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**PPP UPDATE**

## $3.37 Billion in Conditional Private Activity Bond Allocations Made

The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) permitted the U.S. Department of Transportation (DOT) to allocate up to $15 billion in Private Activity Bonds (PABs) among qualified highway and surface freight transfer facilities. PABs allow the bonds to retain tax-exempt status despite a greater level of private involvement than is ordinarily allowed for these types of bonds. This allows public-private partnerships (PPPs) to obtain lower financing rates, eliminating one barrier to private sector participation in transportation finance.

As of June 2007, the U.S. DOT has awarded PAB allocations for three different projects.

- The Missouri DOT (MoDOT) applied for a $600 million allocation for the "Missouri Safe and Sound" bridge improvement project. A provisional PAB allocation of up to $600 million was approved in May 2007. The allocation will be made available to two prospective short-listed teams, and ultimately to the successful bidder. The Missouri Development Finance Board issued an inducement resolution in March 2007, allowing it to serve as a conduit issuer for the bonds. Final proposals are due from both short-listed teams in June. The source of repayment will be availability payments from the state DOT that are keyed to the availability and condition of the bridges at specified standards. Forty percent of the scoring will be based on the lowest level of availability payments that bidders will accept.
- In March 2007, two provisional allocations – one for up to $900 million and one for $1.4 billion – were approved for the Port of Miami Tunnel project, which will be constructed under a long-term availability payment arrangement. These allocations for the $1.1 billion project were made available to the two bidders who applied conditional, among other things, on being selected by the Florida DOT as the concessionaire. The Miami Access Tunnel (MAT) consortium was named the selected concessionaire in May.

  MAT proposed the lowest annual maximum availability payment, at $33.2 million. The Miami-Dade County Industrial Development Authority will serve as the conduit issuer for the $900 million in PABs, with a medium tranche of PABs used for bridge financing during five years of construction, and a second long-term tranche for the 35 year concession period.
- In October 2006, the Texas DOT (TxDOT) received a provisional allocation of up to $1.866 billion for the SH 121 project, which was made available to all three short-listed

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**FEDERAL CREDIT PROGRAM**

## Revised TIFIA Loan Process Reaches Last Frontier

In March 2007, the Federal Highway Administration (FHWA) received a Special Experimental Project No. 15 (SEP-15) application from the Knik Arm Bridge and Toll Authority (KABATA) for the Knik Arm Crossing in Anchorage, Alaska. KABATA is seeking waivers and variances under FHWA's SEP-15 authority which derives from Section 502 of Title 23, United States Code, allowing the Secretary to waive the requirements and regulations under Title 23. The waivers would be to the Transportation Infrastructure Finance and Innovation Act (TIFIA) loan process similar to those that have been granted to TxDOT (see Winter 2007 issue of ***IFQ***). KABATA intends to develop the project which would connect the municipality of Anchorage with the Matanuska-Susitna Borough through a PPP. The Authority is seeking a private partner to build, operate, and collect tolls on the facility and wishes to offer TIFIA assistance to each competitive entity. In March, the KABATA pre-qualified two consortia to bid on the final concession and seeks to make a conditional TIFIA commitment available to both firms prior to the final proposal deadline.

The current TIFIA loan process begins when a private developer submits an application for Federal credit assistance to the TIFIA credit program after its selection by the public owner. Working with this single applicant, the TIFIA office evaluates the application and, if approved, issues a term sheet, negotiates detailed terms and conditions, and executes a TIFIA credit agreement.

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*PABs, continued from page 1*

bidders. Also under a SEP-15 experiment with TxDOT, in November 2006 the U.S. DOT conditionally approved up to $700 million in TIFIA credit assistance for the project. On February 28, the Texas Transportation Commission (TTC) selected Cintra to develop the project. However, based on recent actions by the North Texas Regional Transportation Council and the TTC, the project has been awarded to the North Texas Tollway Authority, subject to certain conditions being met. Neither TIFIA nor PABs will be utilized for the project, and the PABs allocation will be made available to other qualified facilities.

The table below summarizes PAB allocations to date.

**Summary of Private Activity Bond Allocations**

| Project | Allocation | Project Description | Revenue Source | Notes |
|---|---|---|---|---|
| Missouri Bridge Safe and Sound Improvement Project | Up to $600 million – expires in March 2008 | Reconstruct or rehabilitate 802 of Missouri's most deficient bridges | Availability payments from MoDOT | MoDOT made application; both short-listed bidders will be eligible for allocation |
| Miami Port Tunnel Project | Up to $900 million to MAT, expiring October 2007<br><br>Up to $1.4 billion to MMG | Construct Miami Port Tunnel | Availability payments from Florida DOT | Both Miami Access Tunnel (MAT) consortium and Miami Mobility Group (MMG) received allocations conditional on winning bid; MAT selected |
| Texas SH 121 | Up to $1.866 billion (expires October 2007; $200 million extended through September 2008) | Complete construction of new 26.5-mile open road toll facility | Toll revenues | $200 million extended to allow time for completion of NEPA on optional Segment 5 of project (which TxDOT has option to include in concession) |

### *New Applications*

Two applications received in May 2007 are under review. The first is an application from CenterPoint, an owner/developer of industrial real estate in the metropolitan Chicago area, for an allocation of up to $505 million for the CenterPoint Intermodal Center in Crete, IL. The second pending application is from KABATA, which is requesting a $600 million PAB allocation for the Knik Arm Crossing project.

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## The Finer Points of TIFIA

The "Finer Points of TIFIA" box provides responses to questions posed by our readers and other observers. We hope you find this section useful and that you will submit questions to Mark Sullivan, Director, TIFIA JPO, (202) 366-5785 or mark.sullivan@dot.gov.

**Question**

***Does the U.S. DOT provide approaches to TIFIA repayment that help the borrower manage uncertain cash flows?***

**Answer**

In a number of TIFIA transactions, the U.S. DOT has allowed alternative repayment schedules in the form of simultaneous **scheduled** debt service (due if funds are available) and **mandatory** debt service (a lower amount established to reduce the likelihood of payment default, see Fall 2006 ***IFQ***) to address the vulnerability of project financings to uncertain activity and revenue performance. The flexible amortization structure, used in Florida DOT's TIFIA loan for the Miami Intermodal Center Rental Car Facility, takes this approach a step further. In this loan, repayments of principal are based on a percentage of funds available rather than a fixed schedule of amortization. To ensure the loan will be repaid within its 35-year maturity, the parties calculate annually a forward-looking project life coverage ratio (PLCR), defined as the net present value of project resources divided by project obligations, to determine whether rate increases or additional revenues are needed. The unique nature and strength of this structure obviates traditional minimum coverage requirements and thus the back loading of loan obligations. This represents an "ultimate recovery" loan structure, a departure from the traditional capital market standard of full and timely payment. By avoiding the back loading of debt, the project sponsor anticipates considerable interest expense savings while minimizing the risk of payment default. This approach may have a broader application for future TIFIA financings as this concept gains acceptance in the capital markets.

*TIFIA Recap, continued from page 1*

The proposed KABATA procurement process would accelerate the loan process for the two potential concessionaires prequalified in March 2007. KABATA plans to issue a Request for Proposals in the fall asking the two proposers to submit final detailed proposals for the project that include financial proposals with loan and equity commitments. Each potential concessionaire that elects to use TIFIA would have to identify the amount, terms, and conditions of available TIFIA credit assistance prior to making a financial offer to the KABATA. This process would allow the KABATA to compare the value to the state of each financial proposal, and assure that the winning concessionaire could execute all financing documents shortly after award.

The project area is in Upper Cook Inlet in the Knik Arm north of the Port of Anchorage and south of the confluence of the Knik River and the Knik Arm. The Knik Arm separates the Municipality of Anchorage from the Mat-Su Borough by about two miles in this area. The estimated construction cost of the project is $600 million. Costs will be refined as the design process is further developed. The Knik Arm project would be another example of how through the Secretary's SEP-15 authority, the U.S. DOT is able to experiment with departmental policies and procedures to further its goals of reducing congestion and preserving our transportation infrastructure.

The SEP-15 acceptance letter for this project was issued in early June. The next step is execution of the early development agreement, which is expected in early July.

### *Letters of Interest Received*

The TIFIA credit program has received two Letters of Interests in 2007, one for a rental car facility in Massachusetts and a second for a toll road in the Dallas area.

The Massachusetts Port Authority (Massport) submitted a Letter of Interest for the Consolidated Rental Car/ Commercial Parking Facility (ConRAC) project seeking up to a $150 million direct loan for the $453 million project at Logan International Airport in Boston. The project includes the construction of a consolidated rental car facility, a commercial parking facility, and a passenger bus system connecting airline passengers with both parking and rental car facilities.

TxDOT submitted a Letter of Interest for the IH 635 Managed Lanes Project in the Dallas-Fort Worth metropolitan area. The project consists of reconstruction of general purpose lanes, new construction of managed lanes and frontage roads, and the tolling operation of the expanded existing interim managed lanes for approximately 22 miles along the IH 635 (LBJ Freeway) and IH 35E corridors in Dallas County. This is one of the three projects initially proposed under the TIFIA SEP-15 experiment with TxDOT. The first project advanced under this experiment was the SH 121 project. Under the provisions of the SEP-15 Early Development Agreement, TxDOT has the flexibility to substitute other projects.

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**GARVEE Roundup**

## GARVEEs Continue to Help States Meet Infrastructure Needs

Since January 2007, three states have brought Grant Anticipation Revenue Vehicle (GARVEE) issues to market – Oklahoma, West Virginia, and Maryland. The combined total of these three issues is $453.9 million, bringing the total amount of GARVEEs issued (excluding refunding issues) since enactment of the NHS Act of 1995 to nearly $6.6 billion. By leveraging Federal dollars through bonding, states have made significant strides in meeting critical surface transportation needs.

In March 2007, the **Oklahoma** Department of Transportation (ODOT) issued $95.7 million in Grant Anticipation Notes (i.e., GARVEEs), the third issue sold by the Department. The proceeds will be used on corridors of economic significance, selected by ODOT, and approved by the Oklahoma Transportation Commission. ODOT anticipates issuance of approximately $300 million of additional notes to fund highway projects and improvements through 2010.

Following this issue, in April 2007, West Virginia sold $33.2 million in GARVEEs, its second GARVEE sale. West Virginia's issue is featured in this issue of ***IFQ***.

In May 2007, the **Maryland** Transportation Authority brought its inaugural GARVEE issue to market, the first of two anticipated GARVEE issues. The proceeds of this $325 million issue will be used to fund the initial construction costs of the Intercounty Connector (ICC) Project. The Authority expects to issue in total $750 million of GARVEE bonds in two issues to fund this project with the second issuance planned for 2008. The ICC, a high transportation priority for Maryland, will be an 18.8-mile controlled-access tolled highway connecting Interstate 270 with Interstate 95. The project's financial plan includes a range of funding sources, including a $516 million TIFIA loan.

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# GARVEE Transactions

*As of June 2007*

| State | Number of Issues | Total Issuance (in Millions) | Projects Financed | Insurance |
|---|---|---|---|---|
| Alabama | 1 | $200.0 | County bridge program | Yes |
| Alaska | 1 | $102.8 | Eight road and bridge projects | No |
| Arizona | 5 | $460.4 | Maricopa freeway projects | 2001 and 2004 issues only |
| Arkansas | 3 | $575.0 | Interstate highways | No |
| California | 1 | $614.9 | Eight road projects | Yes, except 2005 series |
| Colorado | 5 | $1,666.0 | Projects in the Statewide Strategic Transportation Project Investment Program, including T-Rex project | Yes |
| Georgia | 1 | $360.0 | Projects in the Governor's Fast Forward Program that provide congestion relief and economic development improvements | Yes |
| Idaho | 1 | $194.3 | Various expansion projects | Yes |
| Kentucky | 1 | $139.6 | Three Interstate widening and rehabilitation projects | Yes |
| Maine | 1 | $48.4 | Replacement of the Waldo-Hancock Bridge | Yes |
| Maryland | 1 | $325.0 | Intercounty Connector | No |
| Montana | 1 | $122.8 | 44 miles of U.S. 93 improvements | Yes |
| New Mexico | 2 | $118.7 | New Mexico SR 44 and U.S. 70 Corridor Reconstruction | Yes |
| North Dakota | 1 | $51.4 | Highway and bridge projects | Yes |
| Ohio | 7 | $718.1 | Various projects including: Spring-Sandusky and Maumee River improvements | Only 2006 issues |
| Oklahoma | 3 | $192.2 | Projects in 12 corridors | 2005 and 2007 issues |
| Puerto Rico | 1 | $139.8 | Various transportation projects | Yes |
| Rhode Island | 2 | $401.4 | Freeway, bridge, and freight rail improvement projects | Yes |
| Virgin Islands | 1 | $20.8 | Enighed Pond Port Project and Red Hook Passenger Terminal Building | Yes |
| West Virginia | 2 | $109.2 | Route 35 enhancements | Yes |
| **Total** | **41** | **$6,560.8** | | |

Note: Table excludes refunding issues.

## "Life in the Fast Lane" – West Virginia Accelerates U.S. 35

West Virginia is advancing the U.S. 35 project in large part through Grant Anticipation Revenue Vehicle (GARVEE) bond financing. Importantly, this project is the first in the state to be financed with GARVEEs; the state issued its initial GARVEE bond for the project in late 2006 with a second issuance in early 2007. The U.S. 35 project is approximately 37 miles long, and is located in Putnam and Mason Counties. Because the U.S. 35 corridor is one of the state's

> *"It's hard to believe how far we have come in just one year. Much of the success can be attributed to a strong partnership and sense of teamwork that exists between the West Virginia Division of Highways and the FHWA Division Office. In this case, FHWA's Resource Center and Headquarters also joined the "team" and played a critical role, helping with the project's successful acceleration through technical assistance in innovative finance and contracting."*
>
> *– Tom Smith, WV Division Administrator*

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# U.S. DOT Launches Transit PPP Pilot Program

Section 3011 of SAFETEA-LU authorized the Secretary of Transportation to establish and implement a pilot program to demonstrate the advantages and disadvantages of PPPs for certain fixed-guideway capital projects. The Public-Private Partnership Pilot Program, known as "Penta P," will allow the U.S. DOT to study whether the arrangement speeds completion, allows more reliable projections of project costs and benefits, and improves project performance.

### *Transit PPP Approaches*

Transit agencies have increasingly turned to PPP project delivery approaches to procure new or expanded transit services. Design-build (DB) contracts have been one of the most common approaches, combining the design and construction phases into one, fixed-fee contract. Under a design-build contract, the design-builder, not the transit agency, assumes the risk that the drawings and specifications are free from error.

Since the late 1990s, five fixed-guideway transit New Starts projects have been procured using the DB approach: the Denver Regional Transportation District (RTD) Southeast Corridor Light Rail (LRT) project; the South Florida Commuter Rail Upgrades; the Minneapolis Hiawatha LRT Line; the Bay Area Rapid Transit (BART) Extension to the San Francisco International Airport; and the Washington Metropolitan Area Transit Authority (WMATA) Largo Metrorail Extension. An additional project not supported by New Starts funds is the Portland MAX Airport Extension.

Another delivery approach is design-build-operate-maintain (DBOM). Under a DBOM, the selected contractor is responsible for the design, construction, operation, and maintenance of the facility for a specified time and must meet established performance standards. Since the late 1990s, three transit projects have been procured as DBOMs: the New Jersey Transit Hudson-Bergen LRT Minimum Operable Segment (MOS)-1 and MOS-2; and the JFK Airtrain.

In comparison to traditional approaches, the primary benefits that have been associated with DB, DBOM, and other PPP approaches include:

- **Time saving,** resulting from earlier contractor involvement in the design phases, the ability to work concurrently on design and construction activities, and the elimination of multiple bidding processes.

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## The Finer Points of GARVEEs

Each issue of ***IFQ*** features questions and answers on the GARVEE program. This issue focuses on the eligibility of arbitrage penalties for Federal-aid reimbursement.

Note that answers to these questions are not regulatory or legislative, but represent FHWA's current administrative interpretations. If you have questions or want to confirm any of this information, please contact your local FHWA Division office. GARVEE guidance also is available at: http://www.fhwa.dot.gov/innovativefinance/garguid1.htm.

***If a GARVEE issuer receives an arbitrage penalty, is the cost associated with that penalty eligible for Federal-aid reimbursement as a project cost?***

In the case of government-issued debt, arbitrage occurs when a government entity issues bonds obligating it to pay one rate of interest, and is able to invest the bond proceeds at a higher rate of interest. For example, a bond might be issued at 4.5 percent interest, but a government entity might be able to earn 5 percent interest on the bond proceeds. The resulting gain is referred to as arbitrage earnings.

The arbitrage earnings on tax-exempt bonds are constrained by Federal tax laws. Arbitrage earnings that exceed limits imposed by Federal regulations must be rebated to the Federal government. Generally, a government issuer can avoid rebating interest earnings on construction bonds if it expends 10 percent of the proceeds and earnings within six months, 45 percent within one year, 75 percent within 18 months, and 100 percent within two years. The IRS exception provisions also permit an issuer to pay a penalty rather than a rebate if these schedules are not satisfied.

Any arbitrage penalty incurred by a GARVEE issue is not eligible for Federal-aid reimbursement in accordance with Federal policy, and must be covered from other sources. This exclusion from allowable costs is addressed in the March 2004 GARVEE guidance (see website above). Specifically, 2 CFR Appendix B to Part 225 (Selected Items of Cost) (formerly OMB Circular A-87), Section 16 states that "Fines, penalties, damages, and other settlements resulting from violations (or alleged violations) of, or failure of the governmental unit to comply with, Federal, state, local, or Indian tribal laws and regulations are unallowable except when incurred as a result of compliance with specific provisions of the Federal award or written instructions by the awarding agency authorizing in advance such payments."

**CONGESTION PRICING**

# TRUCE Estimates Costs, Benefits, and Revenues from High Performance Highways

Researchers at FHWA recently used a modeling program called the Tool for Rush Hour User Charge Evaluation (TRUCE) to estimate the potential costs, benefits, and revenues from a new system of financing involving operation of high performance highways. The planning tool is available on FHWA's web site at www.ops.fhwa.dot.gov/tolling_pricing/value_pricing/tools/index.htm.

High performance highways involve the application of variable tolls on all lanes of existing tollways and toll-free limited-access facilities to manage traffic flow. Tolls vary by level of demand, either on a fixed schedule by time of day or in real time to reflect changes in congestion levels, and are charged on congested highway segments to manage traffic flow. The concept also involves promotion of carpools and vanpools, park-and-ride facilities, and provision of express bus services, to provide travel alternatives to transportation system users.

The potential of the high performance highway concept was assessed using TRUCE for five metropolitan areas, representing the most heavily congested freeway networks in the U.S. – Los Angeles, Chicago, San Francisco, Washington DC, and Atlanta. These five areas have a total population of approximately 32 million and freeway networks comprising a total of 15,260 lane miles. Input data for TRUCE for 2003 were obtained from the Texas Transportation Institute's (TTI) Urban Mobility Study. Inputs included:

- The peak-period "travel time index" (i.e., ratio of average peak period travel time to free-flow travel time), which, along with a free flow freeway speed of 60 mph, was used to calculate average freeway network speeds.
- Total daily freeway vehicle miles of travel (VMT), which was used to calculate peak period VMT, based on the number of rush hours identified by the TTI study and the share of travel in the AM and PM peak periods from the U.S. DOT's 2001 National Household Travel Survey.
- Number of freeway lane miles, which was used to calculate the average hourly traffic volume per lane over the peak periods, for both directions.

Using the TRUCE software, the FHWA researchers estimated the toll revenues, benefits, and costs associated with a multimodal pricing package that includes transit and park-and-ride services. They determined that benefit/cost ratios would average 6.6 for the five metropolitan areas. There would be huge reductions in congestion delay, averaging 33 person hours per peak period traveler annually. Annual reductions in fuel consumption would average 82 gallons per peak period traveler. Total benefits for the five cities would exceed $11.5 billion annually, and net social benefits after accounting for public costs for highway, transit, and park-and-ride facility operations would amount to almost $10 billion. "Because the TRUCE model uses conservative assumptions to project benefits, these estimates are on the low end," says Jack Wells, chief economist at the U.S. DOT. "The model does not account for environmental and safety benefits, benefits to businesses and the economy, and increases in energy security."

The toll revenue estimates for the five metropolitan areas suggest that implementing the concept could provide sufficient revenue to replace the fuel tax with revenues from congestion pricing on the limited-access highway system. New toll revenues would bring in over $10 billion annually, and a surplus of over $8 billion would be available after paying for all highway, transit, and park-and-ride costs. By comparison, estimated total current fuel tax receipts in these five areas is less than $5 billion annually.

In addition to the huge highway efficiency benefits, replacing the fuel tax with congestion pricing is likely to be fairer to highway users. "You pay 2 or 3 cents per mile, wherever you drive, in gas tax" notes Mike Krusee, a Texas State legislator. "But if you live in the urban core, you drive mostly on city streets, and none of the tax you pay goes toward those city streets, while the guy who lives in the suburbs is driving 40 miles each day on superhighways that cost billions and he's paying only pennies… You pay 2 cents to drive a rural highway that costs very little to construct …And, yet, you pay the same 2 cents when you cross an interstate interchange that costs $300 million."

High performance highway networks represent one approach to curbing the growing burden of traffic congestion. Tools such as TRUCE can help inform the local decision making process and attain public understanding and acceptance for this innovative approach.

| **Annual Benefits** | **Five City Total** |
|---|---|
| Highway Benefits | $11,225 |
| Transit Benefits | $283 |
| Mulitmodal Benefits | $11,506 |
| **Annual Costs to Transportation Network** | |
| Highway Costs | $1,123 |
| Transit Costs | $626 |
| Multimodal Costs | $1,749 |
| **Multimodal Benefit/Cost Ratio** | **6.6** |
| **Annual Toll Revenues Versus Costs** | |
| Toll Revenues | $10,330 |
| Multimodal Costs | $1,749 |
| Surplus | $8,581 |
| Annual Fuel Tax Receipts | $4,896 |

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*Penta P, continued from page 5*

- **Cost savings,** resulting from the shortened project timeline resulting from the above, as well as enhanced communication, reduced inspection requirements, and fewer change orders.
- **Shared risks,** assigned to the party best able to handle them.
- **Improved quality,** related to the involvement of the design team throughout project development.

### *Pilot Projects Selected*

In January 2007, the Secretary established and solicited applications for Penta P. For New Starts projects selected under this program, ratings will be adjusted to account for the private sector participation. For any selected projects not seeking New Starts funds, FTA may provide regulatory relief for certain project development activities.

Four applications were received for up to three pilot projects to be selected by the FTA. On May 16, the $400 million Oakland Airport Connector (OAC) was the first Penta P project selected. The OAC is a 3.2-mile automated people mover to be developed by BART with support from a private partner to partially finance, build, operate, and maintain the project in exchange for availability payments over 35 years. The proposed availability payments can total no more than $18.7 million per year, adjusted for inflation. Actual payments could be higher if ridership is higher than expected. Monthly payments will be reduced if the private partner fails to meet performance and operations requirements.

Three teams were short-listed by BART with proposals due in fall 2007. The private partner is expected to invest about $170 million, including $46 million in financing costs. As part of its Penta P designation, BART will pursue Federal funding and expedited reviews from FTA.

On May 25, the Secretary announced that the North Corridor and Southeast Corridor Bus Rapid Transit (BRT) Projects in Houston also had been selected for Penta P participation. The projects, which constitute a single project designation under Penta P, will provide improved access to the Houston central business district (CBD). The North Corridor is a 5.4-mile BRT line extending from a planned intermodal terminal at the existing Hardy rail yard north of the CBD to the Northline Mall Transit Center. The project is a first phase of a planned 24-mile rapid transit line from the CBD to George H. Bush Intercontinental Airport.

The Southeast Corridor is a BRT line extending from the current Main Street Light Rail system in the CBD to the Palm Center park-and-ride near Dr. Martin Luther King Jr. Boulevard. The BRT line would provide service to the University of Houston-Downtown, Texas Southern University, and the Texas Medical Center. The project is the first phase of a planned 13-mile rapid transit line from the CBD to William P. Hobby Airport.

The pilot will study, among other things, the benefits of procurement methods that integrate risk-sharing and streamline project development, engineering, construction, operation, and maintenance. The amount and terms of private investment in such projects is a significant factor in selecting projects to participate in the program.

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*West Virginia GARVEE, continued from page 4*

most heavily traveled highways, it was critical for the state to accelerate the project due to safety concerns, as well as expand economic development opportunities. Designated as part of the National Truck Network and the National Highway System, U.S. 35 is a critical regional corridor – providing passenger and freight movement to cities and markets primarily in the Southeast and Midwest.

The West Virginia DOT has the authority to issue up to $200 million in bond financing for the U.S. 35 project, and has received very favorable interest rates for the first two bond issues. Interest rates received to date are between 3.75 percent and 5.0 percent. The third and final bond issue for the project is anticipated in late fall 2007.

The other significant aspect to this project and another first for West Virginia is the use of design-build contracting. In March 2007, West Virginia awarded a $73.8 million design-build contract to E.L. Robinson Engineering (Charleston, WV) and Kokosing Construction Co. Inc. (Columbus, OH) to design and construct a 6.28-mile stretch of Route 35 between State Route 34 and Hurricane Creek Road.

In total, five construction contracts are progressing on an accelerated schedule in Putnam County near Interstate 64. During late 2007 and 2008, the focus will turn to the northern end of the project in Mason County.

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**TECHNICAL CORNER**

# What's New in Toll Credits

Toll credits, first authorized in the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), are being used extensively by states with toll facilities. As of May 31, 2007 over $18 billion in toll credits had been approved in 22 states and Puerto Rico. Toll credits are designed to encourage states to increase capital investment in transportation infrastructure and enable states to simplify program administration. To the extent toll credits are available, a state may use up to 100 percent Federal funds to construct some projects, while using the state or local funds that would have been required to match Federal funds to construct other projects with 100 percent state or local funds. In effect, by using toll credits to substitute for the required non-Federal share on a Federal-aid project, up to 100 percent Federal funding may be used on a project.

Toll credits are earned when the state, a toll authority, or a private entity funds a capital highway investment with toll revenues earned on existing toll facilities. The amount of the credit earned is based on the amount of toll revenues used to build, improve, or maintain highways, bridges, or tunnels that serve interstate commerce. To utilize this tool, the state must certify that its toll facilities are properly maintained and must pass an annual maintenance of effort (MOE) test. The MOE determination is an assessment of a state's non-Federal transportation capital expenditures over a four-year period. The expenditures in the last year of the four-year period must exceed the annual average of the expenditures in the preceding three years of the four-year period.

SAFETEA-LU included only two modifications to the toll credit requirements as codified in Section 120(j) of Title 23, United States Code (U.S.C.):

- The Appalachian Development Highway System (ADHS) program under Section 14501 of Title 40 is now specifically prohibited from using toll credits toward the non-Federal share of an ADHS project. Prior to SAFETEA-LU, the only statutory exception to the use of toll credits was for the emergency relief program authorized by Section 125 of Title 23.
- Toll credits can now be earned from projects paid for with Federal-aid funding. However, SAFETEA-LU requires that the toll credit amount earned from expenditures paid for with Federal funds (except for loans of Federal funds or other financial assistance that must be repaid to the Federal government) shall be reduced by a percentage equal to the percentage of the total cost of building, improving, or maintaining the facility that was derived from Federal funds. Prior to SAFETEA-LU, a state's toll credit calculation could only be based on toll revenues expended on facilities that were built, improved, or maintained without the use of Federal funds.

The MOE determination requirements were not revised by SAFETEA-LU.

### How States Use Toll Credits

- **Florida** has been applying toll credits on a statewide basis since 1993. Today the state is using toll credits on almost every new Federal-aid project, so that most of its Federal highway program is 100 percent Federally funded, freeing up state dollars for state-administered projects.
- **Pennsylvania** is using toll credits to increase Federal funding to 100 percent for betterment projects. Toll credits are also used as a match for the construction phase of Transportation Enhancement projects where the sponsor has completed the engineering and right-of-way phase with 100 percent local funds.
- **Missouri** reserves its toll credits for situations where project matching funds are unavailable in order to increase Federal funding to 100 percent of project costs.
- **Ohio** uses toll credits as a match on GARVEE projects and also shares its toll credits with local government agencies for both highway and transit projects.

In February 2007, FHWA issued new information on implementing toll credits, which is posted online at: http://www.fhwa.dot.gov/specialfunding/020807.cfm.

This information supplements FHWA's previous memorandum "Toll Credit for Non-Federal Share, Section 1111(c) of TEA 21, Implementing Guidance," dated August 7, 1998.

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## EVENTS

### *ARTBA to Host 19th Annual Public-Private Ventures in Transportation Conference*

The American Road & Transportation Builders Association's (ARTBA) Public-Private Ventures Conference is viewed by the transportation industry as the premier U.S. conference focusing exclusively on public-private partnerships in transportation. This year's conference will feature speakers such as U.S. Secretary of Transportation Mary Peters (invited) and Robert Darbelnet, President of the American Automobile Association (AAA). With the growing interest in and popularity of PPPs, the 2007 conference is expected to provide important information on the principles, best practices, and recent examples of these partnerships. This year's conference is scheduled to take place November 1 and 2, 2007 at the Hilton Washington in Washington, DC. The registration fee for public sector attendees is $100. To register for the conference, or to find out more information, please visit www.artbappvconference.org or contact Laura Spitz, ARBTA, at 202/289-4434.

## New Home for U.S. DOT

The U.S. Department of Transportation and FHWA have moved!

The new address is:

1200 North Jersey Avenue, S.E.
Washington, DC 20590

The new building is located across from the Navy Yard station on the Washington Metro Metro Green Line. Telephone and fax numbers have not changed.

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- National Association of Regional Council's (NARC's) Association of MPOs (AMPO)