

Chairman Doug Ose
Opening Statement
How Can We Maximize Private Sector Participation in Transportation?
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Much of the nation's transportation infrastructure is aging and in need of repair. Also, additional ground transportation services are needed, especially in areas of population growth. There are many advantages to participation by the private sector in improving America's transportation system. For example, infrastructure improvement projects can often be completed more quickly and at reduced cost, transportation services can often be delivered more cost effectively, and Federal and State funds can be devoted to other pressing needs – especially when faced with deficits.

In 1964 (i.e., 40 years ago), Congress began to enact laws to encourage private sector participation in transportation. The 1966 law that established the Department of Transportation (DOT) identified six reasons to establish the Cabinet-level department. The second reason was to “facilitate the development and improvement of coordinated transportation service, to be provided by private enterprise to the maximum extent feasible.” DOT's implementing rules assign primary responsibility for “evaluation of private transportation sector operating and economic issues” to the Assistant Secretary for Transportation Policy, who is organizationally located within the Office of the Secretary.

In addition to laws requiring private sector participation to the maximum extent feasible, Federal regulations support this objective. For example, the government-wide grants management common rule provides that Federal grantees and subgrantees “must not use equipment acquired with grant funds to provide services for a fee to compete unfairly with private companies that provide equivalent services.”

Today, the Subcommittee will explore opportunities for further private sector participation in ground transportation and past experiences with public-private partnerships, service delivery by competitively-award private sector providers, and existing private sector transportation services. Also, the Subcommittee will examine the Administration's record in facilitating private sector participation in transportation and its record in faithfully implementing the various private sector participation statutory provisions through its codified rules, oversight, enforcement, and other initiatives.

In March 2003, I learned of a public takeover of an over 25-year competitively awarded contract for mass transit shuttle bus services in Sacramento, California. I began a 9-month investigation. I found: (a) unneeded expenditure of substantial Federal funds, (b) noncompliance by a local transit grantee with the Federal law requiring private sector participation to the maximum extent feasible, and (c) inadequate enforcement by DOT. Without evidence of grantee compliance with the private sector participation requirements, DOT awarded \$2.4 million to a local transit authority for the purchase of buses and later allowed this local agency to use these buses in a takeover of an existing mass transit service -- at an estimated additional \$277,000 annually in public operational expense.

Before termination of the existing contract, I requested DOT's investigation to ensure statutory compliance. After the takeover, in August 2003 (i.e., nine months ago), I recommended that: (a) DOT initiate a rulemaking to implement the statutory private sector participation requirements in a 1994 law initiated by Congress (i.e., 10 years ago), and (b) DOT take an appropriate enforcement action against the noncompliant Federal grantee. To date, DOT neither initiated a rulemaking nor took an enforcement action. Since my investigation of this case, I learned of additional cases - in violation of existing Federal regulations - where DOT has allowed local transit authorities to compete unfairly with existing private mass transit service providers.

Our witnesses today include DOT's responsible Assistant Secretary, leading think tank experts, and three adversely affected small business operators of mass transit services. Small businesses are the backbone of our economy. Congress wants and Americans deserve a reliable and cost-effective transportation system, and one that does not harm existing small business operators of transportation services.

I want to welcome our witnesses today. They include: DOT Assistant Secretary for Transportation Policy Emil Frankel; William R. Allen, President, Amador Stage Lines, Sacramento, California; Katsumi Tanaka, Chairman of the Board & CEO, E Noa Corporation, Honolulu, Hawaii; Terrence V. Thomas, President, Community Bus Services, Inc., Youngstown, Ohio; Dr. Adrian Moore, Vice President, Reason Foundation and Executive Director, Reason Public Policy Institute; Dr. Ronald D. Utt, Herbert & Joyce Morgan Senior Research Fellow, The Heritage Foundation; and, Dr. Max B. Sawicky, Economist, Economic Policy Institute.