Public-Private Partnership Policy
Primer--Challenges and Best Practices: A U.S. Perspective

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Outline

- Background of U.S. P3s: traditional approaches faltering

- U.S. P3 Policy:
  - Federal initiatives
  - Initiatives of U.S. states
  - Municipal Bond market

- P3 Best Practices
  - Enabling Legislation
  - Champions and Stakeholder Development
  - Project Selection and Agency Priorities
  - P3 Administering Office
  - P3 Procurement Plan and Process
  - Funding and Financing
  - P3 Structures

- George Mason University School of Public Policy P3 Policy Program
Background:
Issues with Traditional Transportation Funding

End of Year Balances in Highway Trust Fund, 1957 - 2021

- End of year balances
- CBO balance projection
- Transfer from the General Fund
- CBO deficit projection

Note: CBO projections published in 2013

Funding Crisis = Seeking Alternates:
- Increasing costs of construction
- Aging infrastructure = increasing cost of maintenance / renewal
- Improving fuel efficiency (e.g. electric vehicles do not pay for roads use)
- Political hurdles to raise gas tax
Federal P3 Initiatives

- Federal infrastructure financing programs supporting P3s
  - Transportation Infrastructure Financing and Innovation Act (TIFIA, 1998)
  - Credit assistance with fixed rates lower than private market
    - (e.g. 2.92% for a 35-year loan)
- Assistance Types:
  - Direct Loan
  - Loan Guarantee
  - Credit Lines
- TIFIA total: $10.5 Billion, for projects totaling $42.2 billion
  - Active: $8.9B for projects of $32.2B
  - Retired: $1.6B for projects of $6B
- Other Federal Credit Support (RRIF, SIBs)
Federal P3 Initiatives

- Most recent U.S. highway/transit legislation:
  - Moving Ahead for Progress in the 21st Century Act (MAP-21, July 2012)
  - Budget Authority for TIFIA increased by $1.75 billion:
    - $750 million for 2013
    - $1.0 billion for 2014
  - USDOT expects to offer $17 billion in credit assistance
  - Could leverage $20-$30 billion in transportation infrastructure investment.

- New features
  - Rural set-aside of 10%
  - Raised participation limit from 33% to 49%
  - Added directive: agency “shall assess the appropriateness of a P3 to deliver the project.”
P3s: the State of Affairs in the U.S.

- **Current State of legislation**
  - 33 U.S. States and one U.S. territory with statutes enabling the use of various P3 approaches for transportation infrastructure.
  - Most P3 activities occur in California, Florida, Texas, New Jersey, Massachusetts, New York and Virginia.

- **Financing Mechanisms**
  - **Revenue Sources**
    - Direct user charges
    - Shadow tolls
    - Availability payments
  - **Debt/Equity Sources**
    - Private equity
    - In-kind land donations
    - Bonds
    - Bank loans
P3s: the State of Affairs in the U.S.

States with P3 Legislation, March 2013

(Source: Federal Highway Administration Office of Innovative Project Delivery, March 2013)
P3s: the State of Affairs in the U.S.

Number of P3 Projects Reaching Financial Close in the U.S., 1986 -2012

Source: Public Works Financing and U.S. Department of Treasury, Bureau of Public Debt
P3s: the State of Affairs in the U.S.

- P3 arrangements are used for various types of infrastructure systems
- Types of US P3 projects that reached financial closure, 1986-2012

Note: including both proposed P3s, completed P3s and P3s under construction.
Source: Public Works Financing

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U.S. Municipal Bond Market for P3 Projects

- **U.S. Municipal Bonds**
  - Total state – local debt is $2.8 trillion
  - Historically stable to size of economy (15-20% of GDP)
  - Types:
    - General Obligation Bonds (“full faith and credit” of issuing governments)
    - Revenue Bonds (non-guaranteed, with particular revenue stream for repaying obligations)

- **Characteristics of U.S. Municipal Bonds**
  - Tax Exemption: U.S. Government exempts interest income paid to bond holders
    - Allows lower interest rates for muni. bonds than for taxable bonds
  - Legal authority for infrastructure debt-financing varies across states
    - States with constitutional pay-as-you-go requirements vs.
    - States that have debt capacity

- **Other Hybrids**
  - Private Activity Bonds
  - 63-20 Non-Profit Corporations
Local Infrastructure Trusts

- **Chicago Infrastructure Trust**
  - Nonprofit organization established by Chicago’s City Council
  - Projects may include wide range of transportation and other municipal infrastructure (e.g., energy retrofits)

- **DC Public-Private Infrastructure Trust (proposed)**
  - Would include a Social Impact Fund

- **Goals**
  - Facilitate infrastructure projects by offering innovative financing strategies
  - Attract capital from diverse types of investors
  - Achieve and demonstrate real risk transfer to 3rd-party investors
  - Aggregate different governmental agencies within a common plan of finance
  - Create efficient capital structures.
P3 Best Practices: Enabling Legislation

- Characteristics of the most effective enabling legislation
  - Creates a focus of governmental responsibility
  - Grants appropriate statutory powers with enough flexibility
  - Adequate staff and consultant budgets
  - Existence of some advocates and/or enthusiasts in state government.
  - Clear delineation of the solicitation process
  - Clear state role on land acquisition & environmental clearances
  - Clear anticipation on state funding
  - Does not require final, post-agreement, approval by legislative bodies
P3 Best Practices: Champions and Stakeholder Development

- Communications and Governor’s Support
  - Colorado Eagle P3 Commuter Rail
  - Virginia’s Midtown Tunnel (drew heavy fire)
    - Legal challenge set aside on October 31st
  - California’s South Bay Expressway (SR-125) overcame environmental hurdles and string of supplemental approvals, but cost burdens and economy undermined financials

- Multiple derailments from stakeholders and environmental community and legal challenges
  - P3 not attempted for Maryland’s Intercounty Connector
  - Will try again with Purple Line
P3 Best Practices: Project Selection and Agency Priorities

- A clear mechanism for project selection and the setting of agency priorities provides a firm foundation for P3 procurement
  - Virginia’s OTP3 has process, reviews with local authorities, publishes pipeline list of projects
  - The Eagle P3 Commuter Rail locked down desired scope but left approach relatively open
  - Florida I-595 Managed Lanes did project development, built consensus
- Project must be viable from a business perspective
P3 Best Practices: P3 Administering Office

- P3 administering office must have well-trained staff covering several disciplines and back it up with expert consultant support
  - Virginia’s OTP3 given relative independence, broad multi-modal responsibilities and access to needed resources to advance P3s
  - The Eagle P3 Commuter Rail: RTD set up dedicated project management office, retained experienced consultants
P3 Best Practices: P3 Procurement Plan and Process

- Solicited or Unsolicited Proposals?
  - The Eagle P3 Commuter Rail stayed open to alternative technical and payment concepts
  - Virginia's I-495 accepted express lanes alternative to realize planned HOVs

- Protections Against Financial Distress
  - Florida I-595 had flexibility to maneuver financial crisis
    - Miami Tunnel restructured several times before closing
  - Las Vegas Monorail underestimated demand risk, 63-20 format led to local boosterism
  - Southbay Expressway (SR-125) completed and operating, but weak economy overran long delays, cost increases
P3 Best Practices: Funding and Financing

- Need a good understanding of debt/equity structures and options
- 63-20 Format may reflect project weaknesses: Virginia’s Pocahontas Parkway and South Carolina’s Southern Connector
- Florida’s Miami Tunnel: tolls not working, moved on to share availability payments
- California’s South Bay Expressway: private partners took most demand and cost risk, project accomplished
- Las Vegas Monorail demand risk overflowed
  - Both South Bay and Las Vegas completed, opened for service
P3 Best Practices: P3 Structures

- DBB
- DBOM
- DBFOM
- BOO
- Asset Sale
Transportation Public-Private Partnership Policy Program at George Mason University School of Public Policy

- Conducting P3 Case Studies
- White Papers Completed
  - Research & policy issues white paper
  - Best practices white paper
- Co-sponsoring National Research Conference on P3s
  - In partnership with the 25th Annual American Road & Transportation Builders (ARTBA) P3 Conference, July 2013, in Washington, D.C.
  - Will continue in 2014
- Planning Graduate & Executive Education Activities
- Established P3 Research Center at GMU
  - Building website focused on P3s
- Conference Participation & Outreach Activities
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