Public Private Partnerships

Developing ODOT’s PPP Policy and a National Perspective

July 20, 2011
Legislation

- HB 114 passed March 27
  - Generally provides broad, flexible authorization for PPP transactions
  - Authorizes solicited and unsolicited proposals for a wide range of P3 transactions
  - Need a process for regular consideration of P3 transactions and implementation of deals that bring value
- Governor’s Budget Bill passed June 30
  - Ability to write RFP for lease of Turnpike
  - Legislature needs to approve RFP
**P³ Delivery Spectrum**

- **Pre-Planning & Acquisition**: Greenfield Life-Cycle Asset Development/Preservation
- **Finance**: Long-Term Concession Development/Lease
- **Design**: Program Management
- **Construction**: Capital Projects
- **Operations & Maintenance**: D-B CM @ Risk
- **Upkeep & Improvement**: Design-Build, Construction Manager at Risk

**Preservation**: Brownfield Asset Management

**DBOM**: Design-Build-Operate-Maintain

**DBFO BOT/BTO BOO/BOOT**: Design-Build-Finance-Operate Build-Operate-Transfer/Build-Transfer-Operate Build-Own-Operate/Build-Own-Operate-Transfer
The Halcrow Team - Statewide PPP Policy

Project manager
FHWA advisor
PPP policy & screening
Planning & economics

Financial advisor

Legal advisor

Deputy project manager
Technical & engineering
Scope - Statewide PPP Policy

1. Review HB 114, determine permissible activities and potential types of partnerships
2. Provide a summary of best practices from other U.S. agencies
3. Assist the DOT in developing a comprehensive PPP policy:
   a. Identify types/categories of potential projects/partnerships
   b. Consider financial, economic, legal and technical evaluation factors
   c. Evaluate development potential
4. Assist in developing:
   a. A PPP application format to evaluate and rate proposals
   b. An evaluation process to rate and select projects
Halcrow Approach

• Goals
  1. Develop PPP guidance material that defines:
     • What can legally be done
     • What is the range of options available, benefits, and requirements
     • How to implement PPP procurements from:
        • early project ID
        • screening and evaluation
        • Building the business case
        • Financial close
        • Long term management of contracts
Halcrow Approach

• Goals
  2. Evaluate the PPP potential of the program
    • Implement screening methodology
    • Identify best candidate for PPP delivery
    • Frame the initial value proposition

3. Complete by end of year!
Screening for Delivery Options

- **DBB**
  - Design-Bid-Build

- **DB**
  - Design-Build

- **DBF**
  - Design-Build-Finance

- **DBFOM (ap)**
  - Design-Build-Finance-Operate-Maintain
    - Availability Payments

- **DBFOM (toll)**
  - Design-Build-Finance-Operate-Maintain
    - Toll Revenue/Monetization

**Budget Certainty (degree of private sector risk)**

**Public Finance**

**Private Finance**

Workshop to provide guidance on delivery mechanisms, risk and value to ODOT

NOT Business as usual
Policy, Rules and Process
The decision tree aids rule making

- HB 114 Legislation provides ODOT’s Authority
- Rules and Regulations guide policy to achieve ODOT goals
- Process and Procedure mapping provides the checks and controls
Process and Procedures

- June 2011 VDOT publishes Value for Money (VfM) Guidance Manual for industry comment
- First generic VfM guidance manual in the US
- Halcrow work product
- Adaptable concept
- Updated in response to feedback

http://www.vappta.org/
Major / New Capacity

Cleveland Opportunity Corridor

Brent Spence Bridge

Cincinnati Eastern Corridor
New and Modified Interchanges

- I-71 Polaris Parkway
- I-71/36/37 Interchange
- I-270 and Tuttle Crossing
- I-270 and Easton Way
Urban Freeway Reconstruction

Hamilton County I-75

Columbus Crossroads: I-70/71

Cleveland Innerbelt
Managed Lanes / Truck-Only Toll Lanes
ODOT Operations
Current Ohio Assets

- Ohio Turnpike
- Panhandle Rail Line/
  Ohio Central Railroad
Lessons Learned - A National Perspective

- PPPs must be tailored to fit the unique situation

- PPPs must be true partnerships with reasonable risk redistribution
  - Risks retained by public sector
  - Risks transferred to private sector

- PPPs must be well structured and performance oriented with transparency and accountability

- Lack of informed stakeholders and power of state legislatures can add risks and limit competition

- Better communication of PPPs is critical to their success
  - much more than access to private capital
  - Public sector retains control of asset
• Selecting the right PPP projects is key

  • Policy goals (e.g., environmental justice, sustainable communities) must be considered

  • Strong political will make a better PPP candidate project

  • Use risk re-distribution, rather than financing, as a primary factor for consideration with PPPs

  • The art of managing a successful competitive procurement

• Characteristics of a strong PPP candidate
  • Time-saving/congestion relief
  • Ability to be self-supporting in revenue
  • Strong public support
What has worked in other states

- The ability to say no to a PPP deal all the way to Close of Finance

- Adoption of robust value for money processes

- Understanding that the reason for doing a PPP must be more than a shortage of cash

- Recognition that regardless of delivery model competition and fixed firm price procurement is the best way to deliver value
What has worked in other states

• A focus on managing risk - through a risk register that is continually updated

• Maximizing competitive interest by adhering to delivery schedules

• Undertaking sufficient owner due diligence such as surveys, permit applications and illustrative design in good time

• Early dialogue with industry and carefully listening to industry feedback before issue of procurement documents

• Incorporate alternative technical concept processes into procurement to encourage innovation
What has worked in other states

- Recognition that technically challenging projects may be best suited for PPP
- Crafting technical requirements that are not unduly prescriptive and permit innovation
- Employing experienced legal, financial and technical advisors as an integrated team preferably in a co-located environment
- Recognition that best value from a PPP is likely to arise from a project with substantial new-build (Greenfield rather than Brownfield)
What has NOT worked in other states

- Not demonstrating to public that their interests have been protected (competing facilities, excessive profits etc.)
- PDA that result in sole source negotiation rights
- Failure to fully understand the value of accepting risk
- Fixation on cost of capital as the key differentiator of value
What has not worked in other states

- Unrealistic expectation that the public owner can determine accurately a market valuation of a tolled concession agreement

- Pursuing a tolled concession agreement without the necessary provisions for public subsidy

- Pursuing a procurement process for PPP long in advance of environmental clearance

- Expecting that the attributes that defined yesterday’s successful project will necessarily exist today (Indiana)
What has not worked in other states

- Pursuing a procurement with unrealistic expectation of risk allocation that have not been achieved on other similar deals
- Failure to undertake sufficient up-front due diligence
- Over-prescriptive approach to design, construction and maintenance requirements
- Excessive public owner oversight of design and construction processes with too many approvals and hold points
- Unrealistic expectation that unsolicited proposals will generate many viable projects
- Failure to appreciate that Owner-directed change under a PPP is very costly and that the requirements need to be defined firmly up front
Bringing it back to Ohio

- Top Three reasons PPPs fail
  - Poor Contracting
    - Making agreement too onerous
    - Attempting to transfer too many risks
    - Failing to do enough due diligence
  - Legislative Oversight
    - Too many reports, checks, approvals, and audits
    - Not enough trust and delegation
    - Slowing process and increasing costs
  - Political Pushback
    - Cold feet
    - Negative press based on incorrect premises
    - Easier to kill
Thank you

Sustaining and improving the quality of people’s lives
Trends in PPP - Risk

- Hazmat
- Environmental re-evaluation
- Traffic and revenue
Trends in PPP - Funding/Financing

- Concession payment
- Zero contribution
- Public subsidy
  - Construction
  - Revenue support
  - DBF
  - Availability payments
- Blends of the above
Trends in PPP - Preparedness

- Aligning goals
  - Stakeholders
  - Project scope
- Environmental approval
  - Schematics
  - Deviations
- Traffic and revenue studies
- Financial viability
- Capacity improvements
Trends in PPP - Early Industry Involvement

- PDAs
- Term sheets and RFQs
- Experience
- Industry workshops
- Feedback
Value from PPPs . . . Balancing Prescriptive and Performance Specifications from Design to Handback

- Framework approach
  - must find the correct balance between prescribing what is built and how it performs
- Technical requirements
  - Asset condition risks can be transferred to a concessionaire via O&M performance requirements and handback requirements

![Diagram showing comparison of specification types available.](image)
Value from PPPs . . . Balancing Prescriptive and Performance Specifications from Design to Handback

- Concession agreement
  - Public owner is protected from abandonment because the concessionaire has an equity interest
Value from PPPs . . . Balancing Prescriptive and Performance Specifications from Design to Handback

- Aligning incentives
Value from PPPs . . . Balancing Prescriptive and Performance Specifications from Design to Handback

- O&M performance requirements benefits
  - Scope for technical innovation increase
  - Concessionaire must consider life cycle costs
  - Single point of responsibility for long term asset performance

- Handback requirements
  - Designed to ensure that at ‘handback’ the asset is functional and:
    - Meets a predetermined, measurable condition and has a defined residual life
    - Satisfies all the O&M performance requirements

- Alignment and balance
  - Prescriptive construction specifications are not well suited to concession agreements
  - If over used they can undermine the intended transfer of asset risk
Halcrow Team Organization Chart

James A. Barna, P.E.
Chief Engineer
Assistant Director for Transportation Policy

QA/QC
Jonathan Startin (H)
David Gehr (PB)
Jeffrey Parker (JPA)
John Schmidt (MBL)

PROJECT MANAGEMENT TEAM
PROJECT MANAGER
Charles Nicholas (H)
DEPUTY PROJECT MANAGER
Howard Wood (PB)

FINANCIAL POLICY
Michael Parker (JPA)

PPP POLICY & SCREENING
Charles Nicholas (H)

TECHNICAL/ENGINEERING
Jeff Lechak (PB)

PLANNING & ECONOMICS
Steven McDonagh (H)

LEGAL POLICY
David Narefsky (MBL)

SPECIALIST ADVISORS - AVAILABLE AS AND WHEN NECESSARY

FINANCIAL
Nick Serianni (JPA)

PPP SCREENING
Andrew Dobson (H)
Marcus Rooney (H)
Michael Benouaich (PB)
Ben Perez (PB)

COST ESTIMATION & RISK MANAGEMENT
Eva Chan (H)
Marcus Rooney (H)
Ross Gray (H)

TOLLING, OPERATIONS & MAINTENANCE
Tom Clark (H)
Andrew Ardrey (H)
Jeff Lechak (PB)

MANAGED LANES
Chuck Fuhs (PB)
David Ungemah (PB)

DEMAND & REVENUE
Richard Frost (H)
Greg Erhardt (PB)

PLANNING & PROGRAM
Howard Wood (PB)
Jeff Wallace (PB)

ECONOMICS
Matt Bieschke (PB)
Ira Hirschman (PB)

INFRASTRUCTURE & TAX
Joseph Seliga (MBL)
George K Miller (MBL)
Robert A. Kelman (MBL)

Key
(H) Halcrow, Inc
(PB) Parsons Brinckerhoff
(MBL) Mayer Brown LLP
(JPA) Jeffrey Parker & Associates

Combining local knowledge with support from a global network of offices and staff
The Team

“The Role of Private Investment in Meeting U.S. Transportation Infrastructure Needs”

Bill Reinhardt - Public Works Financing

“P3’s Total $21.7 bn Since 1993”

The Role of Private Investment in Meeting U.S. Transportation Infrastructure Needs

- What We’ve Learned from Two Decades’ Experience with Transportation Public-Private Partnerships (P3s) in the United States
- Recommendations for Increasing Private Investment in Transportation Projects Going Forward

By William Reinhardt, 23-year P3 observer, publisher and editor of “Public Works Financing” newsletter

May 2011

The Team Experience

Successful Projects Close Finance

Project Scorecard

<table>
<thead>
<tr>
<th>Loc</th>
<th>Project</th>
<th>Private Risk</th>
<th>NTP</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>TX</td>
<td>I-635 LBJ Managed Lanes</td>
<td>DBFOM (toll)</td>
<td>Jun-10</td>
<td>$2,800</td>
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<td>I-485 Charlotte Loop</td>
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<tr>
<td>TX</td>
<td>North Tarrant Express</td>
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<tr>
<td>VA</td>
<td>I-81 HOT Lanes</td>
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<td>Jul-08</td>
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<tr>
<td>TX</td>
<td>SH130 Segments 5-6</td>
<td>DBFOM (toll)</td>
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<tr>
<td>CO</td>
<td>Pradiseo Parkway</td>
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<td>CO</td>
<td>Denver Eagle P3 Rail</td>
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<td>FL</td>
<td>Port of Miami Tunnel</td>
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<tr>
<td>FL</td>
<td>I-595 Managed Lanes</td>
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<td>VA</td>
<td>Jordan Bridge</td>
<td>BOO</td>
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<td>NC</td>
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<td>FL</td>
<td>Palmetto Exp. Widening</td>
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<td>Aug-08</td>
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<td>95 Express Lanes</td>
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<td>DFW Connector</td>
<td>DBM</td>
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<td>Alaskan Way Viaduct</td>
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<tr>
<td>WA</td>
<td>SR-99 tunnel</td>
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<td>95 Express Lanes</td>
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Long Term Concession and Lease 2005 - 2007

<table>
<thead>
<tr>
<th>Loc</th>
<th>Project</th>
<th>Lease Term</th>
<th>NTP</th>
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<tbody>
<tr>
<td>CO</td>
<td>Northwest Parkway</td>
<td>99-yr lease (toll)</td>
<td>May-07</td>
<td>$603</td>
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<tr>
<td>IN</td>
<td>Indiana Toll Road</td>
<td>99-yr lease (toll)</td>
<td>Jun-06</td>
<td>$3,850</td>
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<td>VA</td>
<td>Pocahontas Parkway</td>
<td>99-yr lease (toll)</td>
<td>Jun-06</td>
<td>$611</td>
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<tr>
<td>IL</td>
<td>Chicago Skyway</td>
<td>99-yr lease (toll)</td>
<td>Jan-05</td>
<td>$1,820</td>
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</table>
The Team

“The Role of Private Investment in Meeting U.S. Transportation Infrastructure Needs”

Public Works Financing

Project Pipeline

- Involved in 85% of ongoing P3 Toll Road procurements in the nation
- Involved in 79% of Roads, Bridges and Tunnels

<table>
<thead>
<tr>
<th>Toll Roads</th>
<th>Status</th>
<th>Value</th>
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<tbody>
<tr>
<td>VA 1-95 HOT lanes</td>
<td>under contract</td>
<td>$2,467</td>
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<tr>
<td>VA Route 450</td>
<td>RFP pending</td>
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<tr>
<td>GA WxNW 1-75/I-757 Managed Lanes</td>
<td>shortlist 6/10</td>
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<td>GA WxNW I-285/I-20 Managed Lanes</td>
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<td>CO Denver, Jefferson Parkway</td>
<td>preferred proponent</td>
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<tr>
<td>PR PR 22 + PR 5 Lease</td>
<td>RFP 11/10</td>
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<td>TX Cameron County SH 559</td>
<td>PDA est. 6/11</td>
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<td>TX Dallas NTE 34/38</td>
<td>Est. close 2011</td>
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<tr>
<td>TX Dallas NTE 3C/4</td>
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<td>TX Houston SH 99 Grand Parkway</td>
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<td>TX Dallas 1-85E</td>
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<td>TX Dallas SH 183 Managed Lanes</td>
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<td>TX Austin MoPac Exp. Lanes</td>
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<td>CA Bay Area Express Lanes</td>
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<td>NV 1-15/US 95 HOT Lanes</td>
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<td>PR PR 66 + 53 lease + extend</td>
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<td>CO Denver, E-470 Lease</td>
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<td>GA Ronald Reagan Exp. extension</td>
<td>feasibility</td>
<td>na</td>
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<tr>
<td>AZ Phoenix Managed Lanes</td>
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<tr>
<td>CA LA High Desert Corridor</td>
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<td>CA LA 1-710 Corridor</td>
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<td>IN-NL Illiana Expressway</td>
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<tr>
<td>IL Elgin-O'Hare West Bypass</td>
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<table>
<thead>
<tr>
<th>Toll Bridges</th>
<th>SOI 3/10</th>
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<tbody>
<tr>
<td>AK Anchorage Knik Arm Bridge</td>
<td>ROD 12/10</td>
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<tr>
<td>NY Goethals Bridge</td>
<td>RFP 11/10</td>
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<tr>
<td>NC Mid-Currituck Bridge</td>
<td>7/10 funded</td>
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<td>WA-OR Columbia River Bridge-LRT</td>
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<td>IN-KY Louisville Bridges</td>
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<td>NY Tappan Zee Bridge replacement</td>
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<td>PA Scudder Falls Bridge</td>
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<td>NY Robert Moses Causeway</td>
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<table>
<thead>
<tr>
<th>Toll Tunnels</th>
<th>Award mid-2011</th>
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<tbody>
<tr>
<td>VA Hampton Roads Bridge-Tunnel</td>
<td>unsolicited prop</td>
<td>$4,000</td>
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<tr>
<td>CA LA SR 710 Gap Closure</td>
<td>pre-feasibility</td>
<td>$5,000</td>
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</tbody>
</table>
Availability Model

- Takes the place of all or a portion of toll revenues
- Road may still be tolled by DOT
- DOT absorbs some or all revenue risk
  - Numerous UK DBFO projects - A13 DBFO and M25
  - Vancouver, Golden Ears Bridge
  - Florida, Port of Miami Tunnel
  - Florida, I-595 Managed Lanes
P3 Organizational Structure

**Users**
- Tolls, fares, other (if applicable)
- Can also be collected by private sector and remitted to the Government

**DOT**
- Can also be collected by private sector and remitted to the Government

**Equity Investors**
- Equity financing
- Profits/Return/Dividends

**SPV**
- Concession Contract
- Payments for CAPEX
- Construction subcontract
- Debt & Loan Agreement

**Construction Contractor**
- CAPEX
- Construction risk

**Operator**
- OPEX
- O&M risk

**Banks/ Bondholders**
- Debt Service & Security Package

**Shareholder’s Agreement**
- Profits/Return/Dividends

**Concession Contract**

**Payments/Grants**

**Availability Payments/Grants**

**Equity financing**

**O&M Payments**

**O&M Subcontract**

**Debt & Loan Agreement**

CAPEX = Capital Expenditures
OPEX = Operating Expenditures
SPV = Special Purpose Vehicle

* Will often have direct agreements with Government and Subcontractors