Day three of the 2014 CSG Transportation Policy Academy in Washington, D.C. began with a briefing on public-private partnerships (P3s). State legislators attending the academy heard from Thomas Halloran of the Maryland Department of Transportation’s Innovative Finance Office about the state’s exploration of a P3 to build the Purple Line light rail project in the D.C. suburbs. Douglas Koelemay, the Director of the Virginia Office of Public-Private Partnerships, spoke about his state’s extensive experience on P3s on projects like the Capital Beltway Express Lanes and how the Virginia P3 program may change going forward. And Jonathan Gifford from the Center for Transportation Public-Private Partnership Policy at George Mason University discussed trends in the evolution of P3s around the country and emerging best practices in P3s for states. This page includes highlights of the speakers’ remarks, photos from the event, presentations and related resources and links.

Maryland approved new public-private partnership legislation in 2013 that made a project like the Purple Line possible.

Tom Halloran (MDOT): “The key thing with that (2013) P3 legislation is it allows for us to go into public-private partnerships with availability payments, which is a little bit different than what we had done in the past. We had done revenue-based public-private partnerships. ... For us looking at the Purple Line transit project as such a massive infrastructure project—it’s valued at $2.3 billion in construction and design costs. So that’s something that we kind of didn’t see us being able to do without some private investment.”

Halloran said the key reasons for using a design-build-finance-operate-maintain structure on the Purple Line P3 project include operational factors, risk transfer efficiencies, whole life-cycle planning and cost optimization, schedule discipline, enhanced opportunities for innovation and potential financial value. He provided an update on where the project stands now.

Halloran: “We released the final (request for proposal) in July and the four teams (selected) have until January to give us their final proposal and then we’ll probably spend the next month and a half to two months determining our preferred proposal based on that. We’re hoping we’ll get financial and commercial close in the spring/early summer of 2015 and have shovels in the ground sometime around ... this time next year.”

Under the planned P3, the state will keep the authority to set the fares on the Purple Line and will also keep the revenue risk. The private sector partner will receive availability payments from the state.

Halloran: “The construction period is expected to take about five years and the private sector will get certain progress payments at the completion of each year depending on how much progress they’ve made in the construction and whatnot. Then, once revenue service is approved—once all the government entities say ‘yes, people can ride on it,’” they’ll get a large lump sum payment and then after that, they’re going to get availability payments for the remaining 30 years of the operation and maintenance contract and that will be a combination of the financing aspect as well as the operations and maintenance—the things that we would be paying for regardless. The way that we’ve set it up is
... that the revenue we’ll get from the fares should match the part of the part of the availability payment that will cover the capital construction costs aka the financing costs over the next 30 years.”

Halloran: (on the reason for not transferring revenue risk to the private sector): “The concessionaire is likely ... going to get scared off by (the revenue risk issue) because they’re not going to know what it’s going to be. We’re not going to know either. These are all just projections. So they’re going to build into their payment structure contingencies and whatnot and it will just make the bid prices higher, it might scare teams away, they might not want to bid at all. There have been instances where the private sector entities have taken on all the revenue risk and it’s ended up not working out for both parties. Essentially what we want to create is a public service, public good so we’re going to be paying for that regardless in some manner and by doing it this way, we ensure this is something we feel we can take the risk better as opposed to the private sector.”

While Maryland is relatively new in the P3 space, Virginia has long been a leader among the states in this area.
ow are to extend that leadership position, make P3 project development procurements really part of a strategic and ongoing program. When the I-95 Express Lanes for example open in December, they’ll be the second piece of what’s likely to be a managed lane network in the Greater Washington area. We keep encouraging Maryland to take a look on their side of the river but eventually we think we’ll link everything together and ultimately that’s what we want is a systems view. ... Instead of a series
of projects, we’re talking about how do we build a system that really delivers great value to the traveling public and to the taxpayer.”

Koelemay: “Our P3 projects, we understand, are now involved in the global competition for capital so we have to keep refining and making more attractive our process and we want to make it more consistent, more timely, more transparent and much more efficient.”

Koelemay: “We have some basic rules. We want public-private partnership activity where we can attract private capital, share risks, provide for lifecycle costs and advance projects more quickly than might otherwise be possible. Twenty years ago, privatization was about how do we get some additional capital out of our existing asset base. Actually we’re finding now more important benefits for the public are delivering the project more quickly. For example, if you wait eight, nine or 10 years to do something that you might be able to do now with private assistance, the price of a billion dollar project might be $1.4 billion so there’s a huge amount of savings by moving a project forward more quickly. Second, we deliver benefits for those eight years. And third, by building in operations and maintenance costs ... we actually have a fully maintained facility for the life of the facility as opposed to always feeling the pressure to defer maintenance as we go.”

Koelemay: “The governor and our Commonwealth Transportation Board earlier this year directed me to undertake a full review of our process—our decisions, our organizational structure—to make sure we are delivering everything that we could. We’re about to release to the public ... a series of changes that we’re making to our manual of guidelines for P3 projects. It makes transparency a key goal throughout the process. It involves the CTB making key decisions as we move from screenings to the project delivery decision and from the project delivery decision to the project procurement phase. We want to make sure we enhance competition so where we only receive one response or one proposal for example, going forward there will be a stop and a review of whether we’ve actually put our RFPs together properly. What is it that’s wrong here that the market didn’t give us a more substantive response?”

Koelemay: “The current project we have underway is the I-66 corridor improvements, from the Beltway out about 26 miles to U.S. Highway 15. It’s a very active corridor, goes all the way through the heart of Fairfax County and out past Manassas in Virginia. It’s meant to be a managed lanes project and end up with two managed toll lanes in each direction, three regular lanes in each direction and then bus rapid transit that will feed into the entry and exit points into the managed lanes and for the first time allow you to have an express trip on an otherwise locked up highway particularly at commuting time. So the question is: how do you put that procurement together? Do you put the bus services in the procurement or out? Are the Park and Ride facilities that will service the (corridor) a separate procurement? If so, they have to be planned directly with the highway because the ramps have to match up with where those parking facilities are. Is the private sector more likely to make money off the Park and Ride facilities and ... the transit-oriented development opportunities that might exist or should that always be part of a larger team to make sure the transit element isn’t undervalued? Actually you can start the Park and Ride construction and the transit operations before the (road) construction is actually finished. In fact, it might help you manage the operation of the facility while it’s under reconstruction. So all these things are questions that we still are going through. What’s the scope?”

Koelemay: “We estimate the project will be anywhere from $2 billion to $3 billion. ... The private sector will signal (they) might be willing to put in $200 million of equity. (They) might issue some private activity bonds for another $400 million. (They) might ask for a TIFIA loan of another $400 million. So maybe the private sector can bring a billion dollars to that project. We’re finding that out now. What’s the market going to tell us? Now the public sector has to decide: does it have an extra $1 billion to put in for that project or an extra $2 billion? Probably not. So that means we need to begin to
size the project to affordability as well as to the benefit and need. That’s how we arrive at what actually happened both ways: what we originally thought we wanted, what we can afford, what they’re willing to help us finance and at the end we’ll put together something that’s a reasonable package and meets all those objectives.”

Koelemay also spoke about what it takes to build a successful P3 program rather than jumping from one project to another.

Koelemay: “We think you need a permanent (P3) office so that you take a strategic view and you build your expertise over time. You need clear guidelines and implementation steps otherwise you can be pulled one way or the other by the unique characteristics of a project. It’s a consistent process that actually is very attractive to the private sector because they know what they’re dealing with and they know that you’ll follow through in a way that you have before.”

Koelemay: “The reason we have the big gap that we do in our infrastructure investment is because we don’t have enough debt capacity. Overall, we’re very conservative in that right. … Some (states) have moved to availability payments. Our legal team in Virginia says that is debt. They score it as debt in Virginia and so we need to figure out how we’re going to move toward adding that tool to our toolbox. Right now we can’t pursue projects with availability payments.”

Koelemay gave an example to demonstrate the decision making process for some motorists in deciding whether or not to take the variable-rate toll lanes on the Capital Beltway or another facility.

Koelemay: “A son’s just asked his Mom ‘are we going to be late?’ because his coach said if he’s not there on time he doesn’t start in the baseball game. She’s already spent $500—uniform, shoes, new aluminum bat, travel team expenses first two weekends to God knows where in Pennsylvania. So when she hits that ‘do I take the toll lane or regular lane?’ it’s not even an economic decision. I mean it’s wrapped up in $500 that’s already invested and the look on her child’s face. So four dollars, eight dollars, she doesn’t care (what the toll is). She’s going to get him there on time. Now that’s not always the case but that’s the way to see these things. What do people value? What do they pay for? It’s not just what the traffic and revenue study says. These are real people making real decisions and if you’re delivering a real service they can value, then you have built in revenue potential that allows you to attract a private investor to help you deliver that eight years earlier.”

Koelemay: “When we put our (P3) enabling legislation in place it was broad and flexible because it anticipated that both market practices and contractual agreements would continue to evolve in that area and they wanted to encourage that. The legislature has a limited role. Its role is almost indirect. Obviously it has appropriations and other general directions that it will give to state procurement. But they purposely have said ‘we don’t want to be involved in the formal decision process because it brings a political dimension that we realize the private sector sees as a risk, particularly if it’s late in the process.’ Suddenly somebody can say ‘no’ after firms have spent basically $10 million, $12 million or more on their planning and proposals and other things they’re putting forward. I think our legislature at least recognizes it’s basically an executive branch function. They do want to have broad oversight but they don’t want to interfere and they do want more accountability in the Commonwealth Transportation Board validating the steps that are taken particularly with the procurement process. What we’re going to do though is inform them a lot more in the appropriations and finance committees and the transportation committees about the progress we’re making. We’re opening the process so each of the documents involved are going to be on our website. We’re going to allow public comment 24/7 not static 30 days or three minutes at a public hearing because people are potential consumers of the product. We can continue to learn from them about what they see the facility being and what benefits they anticipate need to be there.”
on University): (On why so many of the private infrastructure investors are based elsewhere): “Project finance is a very well developed specialty around the world. It hasn’t been as well developed in the U.S. market because of our municipal bond market and other traditions that we have here. And many of the firms that do this—Transurban is an Australian firm. They operate in Australia. Cintra, another firm, is a Spanish firm. These are global firms. Skanska, another, (is) a Swedish firm. And we have Bechtel (that) does this outside the U.S. but not very much in the U.S. because we don’t have that well developed a project finance market in the U.S. yet.”

Gifford said the advantages of P3s include the utilization of private financial resources, on-budget, on-time delivery, private sector innovations in technology and management, improve operation and maintenance efficiency and improved asset management. Disadvantages include substantial transaction costs and greater risks due to project complexity.

Gifford’s center has identified a number of best practices for successful P3s and P3 programs. They include the creation of a P3 administering office with sufficient authority and staff to manage the project, a credible pipeline of robust projects under consideration, and the careful selection of funding and financing of projects based on risks and objectives, including investor protections and transparency.

Resources

- “The Maryland Approach to P3s,” [3] PowerPoint presentation by Thomas Halloran, Maryland Department of Transportation
- Maryland Department of Transportation: Purple Line project [5]
- U.S. Department of Transportation: Build America Transportation Investment Center [9]

Further Reading


By:
Thursday, September 25, 2014 at 08:19 AM

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PowerPoint by Thomas Halloran, Maryland DOT [3] 1.15 MB
PowerPoint by Jonathan Gifford, George Mason University [4] 361.06 KB

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