transit. The importance of risk allocation was also presented, along with a case study of the Canada Line in Vancouver, highlighting the financial agreement and risk allocation for the project. Attendees heard a discussion of PPP financing from the private equity point of view. As private equity is the last group to be repaid (from the cash flow waterfall), they closely scrutinize the financing agreement and the project company's ability to recoup its investment. Private equity is still available for projects—its being very choosy about the projects in which it invests. Before the credit crisis, governments were able to easily borrow money through bonds and many did not look to PPPs. Due to the crisis, private equity firms are seeing an estimated 1000 percent increase in project proposals. In order to attract funds, agencies should consider the following questions about their projects:

- Will the U.S. become more globally competitive?
- What are the demographic trends for the region affected by the project?
- Are government funds available for the project?

Preparing an RFP (Request for Proposals)

Panelist discussed the importance of a well written RFP and the factors to keep in mind when writing one. Public agencies should take the time up front to make sure their RFPs are well written because its will save time, money and effort in the long run. RFPs should allow each sector to do what it does best. Factors to remember for an RFP include:

- Clear definition of the responsibilities of both partners
- Outcome/Output specifications
- Regulatory requirements (NEPA, New Starts, etc.)

Many agencies find it beneficial to issue an RFI (Request for Information) or an RFQ (Request for Qualifications) to gain insight from potential private sector partners, which can then be used to craft a better RFP. Typically RPFs contain three parts: (1) instructions to proposers, (2) outline of the agreement and (3) reference data. Several case studies of PPPs were presented, with particular emphasis on the RFPs.

Lessons Learned from a Penta-P

The Regional Transportation District (RTD) of Denver, CO was selected as one of the programs for FTA's Pilot Public Private Partnership Program (Penta-P). Although RTD has used PPPs for several different projects, the Gold Line of the Eagle Project—construction of two lines, one corridor and a maintenance facility, as well as the operation and maintenance of these assets—falls within the FTA Penta-P framework. A draft RFP for industry review was released in December 2008 and the final RFP is set for distribution in May 2009 to the three prequalified concessionaire teams. The Eagle Project meets the Penta-P goals of reducing risk, saving time, saving money and delivering a high quality project. To meet the first goal, risks were allocated to the party that can most cost-effectively manage them. To save time, the New Starts process was streamlined under the Penta-P program and limited FTA funds will be used during the design-build portion of the project as an incentive to deliver ahead of schedule. Money will be saved for the Eagle Project because the draft RFP process led to the identification of major cost concerns, which are being addressed prior to the issuance of the final RFP. The project will be of high quality because private companies were involved early, which helped identify areas for innovation. Several key lessons about the use of PPPs were outlined, including the importance of developing a plan and sticking to it, staying prepared but flexible at the same time, risk transfer comes at a cost and the importance of developing a strong partnership.

Luncheon Keynote Address

The Atlanta BeltLine is a large-scale economic development project that circles the heart of Atlanta. The 25-year, $2.8 billion project is a creative example of how a PPP can be used for urban revitalization. The BeltLine combines greenspace, trails, transit and transportation infrastructure, historic preservation, affordable workforce housing, environmental clean-up and new development along a 22-mile ring around the city. Besides being a walking PPP, the BeltLine will utilize PPPs to help integrate all aspects of the project. Currently, the BeltLine is in the land acquisition stage and aims to have all the land rights by June 2011. Private sector partners are seen as a crucial component of the redevelopment effort because they bring creativity and innovation in funding, design, and implementation.

Case Studies: FTA New Starts and PPPs

FTA's New Starts program is the federal government's primary financial resource for supporting locally-planned, implemented and operated transit capital investments. The panel presented several case studies of transit PPP projects that are New Starts projects. Case studies included the Hiawatha LRT Line in Minneapolis, the Downtown Transit Circular in Fort Lauderdale and the Hudson Bergen Light Rail System in New Jersey (a detailed case study was presented for this project). Most of the PPP New Starts projects are DB or DBOM and do not including private-sector financing. The BART Oakland connector (a Penta-P project) was briefly discussed as an example of a project originally designed to be a PPP, but not a PPP anymore because the circumstances changed and a PPP was no longer viable. Several other case studies—both for U.S. projects as well as projects in Europe—were presented; although not New Starts projects, they can still provide insight into the PPP process and the applicability of PPPs to the New Starts program.

The American Recovery and Reinvestment Act (ARRA) – Implications for Transit Projects

The passage of the ARRA provided $48 billion for transportation including $8.4 billion for transit. The ARRA as it applies to FTA and transit was thoroughly explained, with particular emphasis placed on the goal of job creation. Information on the types of programs, details about the guidelines and timeline for applications were explained. The types of projects qualifying for each ARRA funding program were also outlined. Concrete examples of how from Cobb County, Georgia and Florida Department of Transportation will use the ARRA funds were presented.

Cobb County is using about $9 million to design and construct a new para-transit facility and upgrade its existing facility. The new facility will be operational within two years (to fulfill ARRA requirements) and will create or preserve an estimated 252 jobs. The state of Florida is receiving an estimated $1.7 billion in ARRA funding, including $315.4 million for transit. Projects in several cities and non-urban areas will receive funding, which will be used for buying buses (including hybrids), improving technology and implementing clean fuel projects.