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'Monopoly' money for Pa. company
By Jeff Dufour

Several transportation-technology companies are working to kill a provision in the highway reauthorization bill that would extend what some call a near-monopoly on traffic-data collection by one firm.

At issue is a provision in the highway bill passed by the House — and a similar provision almost certain to make it into the Senate bill — that would authorize an additional \$27 million for an “intelligent transportation” program, the lion’s share of which would go to one Pennsylvania company, Mobility Technologies, if history is any guide.

The firm’s competitors are up in arms because they see it as a continuation of a seven-year arrangement that has stacked the deck for Mobility, the government-services division of Traffic.com, and prevents them from competing on a level playing field.

“These guys just had the government wire the marketplace in their name,” said Brian Hagen, an executive at Wavetronix, a Utah company that manufactures radar sensors for government traffic managers and engineers.

The controversy dates back to the Transportation Equity Act for the 21st Century (TEA-21) of 1998, when Congress first started to explore the burgeoning field of intelligent transportation systems (ITS). ITS encompasses everything from “timing lights to the EZ-Pass system” in the Northeast Corridor, said Jim Berard, spokesman for the minority staff of the House Transportation and Infrastructure Committee.

But the TEA-21 provision in question, created by then-Chairman Bud Shuster (R-Pa.), authorized \$8 million for pilot programs in Philadelphia and Pittsburgh to install data-collection equipment along roadways. Forty additional cities were authorized under this program, with further appropriations to be made upon completion of the pilot.

Several lawmakers associated with the program then wrote to the secretary of transportation, urging that a federal procurement process be used to determine the program’s vendor, rather than use individual state procurement processes. The end result of this was that the entire contract was awarded to Mobility, then known as Argus Networks, as a sole-source contract.

Three years later, in 2001, Shuster, along with Sen. Arlen Specter (R-Pa.), earmarked an additional \$50 million for national deployment in the 40 other cities

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as part of the 2001 Defense appropriations bill.

Procurement again became an issue as the Department of Transportation (DoT) attempted to open the program up to competitive bidding in other cities. But a January 2001 letter to Transportation Secretary Rodney Slater from Darrell Wilson, Shuster's chief of staff, reads, "In no way was this intended that DoT conduct a competition for the awarding of funds." Ultimately, after more letters back and forth, Shuster triumphed and the program was not competitively rebid, allowing Mobility Technologies access to the entire \$50 million.

According to critics of the legislation, Traffic.com's favorable treatment by Congress stems from its facility in playing the Washington game. From 2000 to 2004, the company enlisted the services of at least 10 lobbying firms, including Ann Eppard and Associates. Eppard served as an aide to Shuster for 22 years, much of it as his chief of staff. In 1999, she pleaded guilty to a misdemeanor for accepting illegal compensation from a lobbyist.

Traffic.com/Mobility Technologies executives and board members have contributed at least \$3,750 to Specter, \$3,000 to House Transportation and Infrastructure Chairman Bill Young (R-Alaska), \$1,000 to Senate Environment and Public Works Chairman James Inhofe (R-Okla.) and \$2,500 to Rep. Jim Gerlach (R-Pa.), in whose district the company is based.

They also contributed \$6,000 to VenturePAC. This PAC, with \$500,000 in the bank as of Dec. 31, is the political arm of TL Ventures, a \$1.4 billion venture-capital firm and Traffic.com's primary investor. Since 2001, VenturePAC has given \$6,000 to Specter, \$11,500 to Gerlach and \$4,500 to Inhofe.

"In partnership with the USDOT," the company states on its website, "Traffic.com has deployed, and is expanding, a proprietary sensor network and data collection infrastructure in major markets." The company provides real-time traffic information on its website and through third-party providers such as XM Satellite Radio.

It also "wholesales" data to broadcast-media outlets, trucking companies and other concerns that have a use for it.

"We take government data and fill in the gaps," said John Collins, Mobility's vice president for ITS and corporate counsel.

The objections of Mobility's competitors center around this "partnership" with the DoT.

"As a company, we didn't realize how deep this was," said Hagen. "We're talking about money that doesn't expire. It goes on in perpetuity."

Via industry sources, The Hill has obtained letters from nine companies, including Wavetronix, to their home-state senators asking them to make changes in the Senate bill that would allow more companies to compete in the intelligent-transportation field.

"Since the authorization of this program ... the federal government has become a formidable competitor in our marketplace, in the form of Mobility Technologies," wrote J.R. Joyner, president of Florida-based South Atlantic Traffic Corp., in a letter to Sen. Bill Nelson (D-Fla.). "My company is forced to compete with millions of dollars of federal funding, earmarked for single-source distribution."

"The federal government has funded the creation of a ... privately owned traffic data monopoly, Mobility Technologies," wrote Edie Smith, president of Washington-based Advanced Traffic Products, in a letter to Washington

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Democratic Sens. Maria Cantwell and Patty Murray.

But Mobility isn't buying it. "We won a competitive contract from DoT," said Collins. Calling his company "a little upstart" that's only been around since 1996, he said, "I guess I'm flattered" to be called a monopoly.

But he denied any monopoly or exclusivity. "You can put another company's sensors right next to ours," he said. As for the government money, he pointed out that the entire government ITS budget is "a billion and a half to 2 billion dollars a year," leaving Mobility with only a "slice."

And an industry source, who spoke with The Hill on background, said, "This is an evolving industry. I don't think anyone has a monopoly."

Monopoly or not, Congress appears poised to steer more money toward the program. When TEA-21 reauthorization first hit the floor in the 108th Congress, no new money was authorized in the bill as written. But Specter offered a floor amendment that would have approved the program in an additional 51 metropolitan areas and authorized an additional \$30 million over six years — even though the previous \$50 million has not yet been exhausted.

Currently, Mobility's system is operational in eight cities and under contract in seven more.

Specter's language became part of the manager's floor amendment to the final bill, which passed the Senate in February 2004. The 108th Congress expired before a final House-Senate bill could be sent to President Bush.

But Inhofe introduced that bill as the starting point for negotiations this year, although the dollar amount of the intelligent transportation program was reduced to \$27 million to comport with Bush's spending caps.

In this year's House bill, which passed last month, language closely paralleling the Specter amendment was included, again as part of the floor manager's amendment.

"That's the standard for not just this but just about everything" in the bill on both the House and Senate side, a Specter aide said of the manager's amendments, citing the need to fit within the president's budget outlines.

Calls to the majority and minority staffs of the Senate Environment and Public Works Committee were not returned. Several other personal and committee offices on the House and Senate sides refused to comment for this article.

As for the amendment's final outcome, the Specter aide said the highway bill as a whole "has a huge impact on Pennsylvania. I can't tell you how many amendments the office is reviewing right now. We're working with Senator Santorum" to do what's best for the state.

A spokeswoman for Sen. Rick Santorum (R-Pa.) said, "When the Senate takes up the pending transportation bill, Senator Santorum will review the pending amendments and decide which he will support and which he will not."

The pilot programs in Pittsburgh and Philadelphia have been completed, leaving Traffic.com to work out its deals in the rest of the country. And that leads to other concerns among public and private interests.

Language in the Specter amendment would also allow intelligent transportation contractors access to rights of way on roadways, even if this means trumping local regulations. Right of way is a term that encompasses the public infrastructure in cities, such as sidewalks, roads and medians. Local governments have traditionally

governed the placement of private-sector technology within the rights of way and have charged fees for access and maintenance. The 1996 Telecommunications Act guarantees the ability of localities to manage their rights of way for the installation of new technology — a guarantee that the language in the highway bill would preempt for the intelligent transportation program.

The rights-of-way language has spurred the National League of Cities and the U.S. Conference of Mayors into action.

In a letter to the chairmen and ranking members of the relevant congressional committees, the U.S. Conference of Mayors urges them to “respect the unimpeded right of local government ... to manage their rights of way and to receive compensation ... by companies seeking access to the rights of way to provide Intelligent Vehicle Highway Systems.”

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