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Puerto Rico - Technological Upgrades and Contract Extension for P- 22 and P-5 Toll Roads

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On this page: *Case Study 5**: Puerto Rico — Flexibility of the contractual terms was achieved through competent PPP contract management by the PPP unit.*

Background

Puerto Rico Highway 22 (PR-22) and Puerto Rico Highway 5 (PR-5) are limited access toll highways serving Puerto Rico's northern coast and the San Juan metropolitan area. PR-22 is a 52-mile, four- and six-lane highway with seven toll plazas, which stretches westward from San Juan to Hatillo. It is the most heavily travelled highway in Puerto Rico. PR-5 is a 2.5-mile eastward extension of PR-22 (the facility is four miles in total) to Bayamón (Puerto Rico's second largest city), where its single toll plaza is located, and which opened in 2006.

Both roads were leased in 2011 to a concessionaire that will rehabilitate, operate and maintain the toll roads over a 40-year period, which was later extended to a 50-year term. The concession agreement was signed on June 27, 2011.

PPP Projects

The project was initially structured as a 40-year lease concession agreement for the maintenance and operation of the two highways, PR-22 and PR-5. The contracting authority (Puerto Rico Highway and Transportation Authority) transfers responsibility for operation and maintenance, including related capital improvements and investments, to the private operator (Autopistas Metropolitanas de Puerto Rico LLC) during the term of the contract. Asset ownership remains with the public partner and possession reverts at the end of the concession period. The private partner recovers its investment from revenues directly paid by end-users. At the time of the concession agreement's execution, PR-22 and PR-5 were in substandard condition. The toll roads required new pavement, signage, lighting, and safety barriers in order to improve traffic service and safety.

The private partner had to make an upfront payment to the contracting authority of US$1.08 billion (of which about 90 percent—US$902 million—was used to defease all outstanding tax-exempt toll-revenue debt) and committed to make certain investments to upgrade the toll roads. The private partner agreed to implement a group of improvements in the first three years of the lease period to address safety and quality. Those improvements cost roughly US$50 million, whereas an additional US$300 million in investment is planned over the lease period.

Under the contract the private partner was obligated to construct two reversible, dynamically priced toll lanes in the medians of PR-22 and PR-5 from Toa Baja to Bayamón (approximately six miles). The new lanes

increase the free flow of traffic in and out of Bayamón and provide new public transit options for commuters. In addition to bus rapid transit, the lanes allow motorists paying a premium rate to use the lanes to avoid congestion. Toll rates vary in real time to meter the amount of paying traffic and ensure congestion-free conditions. The reversible dynamic toll lanes were opened in August 2013.

All initial improvements were carried out over a period of four years. After negotiations with the PPP unit, the concession agreement was amended on April 21, 2016. The private partner agreed to make additional investments for the implementation and operation of new tolling gantries that allowed for the implementation of new technology, e.g., bi-directional operation of certain sections of the PR-22 and PR-5 highways. The contract was extended by 10 years in exchange for an additional payment from the concessionaire to the project sponsors of US$115 million. In order to cover additional costs incurred, the concessionaire's revenue share was increased from 50 percent to 75 percent of future toll revenues.

Lessons Learned

Transparency throughout the entire procurement process with the PPP unit facilitated a strong partnership with all parties, including government agencies, investors, developers, and public interest groups. Flexibility of the contractual terms was achieved through competent PPP contract management by the PPP unit (Puerto Rico PPP Authority). Technological changes that made an adjustment of the contractual terms necessary represented a good example of the latest innovations in road projects and improved the levels of service. The renegotiation took place under the supervision of the PPP unit, which had the required expertise and managed the contract renegotiations with a view to guaranteeing that the changes were beneficial for all parties involved.

Sources: U.S. Department of Transportation, Federal Highway Administration. Project Profile: Puerto Rico PR-22 and PR-5 Lease.

M. Figueroa and A. Pérez-Rentas, DLA Piper. 2017. Public-Private Partnerships in Puerto Rico, Key Points.

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