



US Department of  
Transportation  
**Federal Highway  
Administration**

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## CAPITAL MARKETS LISTENING SESSION

### Delivering Transportation Infrastructure in Today's Market: Challenges and USDOT Tools

The Liaison Capitol Hill Hotel, Washington, DC 20001  
**Tuesday June 16, 2009**

*These notes summarize the discussion and comments by individual participants at the listening session. The US Department of Transportation (USDOT) and the Federal Highway Administration (FHWA) is not seeking a consensus on the issues discussed, but sponsored this session in order to learn more about the current environment for surface transportation project finance. In posting these notes, the AASHTO Center for Excellence in Project Finance (the Center) is inviting session participants and other interested individuals to provide additional input for consideration.*

#### WELCOME AND INTRODUCTIONS

Tamar Henkin of High Street Consulting Group welcomed participants to the listening session and related that the session was intended as a forum for capital market participants to comment on the current status of infrastructure finance and related financial tools such as the Transportation Infrastructure Finance and Innovation Act (TIFIA) credit enhancement program, private activity bonds, Build America Bonds, and infrastructure banks. The listening session also affords participants the opportunity to offer suggestions and insight on the current state of the markets and how they may impact programs. Commentary made at the session could be used to help shape and inform policy decisions. Participants in the listening session included: project sponsors, bankers, investors, Federal / state / local public officials, elected officials, and consultants.

- Regina McElroy, Director of the new FHWA Office of Innovative Program Delivery  
Regina McElroy reiterated that the organizers hoped that the commentary emerging from the session would provide insight on how the financial markets are affecting transportation programs and help shape the work of the Federal Highway Administration (FHWA) and the Office of Innovative Program Delivery (IPD). She then provided background on IPD, which was established in October 2008. IPD's mission is to ensure that all states have access to the tools to help them implement projects and that they know when and where to use them.

In the coming months IPD will be rolling out a suite of decision-making tools that will help project sponsors understand the costs and benefits of different options. IPD also wants to encourage states to take the necessary steps – such as passing enabling legislation – to ensure that all the tools actually can be used. IPD brings together a number of important functions within FHWA including TIFIA, Major Projects, Public-Private Partnerships, Project Finance, Tolling and Pricing and Research and Development. Regina identified IPD staff responsible for all these areas who were in attendance at the listening session.



- Jack Basso, Director of the AASHTO Center for Excellence in Project Finance  
Jack Basso welcomed participants to the listening session. He characterized the current status of the Federal Highway Trust Fund as being highly problematic, with Congress needing to make some immediate decisions to sustain the current highway program funding level through the end of the current Federal fiscal year. At the same time, there is a dramatic need for accelerated investment in the nation's transportation infrastructure, as current funding levels enable less than 40 percent of the overall investment that is needed. Jack observed that the current annual surface transportation funding gap is approximately \$100 billion. This situation needs to be addressed in the pending reauthorization cycle. Jack explained that the AASHTO Center for Excellence in Project Finance provides assistance in four areas to state departments of transportation and other stakeholders: 1) education, 2) technical services 3) research and 4) advancement of financial strategies. He encouraged listening session participants to visit the Center's website at <http://www.transportation-finance.org/>.

## **TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT OF 1998 (TIFIA)**

- Mark Sullivan, Senior Advisor, FHWA/IPD  
Mark Sullivan provided current context on the TIFIA credit enhancement program, which he said has reached a point where demand for TIFIA has now surpassed a level its resources can support. As a result, changes in the procedures for awarding TIFIA credit assistance are under consideration. A Notice of Proposed Rule Making: request for comments was published in the Federal Register on January 21, 2009 <http://edocket.access.gpo.gov/2009/pdf/E9-1117.pdf>. These potential changes focused on how to prioritize the award of TIFIA support, but were tabled a month later. Mark suggested that it would be helpful to receive comments on the possible rule changes given that formal comments were not submitted. Some of the issues addressed in the rule change proposal included the use of benefit-cost analysis to assess the social value and interest rate-setting policies associated with TIFIA credits. The TIFIA program offers all borrowers the lowest possible interest rate equivalent to Treasury's rate on comparable-term securities. The same low Treasury rate has been charged to all borrowers regardless of risk profile. One proposal under discussion is the possibility of charging higher interest rates on projects involving greater risk. Mark stated that this would serve as a way to identify those projects whose sponsors would be willing to pay a premium on the interest rate in order to benefit from a TIFIA credit enhancement.
- Duane Callender, Acting Director of TIFIA Office  
Duane Callender commented briefly on the **TIGER (Transportation Investment Generating Economic Recovery) Discretionary Grant Program** provided in the American Recovery and Reinvestment Act (ARRA) of 2009. There is a firewall between the TIFIA and TIGER programs and any project wanting to use both financing tools will have to meet the requirements of each program separately. Any applicant seeking TIFIA assistance under TIGER would have to submit a TIFIA Letter of Interest (LOI) by August 4, 2009 (six weeks before the TIGER deadline) and subsequently would also have to submit a separate TIFIA application by September 15, 2009. The Office of the Secretary of Transportation (OST) is responsible for processing the TIGER applications.
- Moderator: Bryan Grote, Principal, Mercator Advisors and Commissioner of the National Surface Transportation Infrastructure Financing Commission  
Following these introductory comments, Bryan Grote moderated a discussion of TIFIA issues among all listening session participants around the following themes:



- **Market niche**

- **Timing flexibility and funding reliability**

- The flexibility of TIFIA financing is an important benefit. In order to assist “classic” TIFIA projects, the program needs to continue to provide attractive terms to borrowers. It was noted that initially TIFIA applications were accepted on a fixed-date basis. This was later changed and the TIFIA program was able to accept applications on a rolling basis.

- *Will TIFIA be there when a project is ready to advance?*

A representative from the Central Texas Regional Mobility Authority reported that without its TIFIA loan it would not have been possible to implement its first project. He noted that it takes several years to develop a project and it is essential to be able to depend upon the TIFIA program. What would happen if it were not available? It is possible to obtain other subordinated debt, but it is more costly. The result would be that either toll rates would need to be higher or projects would not happen. Borrowers need the TIFIA program and the program actually pays the government back, so it is a win-win situation

- **The use of TIFIA in conjunction with availability payment projects**

- *Long-term service agreements between public and private parties.*

Availability payments are essentially state debt in the form of an ongoing annual obligation to pay the concessionaire, provided certain project operational performance metrics are met. With the I-595 project in Fort Lauderdale, the TIFIA program treated the project’s availability payments as long-term debt and provided low cost funding for the project. Toll revenues on the managed lanes would fund a portion of the annual payment, with general resources of FDOT covering the balance. Each state’s law will determine the legal status of the public payment obligation (whether it constitutes bonded indebtedness).

- *Availability payments vs. demand-based projects?*

The question was raised whether TIFIA makes a credit distinction between availability payments (AP) and demand-based projects (i.e., projects where the concessionaire receives the tolls or other user fees). The response [from FHWA] was that the TIFIA program relies to a great extent on credit ratings, in addition to looking at the security behind the proposed TIFIA loan. One participant observed that the credit ratings of both AP and toll-backed projects should reflect construction completion risk, since revenues under either approach are conditioned upon delivery of a completed project.

A participant asked that, given TIFIA’s focus on toll projects, were there different types of risk introduced by projects financed with availability payments? What other credit structures should the TIFIA program accommodate? Will the market be seeing additional projects using availability payments?

Some concern was expressed by participants about the fact that availability payments do not increase revenue in and of themselves, and may only



increase state and local financial obligations if they are not linked to a revenue source.

- **Impact of credit rating on federal scoring of subsidy cost.**

It was suggested that there may be a need to revisit the way in which rating agencies should assess the TIFIA loans. Perhaps the TIFIA scoring guidance should be revisited / clarified with respect to the probability of ultimate repayment of the loan. Risk aspects to reconsider:

- Early assessment of risk during the procurement process
- Relationship between senior and junior debt
- Assessing the probability of ultimate (vs. timely) payment
- Tweaking the TIFIA capital allocation model
- Treatment of post-construction risk of default and probability of repayment given a default

- **SEP-15 experimentation of providing TIFIA assistance in a state procurement.**

One participant asked whether it would be possible to get a TIFIA commitment earlier in the project development process? It was pointed out that a pilot under the Special Experimental Program (SEP) 15 allowed the state to obtain a “reservation” of TIFIA credit assistance for public-private partnership (PPP) projects prior to the award of the concession. However, this type of arrangement is extremely challenging for the program when it has to work with multiple bidders and different credit structures. Using this pre-packaged approach has substantially increased the demands on TIFIA resources and has accelerated the consumption of TIFIA lending capacity. A specific challenge has been that the TIFIA office is being asked to set aside funding capacity for projects that may be moving very slowly through the procurement process, or end up requiring additional resources.

- ***Project pipeline***

Is the number of “classic” (otherwise un-bankable) TIFIA projects increasing or declining? The comment was offered that there is a trend toward user-fee financing and there is a growing backlog of toll projects awaiting financing. While demand is growing we find ourselves in a unique situation where for the first time since its inception TIFIA funding is constrained. The ability to obtain TIFIA support is more difficult than in the past.

- Should TIFIA support be reaching beyond major user-backed and start-up projects?

- ***Project eligibility and selection***

- **What about transit projects and the relation to FTA New Starts assistance?**

Should transit authorities have access to TIFIA credit assistance? The comment was offered that TIFIA interest rates have been below those for tax-exempt municipal bonds. However, the transit sector does not have the money or time to learn how to use a funding mechanism that is new to them. It was also pointed out that some



transit agencies are concerned that TIFIA loans could place New Starts grants at risk – that there was a concern that if a transit agency applied for a TIFIA loan, it would receive no New Starts funding, or a lesser amount of New Starts funding. Some observers have seen that seaport and airport projects are interested in TIFIA and that a number of loans have already been made to intermodal projects both by the TIFIA program and state infrastructure banks.

- Programmatic selection process instead of case-by-case project assessments? An observation was made that up to now TIFIA applications have been considered on a first come first served basis, but with the limited availability of TIFIA funding and high demand a more systematic approach may be necessary. This could involve steps such as capping the budget authority used on individual projects and establishing a more rigorous and standard approach to assessing applications. The project selection method should be based upon the overarching goals of the program and the severity of resource constraints. If the goal of the program is to provide assistance to projects that would not otherwise be financeable without TIFIA involvement and if there are more of those types of projects than the program's resources can support, the program should either receive additional funding or come up with metrics to determine the highest and best use of the resources it has.

#### ○ **Technical provisions**

- The springing lien – is it a significant hindrance? The TIFIA springing lien was the subject of considerable discussion. This feature was adopted in 1998 when the TIFIA program was being established, in order to gain the acquiescence of the Department of the Treasury to having a Federal Credit program allowing subordinate loans (virtually all other Federal Credit assistance programs required senior or equal lien status, but generally funded 80% or more of project costs). However, the springing lien has hindered getting the desired ratings on the senior debt because of the potential parity status of the TIFIA loan in the event of bankruptcy, insolvency or liquidation.
  - *Effect on established credits vs. stand-alone projects?* One participant commented that the springing lien has hindered the use of TIFIA in connection with established issuers / credits where there already is senior debt outstanding and it is very difficult if not impossible to layer in TIFIA with respect to existing trust indentures.
 

Another comment was made that, the springing lien is a particular problem for stand-alone projects, especially in the current difficult market environment. Such projects require real subordinate debt, and TIFIA cannot fully fill that role with the springing lien creating concerns for other (senior) lenders.
  - *Relation to bond insurance?* It was also noted that the springing lien is more of an issue in the current market where bond insurance is so scarce. It was suggested that it might be helpful if the TIFIA program could provide an insurance product (but it was unclear how such credit enhancement would differ from the loan guarantees and lines of credit already available under TIFIA).



- *Different perspectives from different rating agencies?*  
Rating agencies need to take the springing lien into account. While it remains an issue, the rating agencies are familiar with it and have worked it out over time. It was pointed out that the North Carolina Turnpike Authority recently issued revenue bonds and TIFIA debt on parity, which demonstrated that TIFIA could be a cost-effective part of the capital structure despite the springing lien. Echoing an earlier comment, one participant noted that the springing lien issue is far more difficult to deal with when TIFIA is being added on to a pre-existing debt structure, rather than designing a new financial plan that takes it into account from the onset.
- *“Real” subordinate debt preferred?*  
It was noted that in today’s credit-sensitive markets there is more of a need for real subordinated debt instead of quasi-subordinated debt.
- *Refinancing and other provisions?*  
It was pointed out that the draft rulemaking notice issued in January 2009 and subsequently pulled did address TIFIA funding and loan guarantees, as well as the TIFIA refinancing provisions.

○ **Funding availability**

- Charge same interest rate for all borrowers?
  - *Allocation of scarce TIFIA credit to appropriate projects?*  
The comment was made that the TIFIA program is self-governing and that only a small amount of budget authority is needed to assist projects with AAA ratings. However, TIFIA was intended to support lesser-rated projects that might not be financeable without the program’s assistance. In the current climate, many greenfield toll projects are struggling and would not be able to move forward without TIFIA support. Perhaps the Federal government should provide additional funding to the program in order to support projects that would not be possible without its assistance.
    - Fewer projects with higher risk profile vs. as many projects as possible?
  - *Maximum project budget authority cap?*  
TIFIA has annual budget authority of approximately \$110 million under SAFETEA-LU to pay the subsidy cost (loan loss reserve) for credit assistance, which varies with credit quality. The subsidy rate for riskier projects is much higher-- in the range of 10 to 12 percent, increasing to 15 percent for BB-rated projects. The Inter-County Connector (ICC), an AA-rated public toll road project in Maryland, was recently awarded a \$500 million TIFIA loan with a scored subsidy cost of just about 1% of the face amount of the loan. A question was asked regarding amount of TIFIA availability for private projects with lower credit ratings. These are the types of projects that really need TIFIA support and may not be financeable without it. How does a project’s profile influence TIFIA funding awards and how is this reflected in TIFIA decision-making? It was noted that the scored cost of the assistance was one of the



eight statutory criteria USDOT uses in evaluating TIFIA applications. TIFIA has an almost unlimited ability to fund projects with strong credit profiles, but they may not need its support as much as the weaker credits.

- *Role for private equity to fill gap between TIFIA credit supply and demand?*  
The comment was made that several private equity funds have money and perhaps this private equity could be tapped to supplement TIFIA funding.
- **Charging borrowers a portion of their subsidy cost?**  
Currently, the subsidy cost of providing the TIFIA assistance is paid for from TIFIA's annual budget authority. Should borrowers be asked to pay at least a portion of this cost, especially in cases where the scored cost (owing to size or risk assessment) might consume a large portion of TIFIA's annual budgetary capacity? One commenter noted that pricing is only one of the benefits associated with obtaining a TIFIA loan; there are other benefits including the longer tenors associated with TIFIA credits. Other lenders normally charge facility fees in exchange for providing this type of benefit. The question was asked if additional fees would apply to all borrowers or whether it would depend upon the credit profiles of individual projects.

#### ○ **"TIFIA 2.0" Credit Policy**

It was pointed out that making the TIFIA Program more flexible would increase its attractiveness to borrowers. Several options for a revised and reauthorized TIFIA program – often referred to in the listening session as "TIFIA 2.0" – were discussed. Among the questions posed to participants were the following:

- **Should TIFIA loan rates be subsidized below the Treasury rate?**  
Just as there had been discussion about charging certain borrowers rates a TIFIA loan rate higher than the Treasury yield, the program could also subsidize rates. However, from a budgetary perspective, this becomes costly, as the present value of the interest rate subsidy would need to be scored up front.
- **Should the 33% of project cost TIFIA limit be relaxed?**  
Would TIFIA 2.0 consider making loans of up to 50 percent of project capital cost?
- **Should the program emphasize short/interim financing assistance?**  
It was suggested that the TIFIA program could be used to effectively provide short term interim financing during the construction and ramp-up periods. This is how the Central Texas Turnpike transaction was structured.
- **Should TIFIA help fund development phase costs?**  
One participant suggested that TIFIA be authorized to provide smaller loans to projects for early stage development costs, and that if the project moved forward the initial loans could be refinanced with long-term TIFIA loans. The development phase loans would be written off if the project failed to advance. Because of their speculative nature, such loans might be scored the same as grants (100% of their face amount); but the loan amounts would be much smaller than construction or permanent loans.
- **Should the minimum loan size be increased?**  
The current minimum threshold of \$50 million may have an impact on the "oversubscription" problem. It was pointed out that the capital cost threshold for TIFIA projects was reduced from \$100 to \$50 million under SAFETEA-LU. Given the



current strains on the availability of TIFIA funding, should the capital cost threshold be raised back up to \$100 million (or higher)?

- Loan term length?  
What should the effective term of TIFIA loans be, longer or shorter?
- Tax subsidies?  
How should a new TIFIA program potentially work in concert with tax subsidies such as private activity bonds or tax credit bonds?
- Much broader scope--Assist in VMT fee implementation?  
In looking at projects beyond toll facilities, is there a role for TIFIA in implementing vehicle miles of travel (VMT) fees? One commenter thought that TIFIA loans could help provide the seed money for a transition to VMT fees. What about extending the TIFIA program to the energy sector or using TIFIA to retrofit trucks to accommodate VMT fees?
- TIFIA application process  
The TIFIA program has used both fixed and rolling deadlines for accepting applications. Most recently it switched back to a fixed deadline.
  - *Trade-offs between fixed solicitation and rolling application*  
A fixed deadline gives staff the ability to look at applications all at the same time, in theory enhancing the program's ability to evaluate applications consistently. The fixed deadline also can have a catalytic function by forcing applicants to expedite decisions in order to submit the application. On the other hand, a rolling application period gives project sponsors greater flexibility; they can submit their application based on the project's time schedule, not an external and perhaps arbitrary deadline. The suggestion was made that a middle ground might be to establish a set of fixed application deadlines, perhaps on a quarterly basis.
- TIFIA policy questions
  - *Higher rates for "less worthy" projects?*  
The possibility of charging different interest rates to different TIFIA projects was discussed again. How would the program identify which projects would be worthy of receiving lower interest rates on the basis of need, and which projects would be perceived as strong regional projects that could afford to pay more? The idea of using interest rates to ration credit availability may be one way for the TIFIA office to respond to the growing demand for funding, since the program is proving attractive to almost all borrowers regardless of their bond ratings. This surge in demand for funding is a result of the very low level of Treasury rates in recent months, compared to tax-exempt yields.

## **PUBLIC PRIVATE PARTNERSHIPS (P3 OR PPP) & PRIVATE ACTIVITY BONDS (PABS)**

- Jim Hatter, P3 Program Manager, Federal Highway Administration  
Jim Hatter offered some brief comments on PPP projects. He reminded listening session participants that not all PPP roadway projects involve tolls and also commented that we need more PPP projects that use a value-capture approach. He concluded his remarks by commenting that PPP projects continue to introduce staffing/expertise challenges at the state level.



- Jack Bennett, USDOT/Office of the Secretary of Transportation  
 Jack Bennett provided a brief overview of the status of the Private Activity Bond (PAB) program established in SAFETEA-LU. The program has a cap of \$15 billion, of which \$8.5 billion has been allocated, but only one issue has closed. As a result of the American Recovery and Reinvestment Act of 2009, PAB interest is no longer subject to the alternative minimum tax, greatly enhancing its marketability. DOT has received pending applications for PABs of \$2.3 billion and is aware of coming applications of approximately \$11 billion. The \$15 billion cap in PAB activity may be considered during the reauthorization process.
- Moderator: David Seltzer, Mercator Advisors LLC
  - W(h)ither P3s? How have economic conditions affected the “pipeline” of projects?  
*The status of the pipeline of PPP projects was discussed. A recent New York Times article was cited that questioned the future potential of PPP projects, citing Alligator Alley and the Midway airport deal. It was suggested that there is a tendency to focus on mega-projects and that strong leadership is needed to move PPP projects forward. One participant stated that money is still available for good projects, but more public sector due diligence and leadership needed*
    - *Movement in states and in “under the radar” projects*  
 One participant stated that a number of states have recently passed legislation enabling PPP projects including California and others such as New York and Michigan are considering doing so. This expansion of states with legal authority to enter into PPP’s may lead to greater deal flow in coming months.
    - *Market conditions hurting marginal projects*  
 Other participants said that market conditions are hurting marginal projects, but there are still good projects out there. The main challenges to implementing them remain finding project champions and navigating the political process. While the credit markets are an issue, there is a need to cultivate a better understanding among state and local officials of the use of PPPs as a tool.
  - State of the market  
 One participant stated that the United States is still a neophyte when it comes to the PPP sector.
    - *Public sector funding support through adequate revenue generation is still necessary.*  
 The cost of driving will increase regardless of financing options available. No one wants to tell the driving public that it is going to cost more to drive. The problem is that policy makers often are afraid to initiate a conversation on how we are going to pay for mobility improvements.
    - *The Federal Government should avoid espousing a “one-size-fits-all” approach.*  
*The observation was made that the previous administration placed heavy emphasis on PPPs and tolling. We need a balanced and broad range of options. Do states really have enough experience to negotiate good deals when it comes to PPPs? Another person noted that PPP’s are used in other sectors, why not transportation?*
    - *Smaller projects do not have sufficient economies of scale.*  
 One participant (who worked at an infrastructure investment fund) said that it is important to distinguish good PPP opportunities from bad ones. He said that a



\$100 million project is too small to procure on a PPP basis because of all the time and energy needed to implement PPPs – the level of developmental effort is the same for a \$100 million project or a \$500 million project. It takes human resources to make complex PPP projects happen and they also require that the public sector take its partnership role seriously.

- *PPPs are not a “revenue source”.*

The public needs to recognize that PPPs are not a source of project revenues in and of themselves; they are a method for delivering, managing and financing a project. Every project will still require user charges or tax support to provide the source of return for PPP investors. We need to broaden the range of revenue sources for PPPs beyond tolling to include tax-supported funding as well.

- *Emphasize “Partnership” mindset*

- Control/ownership challenges

Oftentimes public sector project owners are reluctant to give up control, as would be the case on a long-term lease or sale of a transportation project.

- *Very few global infrastructure funds are currently making investments.*

It was observed that equity investors who have been putting money into PPP projects over the past three years are not doing so now. One participant said that over the next 12 months there will not be much capital available to support PPP projects. Many infrastructure funds that did invest during the boom years are “under water,” at this time, and lack an appetite for new investment.

One participant noted that investors currently appear more willing to take on investment risk in developing countries. We need a stable and predictable legislative environment in order to encourage PPPs. The power and ports sectors are much more skilled in PPP contracting.

- *Stand-alone infrastructure funds generally not interested in greenfield projects.*

Although infrastructure funds are not interested in investing in greenfield projects, engineers and contractors clearly are still interested in designing and building new projects.

- How do State/Local sponsors currently view Brownfield vs. Greenfield opportunities?

One contractor reiterated the sector’s interest in investing in new projects, but stated that they had to be “real”. Right-of-way needs to be available. There must also be a predictable revenue stream in order to attract investment capital. But that could include both tolls and general governmental payments. For example, it was pointed out that the I-595 express lanes project will rely on a combination of both toll revenues and tax revenues to fund the annual availability payments to the concessionaire on the I-595 project

- Use of shadow tolling in Europe

The suggestion was made that availability payment projects are similar in many ways to shadow tolling in Europe. Both concepts cap the upside potential of PPP projects and as a result, equity investors would normally prefer a robust real toll project over a shadow toll or availability project. A comment was made in response that in Florida the decision had been made to pursue the availability payment approach because certain shadow toll



sponsors had reported having to make higher payment levels than anticipated. However, this risk can be avoided by organizing shadow toll payments into bands and setting a traffic level above which further payments are not made.

- Has Midway Airport’s difficulty in obtaining debt financing and the “lack of bites” on Alligator Alley affected the interest of sponsors/investors?  
 One commenter opined that the Midway privatization deal failed because investors found a more financially attractive investment opportunity with a concurrent airport PPP projects in Europe. This observer went on to say that the reality is that many states are looking at PPPs today. At the same time, there is a great desire for consistency at the Federal level. One participant said this is not realistic and standardizing the Federal approach to PPPs could kill potential projects. There is great variety in local conditions and players from state to state and this needs to be reflected in the way in which PPP projects are approached.
- What is the financial value of private sector tax ownership of the asset?  
 The moderator asked what the estimated value was to concessionaires of utilizing accelerated depreciation and amortization for long-term leases of “brownfield” assets. Related to that, how much of this tax benefit is incorporated into upfront concession payments? In response it was suggested that there is a Federal vs. local economic tradeoff: By allowing amortization of up-front payments and depreciation of assets, Federal tax revenues are reduced, but as a result, toll payers presumably do not have to pay as much, since part of the investors’ return comes from the tax benefits. Without the tax benefits, tolls arguably would need to be higher to pay the required return. It was noted that one of the attorneys involved in the Chicago Skyway transaction estimated at the time that the tax benefits were worth approximately 10 percent of the bid price.
- One participant commented that in many states, there is strong opposition to tolling, but at the same time strong support for P3s as a solution to funding problems. How do we increase public understanding that there must be some revenue stream—user charges or public taxes—in order to induce private capital to be invested?  
 One participant suggested that what is needed is a well thought-out approach to address transportation investment needs. While access to the capital markets is in crisis, the fundamental need is for revenue. We need to consider options including tolling the Interstate and implementing a VMT tax.

#### ○ Private Activity Bonds

Listening session participants were asked to compare PABs and traditional bank debt and provide opinions on the benefits of the award of PAB allocations. They were also asked their opinions on whether PABs are suitable for projects with lower credit ratings. The observation was made that the lower financing costs can be made, the better, and that PABs are likely to have a future given that they have been successful in other sectors. One observer stated that PABs impact on Treasury receipts is minimal.

- With the suspension of AMT for next 2 years, are PABs cost-effective?  
 The tax benefits associated with PABs become less effective when lower rated projects cannot be financed.
- How do PAB rates/security provisions compare to bank debt?
  - Traditionally greater flexibility (e.g. refinancing, bullet maturities) for bank debt; this could change.



As to how PABs compare to commercial loans, project sponsors can get better terms from commercial banks than the public markets in terms of refinancing flexibility. As a result, the tenors of commercial loans can be shortened. But with the current market conditions, banks are sitting on existing loans and are less anxious to make new ones.

## OTHER ISSUES/TOPICS

Moderator: Wendy Franklin, Mercator Advisors LLC

- Ideas to meet transportation investment needs—A National Infrastructure Bank
 

We have to think about “at what level of government should resources be allocated?” One participant commented that if there were a national infrastructure bank, we would risk ending up with the Federal government making investment decisions rather than state or local governments. However, if state infrastructure banks had access to a Federal Reserve capitalization system the situation might be different. Further it was suggested that:

  - A grant system will continue to be needed, especially for projects in more sparsely populated states;
  - We need to focus on national projects and priorities; and
  - We need to continue the TIFIA program and encourage the use of other financing mechanisms
  - National Infrastructure Bank
 

It was asked if the TIFIA program should be expanded and whether or not it would be a mainstay of transportation infrastructure finance moving forward. It was suggested that an interesting solution moving forward would be an infrastructure bank that could truly revolve and could lend freely on a subordinated basis. It would be better for future programs to be complementary rather than overlapping.

    - Should TIFIA be folded in?
    - Should an infrastructure bank include a grant program?

Is it possible to implement a discretionary program without it becoming an earmarks vehicle?

    - *State/local project sponsorship*

It was suggested that one option would be to expand the funding of state infrastructure banks. California’s SIB worked well at the beginning. Yet, one participant questioned whether the transportation sector would benefit from pumping more money into SIBs. The comment was made that the Federal government, “Should set up a real bank and not deal with piggy banks. That would force states to come up with real projects that generate revenue.” In response to the question of what modes should be included in a national infrastructure bank, it was suggested that this should be flexible and that the process of awarding financing should be focused on performance metrics and outcomes.

On the subject of infrastructure banks it was suggested that funding does not find its way to the municipal level. It was suggested that the establishment of sub-state infrastructure banks might be able to address this gap.

      - Assistance for smaller (\$1 million to \$50 million range) projects
 

It was suggested that there are not many Federal options for smaller projects.
      - Leverage state investments/piggyback on state initiatives



The farther away finance gets from the states the worse the situation will become. The suggestion was made of requiring states to match their federal funding. This would be a way to leverage federal dollars.

- Appropriate Federal role and involvement
      - Metro/sub-state focus
  - How can Federal policy help spur more state/local investment?
    - Enhanced State Infrastructure Bank capitalization
    - Mode-blind mobility solutions for passenger and goods movement
  - Balancing infrastructure investment and environmental needs
 

It was asked how we will align mobility and environmental needs. Environmental issues need to be layered into our transportation solutions. For example, congestion pricing and even PPP's can link with environmental needs.
  - Federal funding/revenues must be increased (e.g. via gas tax, tolls, VMT, etc.)
 

The real problem is that we need new revenue sources. There are only a small number of options: motor fuel taxes, user fees, or a national VMT tax.

    - Public outreach needed
 

We need to remove the sense that we are taking something away from people. Instead we need to tell people that they have a small number of options and then let the public tell us what they want. At the same time we need to explain what the public would get in exchange.
- Municipal market perspectives
 

Listening session participants were asked to provide their opinions on the current state of the municipal debt market. The following observations were made:

There are still significant needs and backlog for start-up toll projects, but conditions are more challenging than in the recent past. It remains difficult to get stand-alone projects financed.

  - Market very accessible for good credit
 

Since January the market has performed better. Market access is easier and it has been an issuer's market. Investors are doing more due diligence. There is virtually no AAA bond insurance available at the moment.
  - Importance of Underlying Ratings
 

With the lack of bond insurance, ratings are more important than ever. The toll road rating sector is going to be more stringent than in the past. We will see higher required levels of debt service coverage. There is increasing skepticism among investors with traffic and revenue forecasts.
  - Recent VMT trends can adversely affect toll road ratings and traffic/revenue forecasts
 

Recent downward trends in VMT may adversely affect toll road ratings and revenue forecast.
- Build America Bonds
 

Build America Bonds (BABs) have represented approximately 20 percent of recent municipal bond issuances. (Build America Bonds are a new Federal subsidy program authorized under ARRA that allows issuers of governmental purpose bonds to issue their debt on a taxable basis in 2009 and 2010 and receive a Treasury interest rate subsidy of 35% of their interest cost.) It was asked if the authority to issue Build America Bonds should be extended beyond 2010 or if and the transportation community should look at other forms of tax subsidy as part of reauthorization. It was suggested that the alternative minimum tax issue needs to be addressed and that perhaps Build America Bonds could be evolved into a new tool to assist in areas that are expected to be active, such as high-speed rail.



## STRAW POLL

The listening session concluded with participants being asked to vote in response to a number of specific issues that had been addressed during the day-long discussion. An informal estimate based on a show of hands revealed the following results:

Assuming the TIFIA program continues to have limited budget authority, what mechanisms should be used to administer the program:

- a. Higher interest rates for more robust projects?  
Yes – 60%  
No – 40 %
  - b. Capping the per project subsidy amount at a set level?  
Yes – 30%  
No – 70%
  - c. Cap the level of TIFIA assistance by state?  
Yes – 10%  
No – 90 %
  - d. Cap assistance by type of project?  
Yes – 10%  
No – 90 %
  - e. Allow borrowers to pay a portion of their own subsidy cost?  
Yes – 85%  
No – 15 %
  - f. Give flexibility to apply several tools together?  
Yes – 85%  
No – 15 %
2. Would it be beneficial to add a development risk insurance component to TIFIA?  
Yes – 90%  
No – 10 %
  3. Would it be beneficial to have additional listening sessions?  
Yes – 90%  
No – 10 %

