Testimony to the Joint Senate House Subcommittee on Transportation: Private Participation in Toll Roads

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Private Participation in Toll Roads

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The most dangerous part of the CDA concept is also that which is most attractive to TxDOT planners: they allow the state to live beyond its means, by borrowing against the future.

The financials as set out for TTC-35

Using equity financing by a CDA is not as efficient a use of taxpayer money as traditional taxes and bonds. Over time, too much money goes to the developer.

Sums from the TTC Financials of 2004 posted on KeepTexasMoving.com, Aggregate Cashflow statement

From 2005 to 2055
All numbers are in millions of dollars

Equity invested by Cintra	1,443
Finance receipts	7,385
Capital expenditures	8,530
Payments to TxDOT	1,044
Finance charges	21,114
TIFIA repayment	4,483
Operation / Maintenance	14,070
Dividends	64,725
Toll Revenue collected	116,752

Equity invested: 1.4 billion, return 64.7 billion

Comparing dividends to tolls collected, 64.7 / 116.7 = 55%

The dividends go to Cintra, out of this state, out of this country, to Spain.

The numbers speak for themselves. If a state agency collected the equity amount, 1.44 billion, and arranged for the financing of the other 7.4 billion, and contracted out design-build-operate, then the 64 billion could stay home here in this state.

This leads us to the second point in this testimony.

The citizens and taxpayers of Texas will get a much better value for their money if they vote to raise the fuel tax by eight to ten cents, and index it. The state will have enough money to develop all of the roads needed on a prudent basis. The state can use competent local builders such as Zachry, but without making very long term lease sale agreements with foreign investors.

The issue should be proposed in the legislature and placed before the voters. It must be thoroughly explained that this will be an investment in the future mobility of the state.

Now, when fuel is around four dollars a gallon, the state fuel tax is 20 cents, about 5 %. Raising the fuel tax by 8 to 10 cents would increase the price of fuel by two to three percent. It would be a small price to pay for long term mobility and a sound financial future.

The premise of Public Private Partnership development of infrastructure

The use of Public Private Partnerships or Comprehensive Development Agreements, CDAs, has been seized upon by state governments for various reasons. Some states have sold off infrastructure in return for large cash payments. The TTC concept is that private firms provide equity and financing in return for a monopoly on a roadway for a set long period of time. This allows the state and TxDOT to bypass spending controls and to move public investment off budget and debt off the state balance sheet, while the state still bears most of the risk involved and faces potential large fiscal costs. The costs of the TTC 35 are borne by the residents of the state for the most part. These costs are a tax which is visible in the future, but not in the present.

This is like a homeowner who takes out an equity loan on the house. In the future, the loan must be paid back, and it reduces the available spending power in the future. It might even lead to a housing mortgage crisis like we now have. Innovative financing as used by highway planners could be described as loan sharking on a large scale.

The revenue so eagerly anticipated by the TTC developers and TxDOT will come from Texas residents. This amounts to a large tax, which if one frequently uses toll roads, can approach the cost of the fuel to operate the vehicle. This means that when Texas residents spend money on tolls, they will have less money to spend on other things.

The use of concession payments, money given at the beginning of the contract by the developer to TxDOT, amounts in a way to a governmental bribe. It can cause TxDOT to eagerly promote projects which are not urgently needed except for their ability to raise revenue. TxDOT thus signs away the toll rights to a roadway, and authorizes that private entity to collect the tolls (taxes) for a long period of time for a relatively small amount of money now. The use of concession payments should be prohibited, in the same way that for many years, Texans were prohibited from obtaining equity loans on their houses.

Up front payments to TxDOT will be paid back in much larger amounts later by the residents of the state.

Non-compete agreements

Non-compete agreements favor the developer's pocketbook. They do not promote mobility or congestion relief. In the Lane Cove Tunnel project in New South Wales, the non-compete clause caused Epping road to be reduced from six lanes to two to force traffic into the toll tunnel. [1] TxDOT makes a point in its reply to the Audit Report on TxDOT and the TTC [2] "...it is important to note that there are no non-compete clauses in our contracts." But in the next paragraph the previous statement was contradicted: "The contract lays out a framework for determining whether and how much compensation must be paid to the project developer in the event that a project negatively affects traffic. (and revenue, on their toll road). ...the contract specifically outlines a methodology for compensation in the event that a non-exempted competing facility, as defined in the agreement, affects traffic on the CDA project, resulting in an impact on CDA project revenues."

What payment would have to be made if a rail commuter line was built between Austin and Dallas, and ridership on it caused a 25% drop in traffic on the TTC 35? Would it be so much that the rail line could not be built?

TxDOT claims that its contracts must not be revealed to the public. Is this in the public interest? The opportunities for fraud and graft on a project this large practically mandate that all contracts and negotiations must be done in the light of day, and not in secret.

The Public Private Partnership can work, if one meets three criteria: no non-compete clauses, no upfront concession payments, and full transparency in a simple, well laid out and organized process based on strategic principles. It appears that Chile did this correctly [3]

□ **Chile:** Enacted a law allowing for the award of concessions for the construction, maintenance, and operation of toll roads, tunnels, and related infrastructure under BOT schemes, which intend to attract U$4 billion from 1997 to 2000. ***Major issues were:*** focusing goals on the development

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[1] "**Analysis of Sydney Public-Private Partnership Road Tunnels**", Geoff Phillips, Paper for ASOR National Conference 3-5 December 2007

[2] State Auditor's Office, "An Audit Report on the Department of Transportation and the Trans-Texas corridor, February, 2007, Report No. 07-015, page 37

[3] **PRIVATE-PUBLIC PARTNERSHIP INITIATIVES AROUND THE WORLD: LEARNING FROM THE EXPERIENCE , Karisa Ribeiro*† André Dantas**** * MWH New Zealand, 7 Deans Avenue PO Box 13249, Christchurch, New Zealand. Tel: +64-3-343-8792 email: kaisa.m.ribeiro@mhwglobal.com. ** University of Canterbury, Private Bag 4800, Department of Civil Engineering, Christchurch, New Zealand. Tel +64-3642238 email:,andre.dantas@canterbury.ac.nz,, page 4

of adequate road infrastructure at the lowest possible costs and greatest efficiency, avoiding goals irrelevant to these considerations; transparent and competitive bidding procedures, with the terms of the contract clear and equal for all participants, leaving as little as possible to future negotiations; preparation of basic information (e.g., traffic estimate for the base year, basic engineering, basic design, soil studies) by the government; endeavouring to keep tolls at levels that users are willing to pay; and reducing construction risk, with the government giving bidders reference designs;

Consideration of alternatives

Has there been a detailed study done to determine the best value to the taxpayers of Texas to compare between the various plausible alternatives? (Note that in this sense, taxes means all taxes including tolls.)

a. expanding and upgrading existing roadways as freeways, financed by fuel tax and bonds
b. expanding and upgrading existing roadways as tollways, financed by bonds and tolls
c. TTC concept, financed by bonds and tolls, controlled by the state, no non-compete clauses, accountable to the taxpayer via legislature and governor.
d. TTC concept, financed by foreign companies, with non compete agreements

Is it true, as the San Antonio Toll Party has claimed, that toll roads cost much more to build than freeways?

Future considerations

With higher fuel prices, rail shipment becomes more attractive and competitive, since the fuel cost can be 1/6 with rail as that by truck. Another factor is that with rising fuel prices, more goods will be produced locally instead of being purchased from China or other low cost producers. Another factor is that as labor costs go up in China, as they have in Japan and Korea, the economic advantage of Chinese made goods will become less. This will result in fewer goods shipped and less need for TTC type transportation corridors or NAFTA corridors from Chinese ports in Mexico to the US heartland.