Key Conference Themes

Miriam Roskin, *Roskin Consulting*

To pull the many topics discussed in the conference's concurrent sessions and following roundtables into a coherent story, I have elected not to go methodically through each of the sessions, but rather to address seven key themes that I believe emerged from the conference: (*a*) funding levels and the outlook for fuel tax revenues, (*b*) revenue-related opportunities presented by new technologies, (*c*) debt in general and GARVEEs in particular, (*d*) asset management, (*e*) public-private partnerships and alternative procurement strategies, (*f*) TIFIA, and (*g*) an array of policy proposals.

With regard to the revenue matter, one question centers on whether this is really a time of constrained resources. Given the funding levels authorized under TEA-21, revenue-aligned budget authority, and firewalls between the Highway Trust Fund and the rest of the federal budget, it may be that some of us are feeling pretty flush right now. But in fact, several sessions emphasized that rising fuel economy puts us in a very precarious revenue position. On the positive side, we see growing attention to other alternatives, such as a vehicle-miles-traveled tax and other options highlighted in Lowell Clary's resource paper. In some ways the timing is fortuitous, because this need coincides with a time in our technological life when we are on the brink of GIS applications and other technologies that could make these alternatives feasible—at least in a technical sense.

While technology clearly has something to say about tax-based alternatives to the fuel tax, the conference also saw much discussion about the interplay between tolls and ITS applications. New technologies are already having a huge effect on the feasibility of toll collection and associated activities. In developments beyond tolls, wireless and ITS technologies are starting to enable the creation of brand-new markets and revenue streams from such things as mobile commerce and automated traffic enforcement. Hovering over all of this, however, are a raft of privacy considerations.

Changing subjects, I would like to turn to GARVEEs and debt finance more generally. On the positive side, GARVEEs in particular have emerged as an excellent tool to accelerate construction of projects and, as noted in one session, ultimately produced significant cost savings in Colorado thanks to a favorable comparison between interest rates and construction cost inflation. At the same time, several sessions raised a concern: GARVEEs' potential unintended consequence of steering states away from the tough choice to create a new user charge. If a new fee-backed facility is a possibility but you opt for a GARVEE instead, you are losing the chance to increase resources in favor of simply reallocating tax dollars—an unfortunate consequence indeed. Another big issue with GARVEEs, and debt in general, is widespread uncertainty as to the "right" amount of indebtedness. This is particularly important when you look at the effects on future maintenance programming; might your decision to accelerate a project today cause some real cash crunches for those who follow?

On that note, a few words on asset management. One of the key issues here is definitely old news: ribbon cuttings are a lot more appealing than resurfacings. However, we see a bit of promise on this front, with some feeling—though by no means a consensus—that increased use of management systems and growing emphasis on life-cycle costing are beginning to reveal that regular maintenance produces some benefits that simply cannot be ignored. Also, the conference heard some heated debate as to whether GASB 34 is likely to increase policy makers' attention to asset preservation—there was no consensus on this one, but plenty was said. Finally, some conference participants suggested that an alignment between revenue sources and facility users tends to produce a better-maintained facility. This is because the operator knows exactly who its customers are and realizes that customers' displeasure with the facility will be almost immediately reflected in reduced revenue. The further you get from that alignment—in other words, the broader your tax base becomes—the harder it will be to focus on the user's satisfaction. Outsourcing maintenance through shadow tolls, maintenance contracts, or even long-term performance warranties might provide a bit more of that direct relationship in a non-toll-road environment. This is because these contracts re-create the direct financial incentive for proper maintenance.

This brings us to the next topic, which is alternative project delivery. In some sessions, we heard arguments touting the remarkable impact of design/build procurement on speeding the process and capping price. Others were not so sure. Part of the problem in truly assessing the value of design/build in all its forms is that you face a "what-would-have-been" kind of analysis. In sum, this emerged as an area still ripe for additional research, with continued evaluation of the right conditions for these approaches. Two other observations emerged: first, that there is a need to train officials in proper due diligence under this approach, potentially with some standardized financial disclosure forms; and second, that public agencies are most successful in eliminating "scope creep" when they carefully define the desired end result.

One other point related to alternative procurement strategies and more generally to public-private partnerships concerns risks borne in the early developmental stages of a project. Many conference participants observed that the high cost of exploring the feasibility of a project can have a chilling effect on private participation because of the potentially huge sunk costs. Comments in several sessions centered on the high cost of serial environmental challenges, and several sessions heard discussion on the possibility for a statute of limitations on additional challenges once an environmental Record of Decision has been issued. Another suggestion focused on the potential for a public role in shoring up the potential sinkhole of development phase efforts, possibly through some form of development cost insurance. In fact, this had originally been proposed as another type of federal credit instrument back in the days when TIFIA was still but a gleam in the eye, and evidently there is still interest on that front.

As for TIFIA itself, conference attendees had plenty to say. One of the most interesting features of the discussion was that many of the very practical considerations about TIFIA mapped back to very basic policy questions concerning the rationale for the program in the first place. For example, does the investment-grade rating requirement tend to screen out those who might be the best candidates for supplementary, as opposed to substitute, financing? Does the so-called "springing lien" in the case of default weigh unnecessarily heavily on all but those who could have accessed the capital markets anyway? Does a focus on creditworthiness tend to skew decision making toward broad-based revenue sources—that would be available anyway—rather than user-pays sources? All are good questions still waiting for any answer.

On other TIFIA-related matters, conferees raised several issues. Does TIFIA do enough for transit? One specific question centered on a concern that the line of credit instrument is not really useful for transit, focused as it is on the ramp-up period associated with project financings as opposed to the system financings more typically used for transit projects. Other commenters expressed concern about smaller projects' ineligibility for TIFIA assistance. Another issue related to lingering concerns about TIFIA's potential effect on other debt obligations' tax-exempt status, and some commenters wondered whether the federal government could say anything more definitive to allay those fears. There was some discussion about including incentives to reward "good practice"—one possibility that emerged from the session on the international experience pointed to a French program that provides 30 percent credit support but also demands a 10 percent equity investment from the project sponsor. Finally, there was interest in seeing the federal government perform still more outreach on the TIFIA opportunity—and particularly outside the financial community.

Finally, a list of policy proposals emerged from the sessions, a sample of which follows:

1. First, and unambiguously, to expand the SIB program so that more than just four states are permitted to use federal funds to capitalize their highway and transit accounts;

2. To explore the legality of a 63-20 nonprofit corporation to serve as the issuer of a GARVEE instrument;

3. To reauthorize the TIFIA program and explore the possibility of broadening eligibility to include less costly projects;

4. To allow private activity bonds for highway projects and lift the volume cap for transit private activity bonds, along the lines of the proposed HICSA legislation;

5. To lift current restrictions on the use of federal highway funds for maintenance purposes;

6. To create a pilot program to permit issuance of tax credit bonds for transportation purposes; and

7. To permit greater funding flexibility and fungibility both within modes and across modes, even to the extent of examining a unified transportation trust fund in lieu of the modally separate trust funds and accounts currently in existence.