



ANN WARNER LLC

aviation | highways | rail | water

Integrated Government Relations Strategies: Public Private Partnerships

Ann Warner, managing partner of Ann Warner LLC, creates opportunities on behalf of clients through the legislative process, works with regulators to ensure that programs/regulations meet the law and/or congressional intent, and guides clients through the process of applying to/participating in the programs or obtaining Federal funding and approvals.

CHALLENGE

Create opportunities for the private sector to partner with the Federal government and state and local project sponsors on transportation projects utilizing private sector participation, enhanced project delivery mechanisms, and expedited approval processes.

ACTIONS

Throughout Warner's 30-year career, she initiated and mobilized industry's advancement of Public Private Partnerships (PPPs) resulting in greatly expanded market opportunities for innovative project delivery methods and alternative financing approaches in highway; bridge; freight intermodal connectors, and mass transit new start, and aviation sectors.

FHWA Design-Build

As required in *SAFETEA-LU: The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (P.L. 109-59)*, the Federal Highway Administration (FHWA) began developing a rule clarifying that design-build contracts may be awarded prior to final National Environmental Policy Act (NEPA) approval in 2006.

On behalf of a U.S. multi-national corporate client, Warner not only wrote and managed her client's submitted comments, but she helped organize industry comments on the *Advanced Notice of Proposed Rulemaking (FHWA Docket No. FHWA-2006-22477 RIN 2125-AF12)*. Responsive to industry concerns, FHWA issued the Final Rule in 2007.

Mass Transit New Starts PPP Pilot Program

On behalf of her U.S. multi-national corporate client, Warner obtained authorization for a \$50 million PPP Pilot Program in the Senate-passed *Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 (SAFETEA), S. 1072*. While this was dropped during House-Senate negotiations, the final *SAFETEA-LU* included a PPP Pilot Program for mass transit New Start projects. Several projects participated in the PPP Pilot Program, resulting in a greater acceptance and use of alternative approaches across the United States – notably the Denver RTD FAST TRACKS/P3 Eagle Commuter Rail Project.

Warner's efforts did not stop on Capitol Hill. After *SAFETEA-LU* was enacted, Warner worked with the U.S. Department of Transportation (US DOT) and Federal Transit Administration (FTA) during the implementation phase. She helped shape the scope of the pilot to potentially benefit current and potential clients, two of which subsequently submitted a preliminary expression of interest to participate. The pilot program resulted in a greater acceptance and use of alternative approaches where several projects pursued participation in this PPP Pilot Program.

Financing

Other *SAFETEA-LU* provisions advocated by Warner included: technical changes to the Transportation Infrastructure Finance and Innovation Act (TIFIA) and expanded use of Private Activity Bonds (PABs) to highway projects on behalf of her U.S. multi-national client.

FHWA SEP-15 Program

When working for her various corporate clients, Warner supported the continued development of FHWA's SEP-15 Program, designed to give FHWA additional flexibility when working with States and localities to develop innovative project development approaches. SEP-15 was issued in October 2004 (Federal Register Document 04-21975).



Surface Transportation PPP Reports

Due to Warner's initiative on behalf of a U.S. multi-national corporate client, the *FY 2004 US DOT / Treasury Appropriations Act (H.R. 2989, H. Rpt. 108-43)* required that the US DOT issue a report on PPPs. This report, "Report to Congress on Public-Private Partnerships" assessed the costs, benefits and efficiencies of a public-private partnership program for new fixed guideway capital projects. Warner closely worked with US DOT, FHWA and FTA officials in preparing the report, which was issued in December 2004.

Also on behalf of her U.S. multi-national customer, Warner successfully helped to encourage the House Transportation and Infrastructure Committee to request a Government Accountability Office (GAO) study of PPPs as the U.S. Congress prepared for its successor authorization to *TEA-21: Transportation Equity Act for the 21st Century (P.L. 105-178)*. The GAO report, "Highways and Transit: Private Sector Sponsorship of and Investment in Major Projects Has Been Limited" (GAO-04-419), was issued in March 2004. Warner's insights were regularly sought out by the GAO during the development of its report.

Airport Privatization Pilot Program

On behalf of her international trade association client, Warner also helped to establish the first Airport Privatization Pilot Program in the *Federal Aviation Administration Reauthorization Act of 1996 (P.L. 104-264)*. This pilot, still being utilized today with three airport participants, helps the implementation of innovative financing techniques for airport development projects.

Tolling Flexibility

On behalf of an international trade association client, Warner's efforts on educating and advancing the PPP concept actually began with the *Intermodal Surface Transportation Efficiency Act of 1991 (P.L. 102-40)*. This law, *ISTEA*, allowed for the first time Federal funds to be co-mingled with toll revenues. Moreover, Warner worked

with FHWA in implementing this new policy for Federal-aid highway and bridge programs.

RESULTS

The progressive efforts of Ann Warner LLC -- through her successful legislative initiatives and support through regulatory interface via industry outreach, and community stakeholder involvement -- has helped build a foundation for a greater use of private sector participation in helping to develop, build, maintain, and operate our nation's infrastructure network.

