FEDERAL FUNDING AND PUBLIC-PRIVATE PARTNERSHIPS

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PASSENGER RAIL SEMINAR
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Funding for Passenger Rail

No transportation system pays for itself through revenues

**Funding sources** for passenger rail:

- **Federal**: STP funds, New Starts, BUILD
- **State**: Motor fuel taxes, general fund expenditures, property taxes, income taxes, sales taxes
- **Local**:
  - **Taxes**: Property, income, sales, business activity, business improvement districts
  - **Fees**: Licenses, user fees
Financing strategies: general obligation bonds, revenue bonds, tax increment bonds, private activity bonds, TIFIA, RRIF, public-private partnerships

Ballot measures
- Typically 70% approval
- Bonds
- Property tax
- Sales tax
Budget Categories

Capital
- Federal grants play major role
- Local/federal split – at least 20/80
  - Priority – projects where local share is larger

Operations
- Farebox revenues contribute, but do not cover
- Sales taxes
- Focus of cost-savings efforts
Federal Transit Administration

Available for:
- Commuter rail
- Heavy rail
- Light rail
- Streetcar

Programs:
- Urbanized Area Formula Program (49 USC § 5307)
- Capital Investment Grants Program (49 USC § 5309)
- State of Good Repair Program (49 USC § 5337)
- Public Transportation Safety Program (49 USC § 5329)
USDOT - Federal Railroad Administration

Available for:
- Commuter rail
- Intercity passenger rail

Programs:
- Build America Bureau loans
  - Railroad Rehabilitation and Improvement Financing (RRIF)
  - Transportation Infrastructure Finance and Innovation Act (TIFIA)
- Consolidated Rail Infrastructure and Safety Improvements (CRISI) Program – competitive grants
Public-private partnerships (P3s)

What IS a P3?

A long-term contract between a private party and a government entity, for providing a public asset or service, in which the private party bears significant risk and management responsibility and remuneration is linked to performance (World Bank PPP Knowledge Lab)

Encompasses a broad range of approaches to private sector participation

https://pppknowledgelab.org/guide/sections/3-what-is-a-ppp-defining-public-private-partnership
Public-private partnerships (P3s)

What a P3 is NOT:

- Free money
- Cost-saving strategy
- Privatization that allows private participant to “charge what it wants”
- Foolproof turn-key project delivery method
- Mechanism for eliminating need for NEPA, workforce, procurement, or other requirements designed to protect the public interest
Public-private partnerships (P3s)

Potential benefits of P3s:

- Project acceleration – early cash infusion
- Risk allocation strategy
- Innovation – use of performance-based contracting
- Expertise in design/operations
Public-private partnerships (P3s)

P3s exist on a continuum of project delivery options:

- Typically defined on a relative basis – therefore can differ by state, facility type, etc.
- Private counterparty wears multiple “hats”
- Typically involves private investment, finance or equity exposure
Public-private partnerships (P3s)

Notable Features of a P3 Procurement:

- Two step (RFQ-RFP process) common, but not required
- May involve exemptions to customary procurement rules and requirements (e.g. bonding)
- Alternative Technical Concepts (ATCs), enhanced bidder diligence and enhanced pre-bid interactions (meetings, comments etc.)
- Financing & financial close are distinct components
Public-private partnerships (P3s)

Notable Features of a P3 Procurement:

- Federal rules and guidance recognize distinct P3 and related issues
  - FTA Best Practices Procurement & Lessons Learned Manual (Report 0105) and Third Party Contracting Guidance (FTA Circular 4220.1F)
  - Build America Bureau and TIFIA loan program

CAUTION: Not all states have authorized the use of P3s for public infrastructure projects
Public-private partnerships (P3s)

The Federal Angle:

- Private Activity / Exempt Facility Bonds (Internal Revenue Code)
- 63-20 Financings (IRS Revenue Ruling 63-20, Revenue Procedure 82-26)
- Build America Bureau
- TIFIA loan program (23 USC § 501 et seq.)
- RRIF loan program (33 USC § 3901 et seq.)
- WIFIA loan program (45 USC § 821 et seq.)
Public-private partnerships (P3s)

The Federal Angle, cont’d:

- FTA Pilot Program for Expedited Project Delivery (FAST Act § 3005(b))
- FTA Private Investment Project Procedures (49 CFR 650)
- FTA Competitive Passenger Rail Service Pilot Program (49 CFR Part 269)
Questions?

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