

OVERVIEW OF REGIONAL MOBILITY AUTHORITIES

December, 2013

- Regional Mobility Authorities (“RMAs”) were first authorized in 2001; the RMA statutes were significantly revised in 2003 in HB 3588.
- RMAs are now governed by Chapter 370 of the Texas Transportation Code, rules adopted by TxDOT (43 Tex. Admin. Code Sec. 26.1, et seq), and policies and procedures adopted by individual RMAs
- RMAs can be formed by one or more counties (and, in very limited instances, by a city) at the request of the commissioners court(s) (or city council). A petition must be filed with the TxDOT, and formation of an RMA must be approved by the Transportation Commission.
- RMAs are governed by a board of directors appointed by the entity(s) creating the RMA, except for the board chairman, who is appointed by the Governor. RMAs are therefore *locally* formed and *locally* controlled. Directors serve 2 year terms.
- RMAs are multi-modal in nature- projects they can develop include:
 - ✓ toll roads
 - ✓ passenger and freight rail
 - ✓ non-tolled roadways
 - ✓ certain airports
 - ✓ pedestrian and bicycle facilities
 - ✓ intermodals hubs
 - ✓ transit
 - ✓ parking structures and meters
 - ✓ certain public utility facilities
- RMAs have NO taxing authority- they are primarily dependent on local contributions, project financing proceeds (including TxDOT loans and grants), and operating revenues to support start-up and administrative costs.
- There are currently 8 RMAs in the state:
 - (1) Alamo RMA (Bexar County)
 - (2) Cameron County RMA
 - (3) Camino Real RMA (City of El Paso)
 - (4) Central Texas RMA (Travis and Williamson Counties)

- (5) Grayson County RMA
- (6) Hidalgo County RMA
- (7) North East Texas RMA (Smith, Gregg, Bowie, Cherokee, Harrison, Panola, Rusk, Titus, Upshur, Wood, Van Zandt, and Kaufmann Counties).
- (8) Sulpher River RMA (Hunt, Delta and Lamar Counties)

- Project financing sources include revenue bonds supported by user fees; TxDOT grants or loans; transportation reinvestment zone revenues from a city or county; local contributions of funding and/or ROW; TIFIA; and other sources.
- Procurement methods include design/bid/build, design/build (and design/build/finance) provided no more than 2 per year, and comprehensive development agreements (CDAs).
- CDA = “an agreement with a private entity that, at a minimum, provides for the **design and construction** of a transportation project, that **may provide for the financing, acquisition, maintenance, or operation** of a transportation project, and that entitles the private entity to: (1) a leasehold interest in the transportation project; or (2) the right to operate or retain revenue from the operation of the transportation project.” (370.305(a)).
 - ✓ if only design and construction, it is merely a design build contract (a Design/Build CDA), which grants no long term interest or share of revenues to a private sector entity.
 - ✓ if it includes design, construction, finance, operate and maintain, and grants a leasehold interest and right to share revenues, it is a Concession CDA. These may be for a term of up to 52 years.
 - ✓ All Concession CDAs (TxDOT, RMA, etc.) are subject to Chapter 371:
 - subject to legal sufficiency reviews by the AG’s office
 - specified information must be submitted to the LBB
 - must include a termination for convenience provision (i.e., a buy-back clause)- SB 1730 seeks to enhance this
 - non-compete clauses are prohibited; a CDA may only provide that a private developer be compensated if a competing facility is constructed within 4 miles in either direction of the centerline of the project, and no compensation may be paid if:
 - (i) the project was identified in the state transportation plan or an approved MPO plan as of the effective date of the CDA;
 - (ii) the project or improvements are necessary for safety or for maintenance or operational purposes;
 - (iii) the project is an added HOV lane or other work required by an environmental agency;
 or
 - (iv) the project is a different mode of transportation than what is covered by the CDA.
 - disclosure of financial information and a public hearing are required prior to execution.

- RMA Design/Build Authority- because of the confusion over CDAs, RMAs were given “pure” design/build (and design/build/finance) authority, independent of the CDA process. No leasehold interest or revenue sharing arrangements are provided for. The design/build process is described in 370.401 (et. seq.).
- RMAs are authorized to “operate” a project of another toll project entity anywhere in the state, and can partner with local governments within their jurisdictions and within neighboring counties to develop projects. Several RMAs have contracted with each other or other toll authorities to share toll collection and transaction processing resources.