2005 AASHTO
Subcommittee on Construction

Dwight Horne
Office of Program Admin.
August 1, 2005
Perspective

Starting In the 1950’s

– Connectivity – Building of the Interstate System.

21st Century

– Mobility – Eliminating congestion.
“In the 21st Century, the public and private sectors must embrace each other as partners in building and maintaining the transportation infrastructure that will keep America’s economy moving forward.”

-- Secretary Norman Y. Mineta
Public-Private Partnerships Defined

A Public-Private Partnership is a contractual agreement formed between public and private sector partners, which allows more private sector participation than is traditional.
1995 States with Significant PPP Authority

PR
RI

United States Map

States highlighted:
- California
- Rhode Island

PR
RI
Current States with Significant PPP Authority

[Map showing states with significant PPP authority marked in black and those without in green.]

- RI
- PR
South Dakota I-229
The Chicago Skyway

Source: Cintra March 2005
Trans Texas Corridor TTC-35
Past FHWA PPP Initiatives

- SEP-14
- TE-045
- Flexible Match
- Toll credits
- Section 129 loans
- SIBs
- TIFIA
- GARVEES
“Attracting private sector participation and deploying market-based solutions to our transportation problems is not simply a laudable objective; it’s a necessity. And it requires us in the Federal Highway Administration to adjust the way we approach our Federal-aid mission.”

-- FHWA Administrator, Mary Peters
PPP Task Force

- Different FHWA Disciplines
  - Environment, Policy, Operations
  - Infrastructure, TIFIA, Legal
- Report to Congress
- Web-Based Resource
- SEP-15
United States Department of Transportation
Report to Congress
On Public-Private Partnerships
December 2004

U.S. Department of Transportation
Report to Congress
On Public-Private Partnerships
December 2004
Spurring PPP Formation – Administration SAFETEA Proposals

- Tolling
- Private Activity Bonds
- TIFIA
- Design-Build
- Environmental Streamlining
List of Recently Issued Environment-Related Guidance

1. Application of NEPA to toll roads
2. NEPA/Planning
3. Endangered Species Act
4. 4(f)
Future PPP-Related Activities

1. More memorandum
   - Uniform Relocation Act
   - Clean Water Act
   - Indirect & Cumulative Impacts

2. PPP Booklet
   - Comprehensive manual of all FHWA PPP initiatives

3. PPP Resources
   - Model legislation
   - Model contract language

4. Continued outreach
PPP Website

www.fhwa.dot.gov/PPP

- Examples of PPPs
- State legislation
- Case studies
- Resource library
- Links to other sites
- SEP-15
Goal of SEP-15

Identify for trial evaluation and documentation public-private partnership approaches that advance the efficient delivery of transportation projects while protecting the environment and the taxpayers.
Four Major Areas of Interest

- Innovative contracting
- Environmental compliance
- Right-of-way acquisition
- Project finance
SEP – 15 Process

Draft
What SEP-15 Is Not

• Is not a magic wand to eliminate troublesome Federal requirements.
• Is not extended beyond Title 23 in scope.
• Is not an appropriate tool for broad programmatic changes.
SEP-15 Applications Approved

- **Texas TTC-35**
  - Approved as SEP-14
  - Transferred to SEP-15
  - Early Development Agreement complete

- **Texas Toll Roads Statewide**
  - Toll collection
  - EDA being finalized

- **Oregon Innovative Partnerships Program**
  - EDA in draft format
WE’RE BULLISH ON MOBILITY & ECONOMIC DEVELOPMENT IN TEXAS
Trends that Require New Business Models for Highways

- Growing population
- Continually increasing demand for added capacity
- Aging infrastructure
- Increasing maintenance costs
- Anticipated decline in fuel tax revenues
- Rising construction and right of way costs
- Pay as you go can’t keep up with demand
State Law Traditionally Provides:

- Competitive bidding statutes
  - Low bid requirements
  - Limited “sole source” authority
  - No negotiations
  - No design-build contract authority
- Lack of revenue bonding authority
- Constitutional restrictions on “gift of public funds” and investment in private companies
- 100% surety bond requirements
- Open records acts
- Legislative or local govt approvals
State Laws Should Provide for:

- Submission of competitive proposals
  - With adequate time periods
- Appropriate evaluation factors
- Opportunity for public comment
- Authority for state grant or loan to project and contribution of federal funds
- Clear and fair selection process
- Avoidance of conflicts of interest
- Application review fees
Federal Legal Requirements

• Federal Design-Build Rule
• NEPA
• Limitations on tolling interstates
• FHWA procurement process
• Buy America
• Davis Bacon, etc
Federal Regulatory Requirements

• Federal design-build rule applies to PPVs (23 CFR 636.119)
• Exceptions approved through SEP-15
• Approvals for negotiated contracts require SHA to determine that the price for work is reasonable
• FHWA must approve the process followed in determining price reasonableness
Environmental Process Can (but doesn’t have to) Lengthen Project Implementation Time

- State DOT must share early development risk
- Delays caused by environmental litigation a major cost driver
- Take advantage of environmental streamlining
- Use “tiered” environmental approach
PUBLIC PRIVATE PARTNERSHIPS
or
PUBLIC PRIVATE VENTURES
Requirements for Successful PPP Implementation

- Entrepreneurial Vision
- Positive political climate
- Organizational support – commitment to innovation
- Institutional capacity to manage program
- Risk management philosophy
- Access to innovative finance mechanisms
- Flexibility to respond to diverse proposals
- Innovative procurement tools
SEP 15 Supports Private Sector Role in Pre-NEPA Project Development

- “One-stop shopping” for Title 23 waivers to implement innovative financing and contracting.

- Permit private sector involvement in early development process before final pricing.

- State DOT can issue RFPs and enter into contracts with private developers prior to ROD.

- Project developer can conduct environmental analysis and prepare NEPA documents subject to direction and oversight by the State DOT in cooperation with FHWA.

- A “tiered” environmental process can be used.
Public Private Partnership Goals

- Optimize public funding
- Maximize private investment
- Combine the **best** of Government and Private Enterprise
- Long term strategic partner
Benefits of PPP/CDA:

- Accelerates project through concurrent activities
- Fixes price early in design phase
- Guarantees completion date
- Designates single point of responsibility
- Allocates project risks among all parties
- Provides life cycle cost efficiency
- Provides for continuous Value Engineering assessments
- Requires continuous constructability reviews
- Streamlines project administration
- Enhances cost control and risk management
PPP Administration

- Dedicate small staff to P3 projects
  - Small, effective, and efficient
- Accept non-traditional approaches
  - Not business as usual, entrepreneurial (flexibility)
- Specialized advisor support
  - Legal, financial, environmental, quality control
- Recognize each and every project is different
  - Conduct risk analysis on each one
- Co-locate P3, state, and federal construction staff
  - Delegations of authority must go as low as possible
TWO SPECIFIC EXAMPLES in TEXAS

*TTC 35

*I-69/TTC69
The Problems

- Population growth
- Traffic growth
- Aging infrastructure
- Funding not sufficient to maintain or increase capacity
The TTC Concept

Trans Texas Corridor

CONCEPTUAL

TEXAS DEPARTMENT OF TRANSPORTATION
Trans Texas Corridor

TRANSPORTATION PLANNING
TTC 35 High Priority Corridor
PROGRAMMING DIVISION
Mapping Branch
June 2002

Priority Corridor
Trans-Texas Corridor “TTC” Vision
Announced in January 2002

• Multi-modal contiguous corridor
  – Auto, truck, rail, utility transmission

• Mobility

• Congestion Relief

• Efficiency

• Economic Development

• Environmental Quality
New Tools in the State Tool Box

- HB 3588 enacted June 2003
  - Most comprehensive transportation legislation ever passed in Texas
- Broad statutory authority
- Allows creativeness and flexibility in business plans
- Multiple options to supplement existing sources
  - Tolls & Pass-Through Tolls
  - Two bonding programs
- Partnering with other Toll Authorities
  - TTA, NTTA, HCTRA, RMA’s
- Public-private partnerships
  - D/B, CDA’s
CDA Contractual Relationship
Facility Implementation Plan

Umbrella CDA

Potential Facilities

TxDOT

Private Sector Developer

Toll Road
Truck Toll Road
Freight Rail
Commuter Rail
High Speed Rail
Utility

Delivery

Delivery Options

Design-Bid-Build
Design-Build
Design-Build-Maintain
Design-Build-Operate-Maintain
Design-Build-Finance-Operate

Potential Facilities

High Speed Rail
Commuter Rail
Truck Toll Road
Toll Road
Freight Rail
Utility

Delivery Options

Design-Bid-Build
Design-Build
Design-Build-Maintain
Design-Build-Operate-Maintain
Design-Build-Finance-Operate
Implementation Challenges

- Attracting well-developed proposals from financially strong and experienced entities
- Meeting agencies policies and objectives
- Maintaining a competitive process
- Achieving transparency and public acceptance
- Allocating risks to each party, appropriately
- Getting buy-in from public funding partners—federal, state and local
- Achieving timely environmental decisions
- Meeting federal-agency regulatory requirements
TTC-35
Project
Location
The Problem

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<th></th>
<th>2000</th>
<th>2050</th>
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<tr>
<td>TTC-35 Corridor</td>
<td>10,861,302</td>
<td>23,402,742</td>
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<td>Texas Total</td>
<td>20,851,790</td>
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% in Corridor

|                  | 52 %    | 57 %    |
The Problem

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<tr>
<th>Year</th>
<th>San Antonio</th>
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<th>Temple</th>
<th>Waco</th>
<th>Dallas</th>
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<td>223,000</td>
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<td>320,000</td>
<td>175,000</td>
<td>170,000</td>
<td>350,000</td>
</tr>
</tbody>
</table>
The Problem

Growth in Texas Truck Freight

- Trade Value in Billions of Dollars
The CDA Approach

• Purpose was to attract private sector partners that would bring in...
  – Equity ($$$$$)
  – Innovation
The TTC-35 Procurement Goals were:

- Procure a long-term strategic partner
- Minimize state tax revenue contributions
- Maximize private sector commitments
- Accelerate project delivery
FHWA Involvement in This Effort

- Past
  - Procurement process, including evaluation and selection oversight
  - Participation in multiple rounds of Industry Review Meetings
  - Special Experimental Project 14 Application review and approval (now SEP-15)
  - Environmental coordination
  - Approved final procurement documents
FHWA Involvement

• Future
  – Procurement concurrence
  – Final environmental approval
  – Developer oversight and coordination
  – Facility authorization
  – Dedicated co-located staff with TxDOT & Developer
Environmental Status

• 70 public meetings have been held throughout the Corridor

• The Draft Environmental Impact Statement (EIS) is being prepared and includes the project's Purpose and Need. The Draft EIS will identify and analyze the project's Preliminary Corridor Alternatives.

• Corridors are being refined and will be presented at the next round of public meetings in Spring of 2005.

• Tier One EIS will define a viable corridor, up to 20 miles wide, to move into the development of section EIS’s (Tier 2)
Near-, Mid-, and Long-Term Facilities

Near Term (2005 – 2010)
- SH 130 – Segments 5 and 6
- Dallas Southeast Connector
- Dallas Northeast Connector
- Georgetown to Temple
- Temple to Dallas SE Connector
- San Antonio Southeast Loop
- UP Railroad Relocation (MoPac)

Mid Term (2010 – 2025)
- IH 10 Expansion, Seguin to San Antonio SE Loop
- SH 130 – Segments 1 to 4

Long Term (2025 - )
- Dallas to Austin Freight Rail
- Dallas to Austin High Speed Rail
- Austin – San Antonio High Speed Rail
- Forth Worth Southwest & Northwest Connector
- San Antonio to Rio Grande Valley
I-69 Part of Defense Readiness System

Proposed Gulf Coast Strategic Highway System (Port Access for Army Ports)

Texas T-Bone Rail

Military Deployment Port

Freight Access To Port of Corpus Christi

Trans Texas Freight Access To Port of Houston

Trans Texas Freight Access To Port of Brownsville

Trans Texas Priority Corridors

Military Deployment Port

Military Deployment Port

Camp Beauregard

Camp Mabry

Camp Bullis

FORT HOOD

FORT BLISS

FORT POLK

FORT SAM HOUSTON

Camp Swift

Camp Howze

PORT OF CORPUS CHRISTI

PORT OF BROWNVILLE

PORT OF HOUSTON

Trans Texas Freight Access To Port of Houston

Trans Texas Freight Access To Port of Brownsville

www.I69texas.org
I-69 Part of Multi-National System

www.i69texas.org
So what we’re doing in Texas is trying to achieve a better quality of life for our residents and all of the traveling public in the United States.
To do that we are using the **best** parts of government and private enterprise to provide safer and more reliable mobility, stronger environmental protection, and more opportunity for economic development.
TO BE CONTINUED!

QUESTIONS OR COMMENTS?