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Public-Private Partnership Quick Summary

Public-Private Partnerships (P3s) are not free or magic money. Any project developed under a P3 arrangement requires a revenue source. The revenue may come from user fees (i.e. tolls), rent (i.e. monthly water bill payments), and a payment from a government (i.e. availability payment) or some combination.

P3s are **NOT** the answer to **ALL** public transportation problems. They are a tool, which can be used to augment an overall, comprehensive program.

The P3 market is global. Investors from throughout the world are bringing their expertise to the United States to design, finance, construct and operate almost all physical asset classes; transportation infrastructure, water infrastructure, waste water facilities, court houses, prisons, schools, hospitals, and more. Europe has a 20 year track record in delivering transportation infrastructure using P3. Parties involved in P3 arrangements typically include a governmental agency, developer/concessionaire, constructors, financiers, engineers, lawyers, and other specialists. The developer/concessionaire typically leads the P3 team from the private sector. In order to implement a P3 arrangement, a state must adopt P3 legislation and guidelines. For example:

- States such as Virginia and Florida have P3 legislation and real world experience in the delivery of P3 projects.
- The Province of British Columbia, leads Canada in P3 projects.
- In the United States, the Federal Highway Administration has posted "generic P3 legislation" on their website as a reference.

The advantages of P3s can be found in the manner in which risk and responsibilities are assigned. The goal is to form a true partnership between public and private entities; one in which risk is assigned to the party best able to mitigate it:

- public entities often assume environmental permitting and property acquisition responsibility;
- private contractors assume construction risk related to schedule and cost;
- a private developer raises the money at the lowest possible cost with the best terms for investors;
- the private financier structures the debt and equity financing; and
- a private operator runs the facility to meet performance standards (usually established by the public agency.

It's rare for an asset to be privately owned in a P3 arrangement. A private operator has a contractual agreement with the responsible public agency to design, build, operate, maintain, and return (transfer) the asset to the agency after a predetermined time (typically ranging from 30 to 99 years). Design/Build is the key project delivery mechanism for a P3, requiring a state to have design/build legislation in place. Most arrangements have very stringent performance metrics, which the private concessionaire (leasing entity) must meet. If a private operator fails to meet agreed upon performance measures, most P3 contracts allow for corrective action. If the private operator cannot or will not correct the deficiency, the state has the right to take back ownership and operation of the asset. At the end of the concession period, the asset reverts back to state ownership and operation. The state has the option to re-concession the asset.

Most P3 arrangements use the terms "asset based, non-recourse, off-balance sheet" this means that each project stands on its own merit and has the ability to pay investors for their debt and equity financing. Most P3s require that the developer/concessionaire put up an equity position in the amount of 20 to 25 percent of the project's value. Debt financing typically accounts for 75 to 80 percent of the project value. Any failure to pay, limits an investor's recourse to the project's assets. For example, an investor cannot look to the government or the balance sheets of the developer, concessionaire or other party to be made whole in the event of a default or if revenues do not materialize as projected. The only source of repayment comes from the asset's ability (as a toll road, a water treatment plant, etc.) to generate cash flow. Because P3 arrangements are non-recourse the projects are usually subjected to a rigorous financial analysis.

P3s are intended to unlock innovation and creativity in planning, development, construction, financing, and operation of the infrastructure that was typically delivered by public entities. The goal is to reach out to both public and private organizations to employ best practices in all aspects of P3s.

P3s are used on both Brownfield and Greenfield developments. Each type has a unique risk profile. Several states have opted to or are contemplating, monetizing an existing asset to raise money for new transportation improvements. It's obvious that an existing asset's (Brownfield) operational and revenue generating capabilities are known; a track record exists. A Greenfield project however carries with it, traffic and revenue risks in which the traffic forecast may or may not be realized.

P3 projects involve a mix of private and public funding. For example, a transportation project may use bank debt, private equity, TIFIA, and private activity bonds (PAB). Each project has attributes that result in optimal use of different funding vehicles. There may be a case from a public policy or financial viability perspective where user fees such as tolls are not desirable or are insufficient to pay off a project's capital and operating costs. In these case scenarios, government agencies have turned to methods such as shadow tolling or availability payments.

- Availability payments are made by governments to a private developer and operator for making a facility available the user. In essence, the government pays the toll for all users by giving the private developer a fee (paid yearly, bi-annually, or monthly based on the contractual terms).
- Availability payments come from government coffers through tax or other revenues.
- The availability approach can work in a rural application, but it essentially represents state subsidizing of the asset because it cannot stand on its own from a demand and user fee perspective.

Finally, P3s may be solicited or unsolicited. Some states **ONLY** permit solicited P3s.

- A solicited P3 is issued by a government in the form of an RFQ/RFP and is based on predetermined projects identified in their capital programming process. Similar to the traditional government procurement process the project parameters are defined up front.
- An unsolicited P3 allows concessionaires /developers to propose a P3 to solve transportation or other infrastructure problem. The unsolicited proposal process is intended to unlock the creative and innovative potential of private firms. The unsolicited can impose resource and scheduling constraints on the public agency tasked with reviewing and evaluating the proposal. Unsolicited proposals also trigger a requirement, which allows other competitors to submit a competing proposal.