

Issues with P3 for Highways and Financial Risk

Author: Brad German, Citizens Against Beltway Expansion

MDOT is working to keep the public and its elected officials in the dark about the scope of their proposal's risks to taxpayers, communities and the environment.

Specifically, MDOT has ignored direct questions from state and local representatives about the empirical basis for the I-270 and I-495 P3 expansion proposal, and subsequently made promises that aren't credible given the track record of P3 projects in other states according to federal research.

Rather than engaging openly with local officials and taxpayers, MDOT has spent the last two years deflecting questions from state and county elected officials and using public forums to promote the addition of four privatized toll lanes while dismissing any meaningful consideration of transit alternatives and ignoring evidence of issues that run counter to its proposal.

MDOT has even misquoted its own studies to justify its \$15.5 billion P3 proposal. Capital Beltway studies from 2004 and 2009 cited by Secretary Rahn in support of adding four P3 toll lanes to I-495 and I-270 actually say such an expansion would be impractical given costs, impact on communities and the environment, and the constraint of existing right-of-ways.

For example, MDOT has repeatedly cited the 2004 Capital Beltway Planning Study¹, which covers Maryland's entire 42-mile portion of the Beltway extending from the American Legion Bridge to the Woodrow Wilson Bridge. Instead of validating any of MDOT's proposals to expand I-495, the study actually recommends the "No Build" option plus traffic system and traffic-demand related measures to reduce congestion.

The 2009 West Side Mobility study² also rejects the addition of multiple lanes because of right-of-way constraints and the proximity of even one new lane to homes and sensitive environmental features.

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https://web.archive.org/web/20170202174503/http://apps.roads.maryland.gov/WebProjectLifeCycle/AW518_11/HTDOCS/Documents/Informational_Public_Workshop/AW518%20Display%20Boards.FINAL.5-6-04a.pdf

²http://apps.roads.maryland.gov/webprojectlifecycle/AW518_11/htdocs/Documents/Additional_Documents/10_26-09%20West%20Side%20Mobility%20Study%20Report-%20Final.pdf

Although MDOT said it will ask developers to consider elevated lanes where right of way is limited, it has neglected to note that its 2004 Capital Beltway study firmly rejected their use. Elevated lanes, it said, would have to top 80-feet, involve prohibitively high construction and maintenance costs, and would create expensive challenges to mitigate stormwater runoff, noise pollution, and other savage impacts.

The question MDOT needs to answer is how, with substantially less analysis work, it has decided there is justification to build two-new lanes each direction when previous reports were skeptical of adding even one new lane.

This is a critical question given that MDOT has not produced any new empirical research on I-495 to justify ignoring its earlier conclusions. MDOT officials have acknowledged no new destination and origin studies have been done since the 1990s.

The glaring lack of new data to justify this massive proposal was called out in the Maryland National Park and Planning Commission staff's May 29, 2019 nonconcurrency letter to MDOT.³ According to the letter, "without offering any explanation, MDOT SHA has declined to honor requests for basic underlying data, particularly its origin/destination studies."

There are other disconnects between MDOT's P3 proposal and findings from previous reports. But you wouldn't know it because MDOT is apparently ignoring the potential benefits from the I-270 Innovative Congestion Management Project (ICM) and Corridor Cities Transit (CCT) project. MDOT has also made unexplained shifts in projection horizons and methods for taking Average Daily Travel measurements in order to promote expanding P3 toll lanes over more popular non-toll lane options*.

Another point: in promising its \$15.5 billion P3 toll project would entail no net-cost to taxpayers, MDOT has systematically ignored or misrepresented taxpayer risks that have occurred with P3 highways in other states. It simply dismisses them as irrelevant without explanation or justifying facts.

Taxpayer risks connected to P3 highway projects are well documented in separate reports issued by the US Department of Transportation (2016)⁴ and the Inspector General of the Federal Highway Administration⁵ (2019), as well as the history of P3 highway bailouts and bankruptcies in Texas, Indiana, North Carolina and other states and countries.

³<https://montgomeryplanningboard.org/wp-content/uploads/2019/05/ARDS-Nonconcurrency-letter-to-SHA-5.29.19.pdf>

⁴ https://docs.wixstatic.com/ugd/ecd536_b618cfc4dcfb4b02a7ef6fcbbf1ae9a7.pdf

⁵ https://docs.wixstatic.com/ugd/ecd536_62e066bd8b6c4fd99a163e5481529a46.pdf

In fact, P3 projects often cost the public more than traditional public financing methods as a result of guaranteed fees, required contingency payments, restrictions on future land and transportation planning, and other provisions frequently written into contracts with P3 concessionaires.

To summarize: MDOT's unwillingness to provide the public with facts, transparency, and confidence in its commitment to put the needs and concerns of the public first is unacceptable. There is too much at stake and too many questions about the tollway proposal's size, impact, and capacity to deliver on MDOT's many promises to take "trust us" as an acceptable answer.

This does not have to be the situation. That's why the General Assembly, the Montgomery and Prince George's County Governments, cities from Rockville to College Park -- and now the MNCPPC - are united in demanding a completed Environmental Impact Statement and independent fiscal analysis before any further action is taken on MDOT's request classify its proposal as a P3.

The Board of Public Works should take no further action until more studies are done and MDOT shares them with the public. This would enable the Board and public to make decisions about the wisdom of expanding I-495 and I-270 on the basis of firm data instead of hope and guesswork.

1) Hogan's plan uses 2040 projections along 4 segments of I-495 while the Capital Beltway studies use 2030 projections along 6 discrete segments of I-495, some of which are even more conservative than Hogan's. Further, the Capital Beltway studies have relied on these figures since 2004. SHA needs to clarify the discrepancies in both projection horizons and the AADT numbers per segments.

2) The Hogan plan must factor in the traffic mitigation from projects completed before its 2040 horizon including:

- I-270 ICM Improvements by 2019 for \$100M which will reduce southbound peak delays by 43% (that should be to be applied to the directional peak ADT 299,000 from I-370 to I-495)
- I-270 Interchange Improvements by 2020 including the MD85 Reconstruction and a new Watkins Mill Road interchange
- Purple Line by 2022 (parallel mitigation to I-495 corridor traffic)
- CCT that could capture commuters from So. Germantown, Kentlands and Crown. MTA produced a preferred CCT alternative in 2017 but its design/construction was deferred to 2023. That still is a 17 year margin to Hogan's plan's traffic horizon.

3) MARC service increases would significantly lessen I-495 and I-270 Corridors congestion: ridership projections for all-day MARC train service and the resulting ADT reduction in the corridors is substantial. Unfortunately, recent legislation that would have provided enhancements to MARC service did not pass. A solid business case can be made for adding a third track and buying more fleet to provide more frequent service and more passenger capacity, especially when compared to construction costs for new toll lanes and inevitable adverse impacts on the environment.