



Summary of "Findings and Recommendations" by
U.S. House Transportation & Infrastructure Committee's
Special Panel on Public Private Partnerships

The leadership of the U.S. House Transportation & Infrastructure (T&I) Committee January 16 appointed a special panel to examine the state of public private partnerships (P3s) across all modes of transportation and make related legislative recommendations. Rep. Jimmy Duncan (R-Tenn.) chaired the panel, with Rep. Michael Capuano (D-Mass.) serving as ranking member. A total of eleven T&I Committee members (six Republicans and five Democrats) served as members of the special panel.

The panel conducted two hearings and seven "policy roundtables," several of which involved ARTBA members. Additionally, ARTBA P3 Division leaders and staff met at various times with Chairman Duncan, other panel members and staff to provide the first-hand perspective of P3 practitioners. ARTBA presented these officials with detailed policy recommendations, including continued growth and reform of the Transportation Finance and Innovation Act (TIFIA) program, removal of the cap on Private Activity Bonds (PABs) for use in financing highway and bridge projects, and eliminating barriers to tolling as a means of financing transportation improvements.

In July, Chairman Duncan and panel staff were among the speakers at ARTBA's annual P3 Conference, at which they briefed the attendees on the panel's activities to that point.

The panel September 17 presented its findings and recommendations, including possible legislative proposals. The full T&I Committee will consider these proposals for inclusion in its version of the federal surface transportation reauthorization bill when drafting that measure at some point in the future. In both the written report and news conference announcing its release, the panel's members noted that P3s are a potential "financing and procurement tool" for transportation projects, but "not a source of funding" themselves. Several members emphasized P3s are not a "panacea" for the nation's underinvestment in infrastructure. Instead, the report stipulates, an adequate level of federal investment is a "necessary precondition to modernize" all transportation modes, regardless of the extent to which P3s are used to deliver projects.

The panel also deemphasized any distinction between public and private investment, instead identifying a key issue as balancing public and private interests in the P3 procurement process. Ranking Member Capuano underscored that public dollars are used no matter the delivery method, utilizing the aphorism (also found in the report) "there is no free lunch." The panel views P3s as a viable tool for enabling a "limited number of high-cost, complex projects" while bringing the efficiency and innovation associated with private sector.

The report expresses strong support for continued funding of P3 projects from the TIFIA program and PABs. While it was noted that a recent comprehensive tax reform proposal authored by House Ways & Means Committee Chairman Dave Camp (R-Mich.) included

abolition of PABs, the panel's leaders stated they did not expect that provision to move any further along.

Here are some of the panel's key recommendations relating to P3s and transportation projects:

“Recommendations: Improving Public Sector Capacity”

- The panel recommends establishment of a Transportation Procurement Office (TPO) within the U.S. Department of Transportation (U.S. DOT). The office would focus on dissemination of best practices and project delivery performance standards in P3 procurement, as well as design-bid-build and design-build.
- State departments of transportation would be required to submit annual reports on project procurement performance for federal-aid projects.
- U.S. DOT should continue implementing provisions within the Moving Ahead for Progress in the 21st Century Act (MAP-21), through which it is encouraging simplification, standardization and flexibility in P3 contracts.
- The panel also encourages information-sharing among U.S. DOT and other federal agencies newer to P3 procurement, as well as among states with varying levels of such experience. *It should be noted that ARTBA's most recent P3 Conference included such an information-sharing session among the representatives of several state-level public owners in attendance.*

“Recommendations: Breaking Down Barriers to Consideration”

- The panel recommends continued utilization of the TIFIA program, but with increased efficiency and transparency in the loan approval process. *This was a key recommendation provided to the panel by ARTBA.*
- The panel also urges Congress to consider expanding eligibility for PABs to a wider variety of infrastructure projects.

“Recommendations: Ensuring Transparency and Accountability”

- For P3 projects that include federal dollars, the panel would require project sponsors to conduct and make available a detailed Value for Money analysis, as well as publicly disseminate key terms of the P3 agreement at an “appropriate time.”
- These project sponsors would also be required to conduct and release a performance review of the project within three years of construction completion or revenue service.

In coming weeks, ARTBA and its P3 Division will closely assess the panel's recommendations and plan to meet with members of Congress and staff to discuss them further. To participate in these and other P3 Division activities, please contact Rich Juliano (rjuliano@artba.org) or Mike Forsythe (mforsythe@artba.org).