

P3 PROJECTS TAKE FLIGHT

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Public private partnerships (“P3s”) are poised to accomplish much-needed revitalization, infrastructure renewal, and “dream big” projects. This article answers common questions about P3s – what they are and what types of projects can benefit the most. It also provides some context and history along with a summary of current state legislation enabling P3s plus pros/cons and costs to consider.

P3s offer more collaborative solutions to deliver large construction projects *on time and on budget*. Now more than ever, opportunities abound for the public and private sectors to collaborate. P3s (also known as “cross-sector partnerships”) are legal agreements to optimize this collaboration. Combining public and private expertise, skills, resources and capabilities is a highly effective response to this growing need.

TEAMWORK

Teamwork can realize efficiencies and long-term cost savings over the life of the improvements. Owners, designers and builders collaborating can better optimize for efficient, long-term operations. Surveys conducted and reported by KPMG have concluded that traditional project delivery methods for large project owners in the public sector miss expectations in 90% of reported cases! Bringing the owner, architect, and contractor together early on keeps

projects on a better track.

It’s important to note that P3s are not a funding source on their own. The cost savings over time and ability to complete projects sooner are the big advantages of using P3s. Compared to other project delivery methods, P3s are succeeding where traditional design, bid, build (DBB) projects offer disappointing results, especially over the life cycle of a project.

The life cycle approach takes a project from conceptual design through operations and maintenance of 30 years or more. Many design-build advocates know the advantages of bringing the team in early to effectively design and build to a budget. P3s amplify these advantages. You build your own house better when you plan to live there for 30 years!

WHAT ARE P3S?

P3s are partnerships in the best sense. They accomplish shared goals beyond what the partners could do acting alone. P3s aim to provide the best available project team along with focused project governance. The result: projects get done on time and on budget, an assurance that all involved demand.

There is no single definition for P3s. The Federal Highway Administration takes a very broad view: Any public project shifting risk to the private sector is a P3, including design-build projects. The National

Conference of State Legislators uses a more helpful P3 continuum diagram that spans from traditional DBB (Design, Bid, Build) to full privatization BOO (Build, Own, Operate) at its website.

For this article – P3s are an effective “on time and on budget” contracting tool to improve project outcomes compared to traditional project delivery. P3s can bring an integrated “project team” together to plan and implement large projects, sometimes including long-term operations and maintenance. Of course, all projects encounter difficult problems. P3s get the right team around the table to focus on solving problems and keeping projects on track.

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Courthouses, higher education facilities, sports facilities, and infrastructure owners are the primary owners that are seriously considering P3 alternatives. Deploying P3 project delivery options mitigates risks and improves outcomes. The Fred & Pamela Buffett Cancer Center in Omaha, Nebraska, used a CM-at-risk project delivery with an integrated P3 project team that delivered a very complex project on time and under budget. Successful P3 projects not only demonstrate the advantages of the integrated team approach, but they also set the stage for collaboration into the operations of new facilities. Because of the com-

plexity and up-front costs, P3 options are better for larger projects. Pennsylvania is using a P3 to replace 558 bridges throughout Pennsylvania more rapidly. Using a P3 helped reduce the estimated average cost to design, build and maintain each bridge from more than \$2 million to about \$1.6 million. A P3 concessionaire/construction joint venture is doing the work for a total estimated combined project cost of nearly \$900 million.

The best P3s infuse their projects with the combined capabilities and resources of the partners throughout the life cycle of a project. Ideally, the planning includes outreach and revitalization efforts in the supporting community. The callout box above lists several factors supporting the use of P3s to consider.

There are many capable experts to help project funders consider their P3 options. Lawyers certainly help as do most design and engineering firms. Other finance and accounting firms have dedicated teams working in P3s. Early in the RFQ/RFP process is the best time to seek expert help.

P3 PROJECTS — CONTEXT AND HISTORY

Many commentators attribute thought leadership for today’s P3s to Great Britain or more broadly to Europe and India. The private sector in the United States, however, has always been a huge part of our infrastructure and “dream big” solutions: the Hoover Dam, Tennessee Valley Authority, Eisenhower Interstate system, railroads, U.S. Air Mail or the first U.S. Navy expedition to the North Pole. The private sector clearly has a long-standing role of “heavy lifting” on a wide variety of important public projects in the United States.

FEDERAL ASSISTANCE

The Transportation Infrastructure Finance and Innovation Act (TIFIA) Program currently provides federal loan assistance to transportation-related P3s. Federal authorization for private activity bonds (PABs), certain tax provisions, and technical advice through the U.S. Department of Transportation (DOT) are other forms of federal assistance currently provided for P3s.

STATE AUTHORIZATIONS

As of a June 2018 summary prepared by the Federal Highway Administration, 36 states have some form of P3 enabling legis-

lation. The summary describes nearly half of those 36 as having “broad” P3 enabling legislation. Colorado, Texas and Virginia might be the best starting points for those considering new legislation. Supporting P3s with adequate technical assistance can be challenging, especially outside large urban centers. States are using centralized resources and guidelines to improve protections and improve results with dedicated P3 offices.

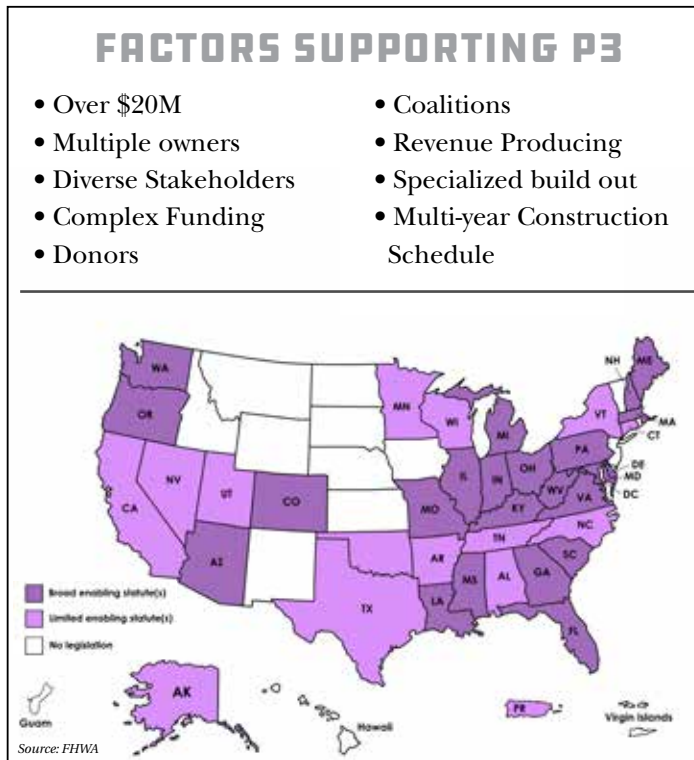
means you cannot use a structure that worked in College Park and plug it into Springfield. If the public process is predetermined to prefer traditional project delivery, P3s might be too much change. Simply put, the metrics for success are different for P3s by design. Extracting concessions from contractors is an easier way to keep score on projects compared to using P3s. The advantages of integrated project planning and implementation are not always self-evident, especially in communities that are accustomed to all-out competition on every component of public projects. Finally, government partners may lose some of their legal defenses.

Costs – Legal, insurance, cost containment

A special purpose entity (SPE) or development corporation is part of the P3 toolbox. While not required, it is worth considering even though there may be legal and insurance costs. These entities will have separate costs, such as liability and directors and officers insurance. Bringing experts in early and hosting additional team meetings will have associated costs. Several tools to consider are a build-to-budget delivery with open cost reporting for the prime contractor. These features offer an independent accountability tool beyond what is customary. Experts can help identify and evaluate the costs for your particular project.

CONCLUSION

P3 projects are taking flight. They provide flexible solutions to complete more projects sooner rather than later and often save both time and money. P3 teamwork effectively responds to challenges for many large projects. P3s are a useful option to consider for your next large project.



P3 PROS AND CONS — COSTS TO CONSIDER

Pros – Collaboration, easier course corrections, and timely, better informed decisions

P3s excel when the partners effectively collaborate to get the project done right. That means everyone expects course corrections and discourages disputes. Because of this built-in flexibility, P3s are more effective in responding to input and changing conditions. Effective collaboration allows P3s to function in situations that would undo a competitively awarded project, sending it back to the starting point. P3s often handle changes in technical details more effectively. The right P3 structure provides better informed decisions and improves quality engagement with stakeholders.

Cons – Too much change, different metrics for success, project control

P3s are different. While many experts and resources can help the agreements take shape, each P3 needs to be unique. Owners need a custom fit for each project. That



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