

Hudson Bergen Light Rail System

A contracting model for the 21st century

Philadelphia, PA - September 18, 2008

“New Jersey – 1994”

- **Program Status**

- In development for more than 10 years
- Environmental process not complete
- More than \$60M spent, another \$60M programmed
- Completion date unknown
- Final cost unknown
- No credibility

Challenges

- Organizational
- Regulatory and Environmental
- Funding
- Credibility

“Goals”

- Award project in 2 years
- Operational in 5 years
- Get development costs under control
- Establish responsible financial plan
- Streamline regulatory process and funding approvals

Office of New Rail Construction

- **Special responsibilities and authority**
 - 4 high priority public transportation projects
- **Streamlined reporting**
 - Special committee of the board
 - Assembly light rail panel
- **Integrated project team**
 - Planning
 - Engineering
 - Real Estate
 - Legal
 - Community Outreach
 - Political Outreach

Early Action Items

- Work with local leaders to finalize alignment, scope, and municipal agreements
- Implemented comprehensive outreach program for community and waterfront developers
- Negotiated “project agreement” with FTA
- Started industry outreach to solicit input on concepts
- Establish financial plan to bridge cash shortfalls

New Contract Model

- **Public Private Partnership**
 - Private sector innovation
 - Single point of responsibility
 - Share cost, schedule & performance risk
 - Small internal management staff
 - Quality Assurance built in

New Business Relationship

- **Partnership**

- Relationship no longer a zero sum game
- Develop contracts that create win/win situations
- Allocate risk to the party best able to control it
- Share information openly
- Engage private partners early on to help develop contract documents that work

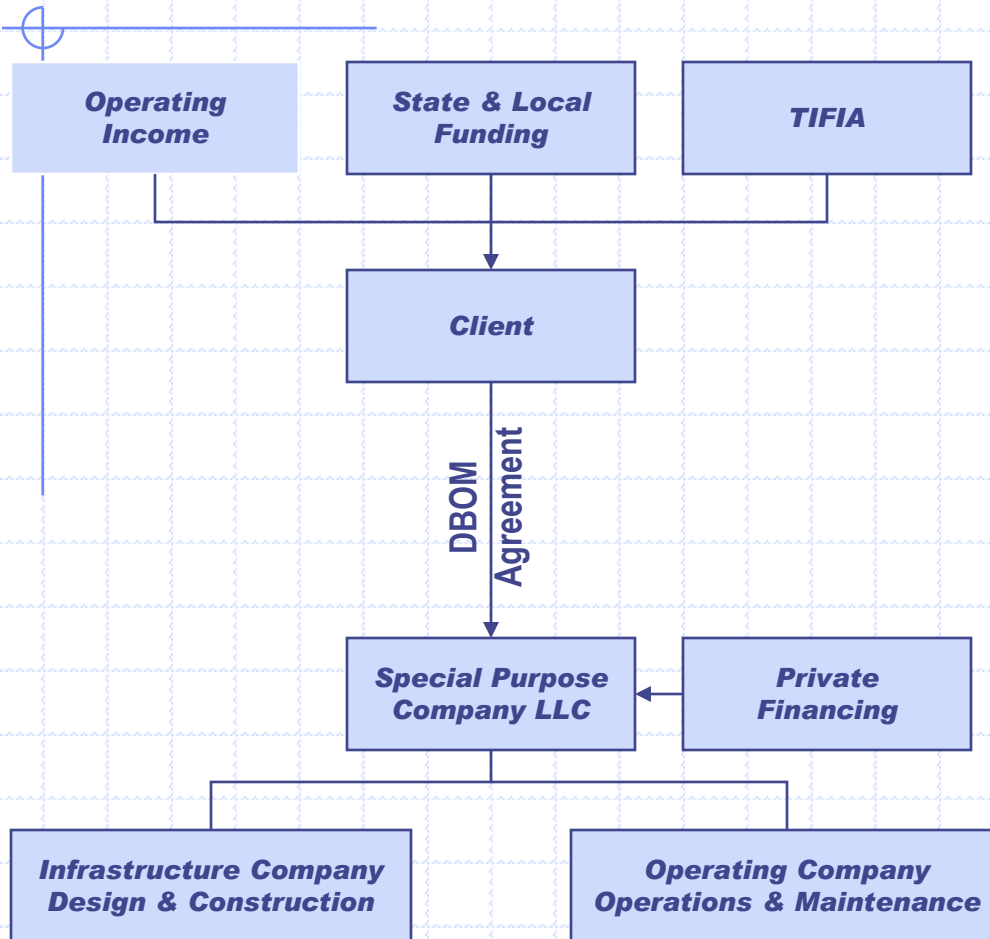
Critical Issues - Procurement

- Establish communications with all interested parties
 - Contract model
 - Procurement process
 - Contract Packaging
 - Construction phasing
 - Risk allocation
- Issue draft RFQ's and RFP's
- Involve industry in evaluation and selection criteria
- Encourage private sector innovation

Critical Issues - Contract

- **Bonding**
- **Insurance**
- **Risk allocation**
- **Creative payment provisions**
 - **Payment for performance**
 - **Liquidated damages**
 - **Retainage**

Public / Private / Partnership Design – Build – Operate – Maintain Model

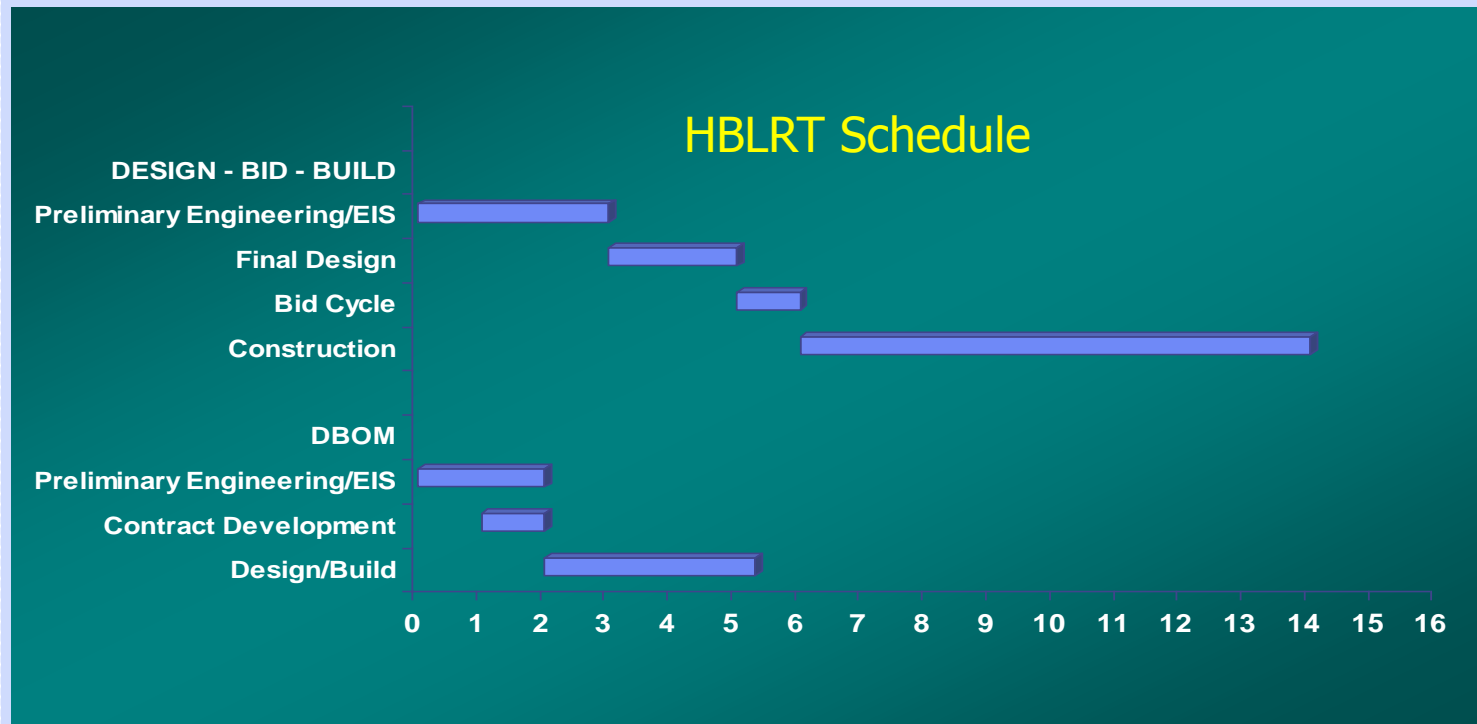


- Total project costs identified early
- Public sector holds income risk
- Public sector holds funding risk
- Private sector holds performance risk
- Private sector holds cost risk



*Hudson-Bergen Light Rail
New Jersey*

Hudson Bergen Schedule Comparison



Hudson Bergen Cost Comparison

◆ Design & Construction:	\$476M
◆ Vehicles:	\$93M
◆ Sub Total:	\$569M *
◆ Newark City Subway	\$100M
◆ 15 years of O&M	\$434M
◆ Total:	\$1.1B
◆ <i>* Original Design & Construction estimate over \$700M</i>	

Project Achievements

- First DBOM contract in North America
- Project fast tracked from “alternatives analysis” to contract award in 2 years
- Construction completed and revenue operations underway in 40 months
- Environmental approval, full funding grant agreement and project award in same month
- Vendors participated in development of procurement, award criteria, contract terms and conditions, performance requirements, technical standards, and cost drivers.

Project Achievements

- Private sector (contractor) bridge financing
- Unique contract provisions
- O&M costs guaranteed for a specific level of service
- Performance incentives built into O&M requirements
- During O&M phase, the owner is protected against windfall profits ... the private operator is protected from catastrophic loss

Keys to Success

- Private sector financing
 - Teams “monetized” commitment to pay on the part of New Jersey (the banks were willing to take appropriation risk) into a cost effective line of credit. Over time the cost difference from traditional public financing was a big number
 - NJT ultimately decided to do convert to public financing to receive tax benefits
- Proposal Requirements
 - Minimize the number of mandatory specifications part way into the procurement process

Lessons Learned

- Involve private industry in project development
- Develop a project focus with everyone on the same team
- Address areas of shared risk
- Build a strong relationship with your partner
- Address changes early and equitably
- Limit DBOM technical specifications ... focus on alignments and performance requirements
- Create clear lines of authority & responsibility in both the contractor and agency organizations
- Limit the GEC role during project implementation to verification of mandatory performance requirements