

washington dc Dynamism in Transportation  
IBTTA Transportation Finance Summit  
December 3-5 2006

**IBTTA**  
International Bridge, Tunnel and Turnpike Association

**Nossaman**  
Guthner, Knox, Elliott, LLP

**PPPs – “Experiment” or Proven Tool ?**

**Karen J. Hedlund**  
Nossaman, Guthner, Knox & Elliott, LLP

washington dc Dynamism in Transportation  
IBTTA Transportation Finance Summit  
December 3-5 2006

**Question:**  
*Is there anything innovative about “innovative finance”?*

**Follow-up Question:**  
*If not, why is the Congress still treating revenue-based financing as experimental?*

washington dc Dynamism in Transportation  
IBTTA Transportation Finance Summit  
December 3-5 2006

**SAFETEA-LU Limited Revenue Financings to “Pilot Programs”**

Value Pricing Pilot Program – 15 States  
Express Lanes Demo Program – 15 Projects  
Interstate Construction Pilot Program – 3 Facilities  
Interstate Reconstruction Pilot Program – 3 States  
HOV/HOT Lanes Conversions  
PABs - \$15 billion cap



washington dc Dynamism in Transportation  
IBTTA Transportation Finance Summit  
December 3-5 2006

**Congress to the States: “Get in Line!”**

Over 21 States have PPP legislation

**New authority in :** North Carolina, Indiana, California, Utah and Alaska

**Pending legislation:** New York, Pennsylvania, Ohio, New Jersey,\* Missouri

*(Note: Its not just a red state thing anymore.)*

washington dc Dynamism in Transportation  
IBTTA Transportation Finance Summit  
December 3-5 2006

**Will Texas Take it All?**

- TTC 35
- TTC 69
- IH 121
- Funnel
- SH 130 Segs 5 and 6
- I-635 Managed Lanes
- Loop 1604/US281
- IH820/35W

washington dc Dynamism in Transportation  
IBTTA Transportation Finance Summit  
December 3-5 2006

**Not if these States can help it -**

- Georgia: Northwest Parkway, Georgia 400, 260
- North Carolina: 9 NCTA Projects
- Virginia: 95/395, 495 Beltway, I-81
- Florida: Jacksonville (MPT – No federal funds, ha!)
- New York: Tappansee Bridge
- Oregon: Sunrise, Newberg-Dundee
- Minnesota: Minnpass
- Washington: Columbia River Crossing, Urban Corridors
- Delaware: US 301
- Indiana: Indianapolis Loop

washington dc Dynamism in Transportation  
IBTTA Transportation Finance Summit  
December 3-5 2006

***If PPPs are “mainstreamed” – are there minimum standards required protect the public interest?***

***What is the federal role in setting those standards?***

***What is the role of State legislatures?***

washington dc Dynamism in Transportation  
IBTTA Transportation Finance Summit  
December 3-5 2006

## Major Public Sector Concerns

- Competitive Procurements
- Limited Financial Exposure – Revenue Sharing
- Reasonable Tolling Structure and Profits
  - equity to low-income users
- Quality Design, Construction, Long-Term O&M
  - labor relations
- Managing congestion on a network basis
- Non-degradation of alternative routes
- Balanced Approach to Competing Facilities
- Effective Assurances of Performance
- Use of concession payments: upfront and shared revenues

washington dc Dynamism in Transportation  
IBTTA Transportation Finance Summit  
December 3-5 2006

These are **contractual** issues, the resolution of which depends on the facts and circumstances of a particular transaction.

Resolving these issues is primarily a State responsibility.

State legislation can require that these issues be addressed, but leave flexibility.

*Legislative “veto” power may discourage proposals.*

washington dc Dynamism in Transportation  
IBTTA Transportation Finance Summit  
December 3-5 2006

## What is the federal role?

- ❖ Get out of the way! (“Devolution”)
- ❖ Prioritize funding for the PPP projects that impact interstate and international commerce
- ❖ Encourage multi-state cooperation along major corridors
  - Multi-state concessions?
- ❖ Advance technologies

washington dc Dynamism in Transportation  
IBTTA Transportation Finance Summit  
December 3-5 2006

## Repayment of public equity

Many projects will need a combination of public and private funding.

***If grant funds are used, should granting agency be repaid from revenue sharing?***

***If loan funds are used, should loans be pre-paid ahead of revenue sharing?***

***Should either be the result if revenue sharing is used for other transportation purposes?***

washington dc Dynamism in Transportation  
IBTTA Transportation Finance Summit  
December 3-5 2006

## Contact

**Karen J. Hedlund, Esq.**  
Partner  
Nossaman Guthner Knox & Elliott LLP  
2111 Wilson Blvd., Suite 600  
Arlington, Virginia 22201  
Phone: (703) 351-5010  
Fax: (703) 351-9506  
Email: [khedlund@nossaman.com](mailto:khedlund@nossaman.com)  
[www.nossaman.com](http://www.nossaman.com)

**Nossaman**  
Guthner Knox Elliott LLP