Metropolitan Policy Program at BROOKINGS

Promises and Pitfalls in Public-Private Partnerships for Transportation
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Private investment in U.S. infrastructure has been described as the #1 emerging market in the world. In fact, this flurry of attention prompted Standard & Poors to warn recently of a dotcom-like pricing bubble.[1] All this has both been welcomed with open arms and met with sharp resistance. A recent poll by the investment banking firm Lazard found that 61 percent of individuals favor private investments in rail, airports, roads and bridges.[2]

Rightly or wrongly, part of the reason for the interest in PPPs today is the pervasive concern about the future of funding and finance with respect to our nation's transportation system.

One thing is certain: the traditional means of raising transportation dollars is almost out of gas and cannot keep pace with demographic and market forces, metropolitan development patterns, the aging of the nation's existing infrastructure, and demands for upgrading the outmoded infrastructure we currently have.

This is a lot to lay at the feet of the private sector. By no means should the private sector be called on to play the primary role in filling the funding gap. Nevertheless, it does provide an entry point for a richer discussion about PPPs, and about funding and finance in general.

So let me frame my brief remarks around three main points about PPPs for transportation:

First is to reiterate the widely held notion that public/private partnerships are not silver bullets for solving the funding crisis with respect to our nation's transportation program.

By any measure the financial picture on the federal, state, metro level is bleak.

On the federal level, we are facing a massive gap with the federal highway trust fund because the money flowing out of it is greater than the money flowing in. Last September Washington was forced to shift $8 billion from the general fund to cover a shortfall on the transportation side—and it's been generally reported that we will have to do that again this summer.

[1] Michael Wilkins, "The Amazing Growth of Global Infrastructure Funds," in *Infrastructure Finance: Trends and Techniques*, H. Davis, ed,. Euromoney Institutional Investor: 2008.
[2] Michael Erman, "Poll: U.S. Voters Back Privatized Infrastructure," Reuters, June 8, 2009.

This is due to the fact that, along with the proliferation of more fuel efficient vehicles and fuels, we are currently witnessing the largest sustained drops in driving that this nation has ever seen. As a result, we're consuming much less gasoline and paying less in gas taxes, which is throwing off less revenue for the transportation program. In addition, the federal gas tax has not been raised since 1993.

The situation is not unique to the federal government. According to the National Association of State Budget Officers, nineteen states show FY2010 transportation program budget cuts, up from 15 in 2009.[3]

At the same time we're struggling to keep the existing program solvent, the House Transportation and Infrastructure Committee has proposed a $500 billion reauthorization of the current law. That's a 75 percent increase over current program levels. (I am not suggesting that these are our national needs, just illustrating the gaps that have been identified so far).

So I lay all this out to make the point that the funding problems are too big to focus only on one solution. We need to consider a range of mechanisms and all options should be on the table.[4] Fortunately, the Lazard poll shows some pretty strong willingness for states to consider private investments rather than increasing taxes, cutting budgets, or taking on more debt.

The conversation about PPPs is helpful and beneficial but it should not obviate the comprehensive conversation we should be having about transportation in America today. Not to mix Wild West metaphors but PPPs for transportation should be considered an "arrows in the quiver" rather than "silver bullets."

Second is that we need to make sure that we are not limiting the definition of PPPs to only lease agreements for existing toll roads.

To be sure, private companies have always played a role in consulting, planning, designing, and constructing transportation projects, and the private sector continues to represent the lion's share of the nation's overall $1.6 trillion national transportation tab. Total government expenditures are only about 9 percent (about $160 billion).[5]

Almost all of the transportation expenditures are private expenditures and, in general terms, the transportation system is the ultimate public-private partnership. Cars and trucks are almost all privately owned, whereas the roadways are almost all public property. Americans fund highways and public transit systems through a complex relationship between many government bodies, continually influenced by numerous private, corporate, and civic interests.

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[3] National Association of State Budget Officers, "The Fiscal Survey of States," 2009.

[4] This was overwhelmingly the central theme of a recent exchange among transportation experts. See: National Journal Transportation Blog, "What Role Should Public-Private Partnerships Play?" http://transportation.nationaljournal.com/2009/04/what-role-should-publicprivate.php. 2009.

[5] Rosalyn A. Wilson, "Transportation in America 2001," Eno Transportation Foundation, 2002.

But what is being discussed today and attracting so much attention is something very different. It is more confusing than the private ownership of vehicles and those facilities that are traditionally considered to be public resources. PPPs can take a variety of forms:

Asset leases, sometimes known as concession agreements, are a type of PPP in which the public sector leases an asset, such as a toll road, a bridge, or an airport, to the private sector. The private sector provides an upfront payment and/or an agreement for revenue sharing and then manages and operates the facility in return for user fee revenues such as tolls. Two highly visible examples are the toll road leases in Chicago and Indiana.[6]

Another form are availability payment PPPs, which typically involve finance, operations, maintenance, and sometimes design and building. The key distinction is that instead of the private sector operator being compensated primarily from toll revenue, it is rewarded by the public sector based on performance metrics such as how well the facility is maintained. The Port of Miami Tunnel is one such example.

The private financing and management of new facilities model is where a private contractor agrees to design, build, operate, maintain and sometimes finance a particular transportation asset for a contracted number of years. Such a model has been employed in one form or another for highway projects such as the Capital Beltway HOT lanes project, and transit projects in New Jersey, Minneapolis, and Las Vegas.

Today the interest in PPPs for transportation goes beyond these very visible arrangements. For example, our nation's freight rail infrastructure funding comes from private, rather than public sources. Successful PPPs exist to deal with freight traffic around ports in metropolitan areas like Seattle, Reno, and Miami. The private sector also works closely with the public sector in some places to realize the significant increase in (mostly private) land value associated with (mostly public) investments in rail transit infrastructure.

Third is that the federal government needs to learn from its international competitors and play a helpful role with its state and metropolitan partners in thinking through the range of factors to be considered in PPPs.

The GAO recently noted that while the USDOT has done much to promote the benefits of PPPs it needs to do more to assist states and metro areas to think through potential costs and trade-offs, as well as assessing national interests.[7]

In sharp contrast, no less than 20 countries have begun implementing specialized units throughout various governmental agencies to assist with the expanding opportunities for PPPs. These so-called PPP Units fulfill different functions such as quality control, policy formulation and coordination, technical advice, standardization and dissemination, and promotion of PPPs.[8]

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[6] Yet even here there has been little creativity. We should be considering shorter-term deals and thinking more about the regulated utility model.
[7] U.S. Government Accountability Office, "Highway Public-Private Partnerships: More Rigorous Up-front Analysis Could Better Secure Potential Benefits and Protect the Public Interest," GAO-08-44, 2008.
[8] Forthcoming Brookings policy brief.

Canada maintains one of the most well-funded and expansively responsible PPP units. Ireland. India, the U.K., South Africa, and Italy are a sampling of the other countries that employ PPP units to facilitate their process. Most are set up in a cabinet-level agency or ministry; usually the Ministry of Finance due to the centrality of this department to the entire government structure.

Several countries or states have chosen to set up their PPP units as nonprofit corporations. None of these are fully privately-owned but most are either a government-sponsored entity or a mixed ownership corporation. For example, Partnerships British Columbia is a company owned by the Province of British Columbia and the Minister of Finance is its shareholder. The Czech Republic and Portugal’s PPP units are similar.

In the U.S., the primary purpose of such an entity would be to broaden the definition of PPPs and enable decisionmakers on the state, local, and metropolitan levels to consider them in a holistic context, rather than solely through a financial lens. Creating standards, benchmarking, ratcheting up best practices, and looking out for integration of the larger transportation system would also be a key function.

Thus, the intention would be to move beyond just the 'art of the deal' and focus on the key policy issues that both sides need to consider, how they are connected to larger national transportation discussions, and how they play out on the state, metropolitan, and local level with respect to issues such as metropolitan growth, housing, public health, and climate change.

The surface transportation reauthorization package currently being discussed in Congress takes a step in this direction by proposing to create an "Office of Public Benefit." While it is restricted to only toll road deals and therefore slated to be housed within the transportation department it could be an important innovation if it truly functions to assist states and metropolitan areas in sorting through these complex arrangements.

So to sum up, it is clear that for transportation PPPs to be considered appropriately the private sector needs to approach transportation projects with a strong sense of commitment and understanding of the public interest. This will not happen without the federal government providing (a) clarity of objectives, (b) clear understanding of roles and responsibilities, and (c) consistency of decision-making. Currently the U.S. is failing on all three points.

In other words, to date, the intense interest in PPPs for infrastructure focuses mainly on procurement, finance and project delivery. Yet in addition to the infusion of capital that accompanies many PPP arrangements and apart from the projects themselves, there are significant policy issues that must be part of the discussion to both take advantage of the private sector funds ready to be invested and achieve other national goals and objectives.

We should make sure we're not forgetting about the fourth "P": policy.