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

Client

DBOM Agreement

Special Purpose Company LLC

Infrastructure Company Design & Construction

Operating Income

State & Local Funding

TIFIA

Private Financing

Operating Company Operations & Maintenance

Hudson-Bergen Light Rail
New Jersey
Hudson Bergen Schedule Comparison

HBLRT Schedule

- DESIGN - BID - BUILD
- Preliminary Engineering/EIS
- Final Design
- Bid Cycle
- Construction
- DBOM
- Preliminary Engineering/EIS
- Contract Development
- Design/Build
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

* *Original Design & Construction estimate over $700M*
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