



Public Private Partnerships In Transit: The International Perspective

Atlanta, GA
March 26, 2009

Edward J. Fishman
Partner
K&L Gates LLP
Washington, D.C.
Tel: 202-778-9456
email: ed.fishman@klgates.com

www.klgates.com

TRANSIT P3s

- Toll road concession model is not promising
 - Assumes revenues sufficient to cover costs plus profit
 - Virtually no transit system operates without subsidy
 - Length of lease may be an obstacle in transit context

TRANSIT P3s

However,

- outsourcing and subsidy minimization are tried and tested models for transit P3s
 - Allow for external funding of capital expenses
 - Allow for clear allocation of risks
 - Can establish operating and service standards
 - Can establish maintenance standards (and funding for maintenance is “locked in”)
 - Can set financial incentives and disincentives

PRIVATE FINANCE INITIATIVE (PFI)

- In the UK, since 1992
- Roads, light rail, hospitals, prisons, schools, courthouses, water treatment, government accommodation
- Design, build, finance and operate (DBFO)
- Viewed as a more efficient method of procurement
- 620 signed projects worth \$103 billion (capital value)

UK SYSTEM - CENTRALISED

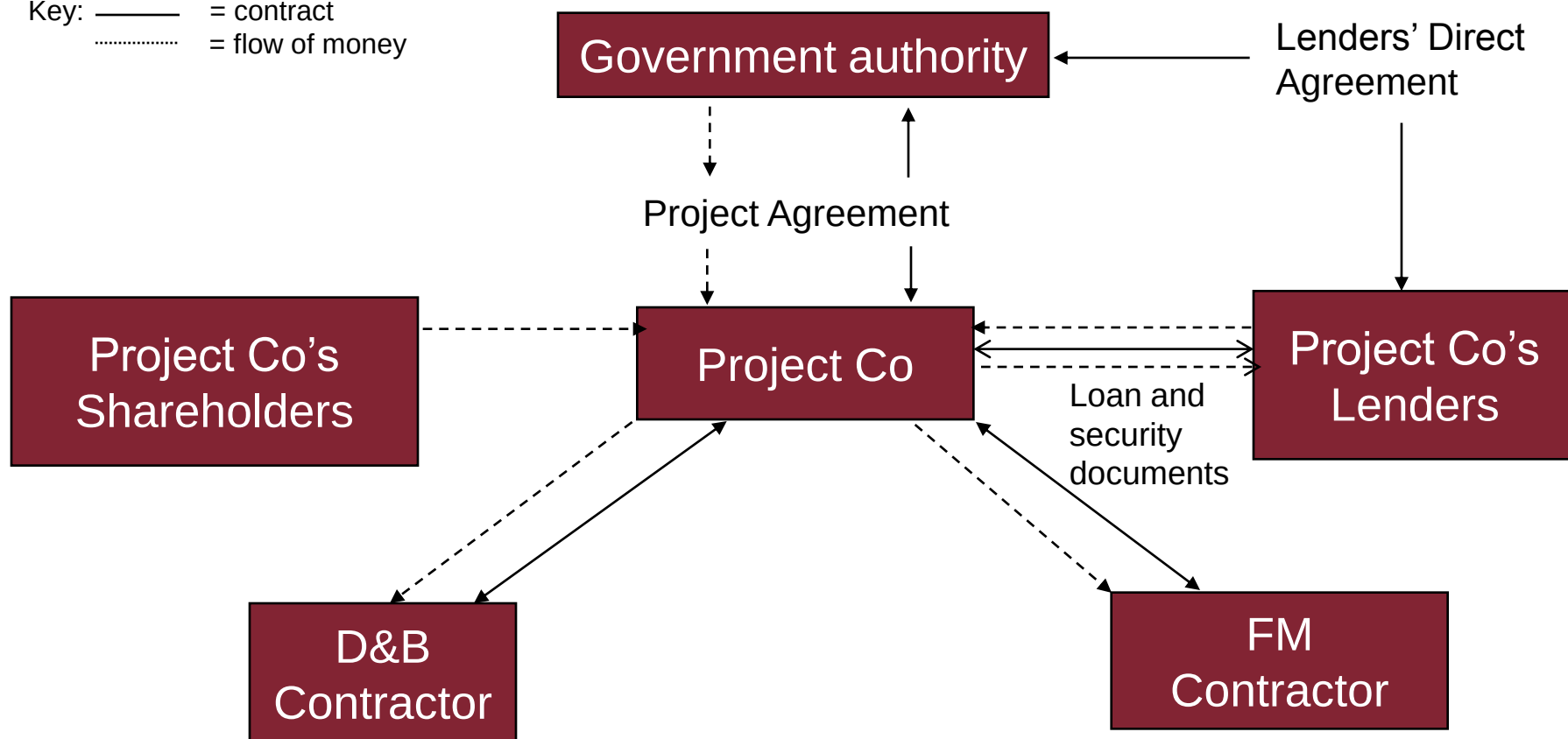
- Two tiers of Government
 - Central Government
 - Local authorities
- Powers of the Crown (basically, unlimited)
- Powers of local authorities (need a statutory power)
- Funding leverage exerted by Central Government
- The Treasury and Partnerships UK can “control” the PPP market
- Unified procurement laws based on EU Directives

UK P3 TRANSIT PROJECTS

- Croydon Tramlink
- Docklands Light Railway Extension
- LU Northern Line Trains
- LT Integrated Ticketing System
- Manchester Metrolink
- Nottingham Express
- LUL Infrastructure Projects (x 3)

OUTLINE OF A TYPICAL PROJECT STRUCTURE

Key: — = contract
..... = flow of money



PAYMENT MECHANISMS

- Authority pays a monthly unitary charge
- Deductions for
 - Unavailability
 - Poor performance
- Measured against
 - output specification
 - key performance indicators (KPIs)
- Authority may keep fare income or operator may collect it (the latter is less attractive to funders)
- Project Co recovers capex, opex, financing costs and profit through the unitary charge

GUIDANCE FOR P3 PROJECTS

- Partnerships UK
- Standardisation of PFI Contracts
- Public Sector Comparator Methodology

Guidance for P3 Projects

- Sector specific project agreements for
 - hospitals
 - schools
 - social care projects
 - waste management projects
- Sector specific procurement packs also include
 - output specifications
 - payment mechanisms
 - RFP documents

Guidance for P3 Projects

- Funding for projects (the authority's ability to commit to pay the unitary charge over 25 years) is rationed through the Government's spending approvals process
- Other Governments are following the Partnerships UK model – eg Canada, Ireland, the Netherlands . . . and California

Recent Transit P3 Projects Outside U.S.

- Mumbai (India) Underground
- Jerusalem (Israel) LRT System
- Barcelona (Spain) LRT and High-Speed Rail Project
- Tours-Bordeaux (France) High Speed Rail Line

TRANSIT P3s : CONCLUSION

- The private sector has been a long-time transit provider
- The benefits are there
- The challenges can be met
- The risks can be allocated fairly
- Not the solution for all systems
- But another useful tool for growing and improving public transit service