

Pennsylvania Joining Other States in Rebuilding Infrastructure

Upcoming Deadline: Rapid Bridge Replacement Project

FRANK RAPOPORT
MICHAEL S. ZICHERMAN

With a newly enacted public-private partnership law in place, the Pennsylvania Department of Transportation (PennDOT) has invited interested teams to submit their statements of qualifications (SOQs) to design, build, finance and maintain a portfolio of replacement bridges across the Commonwealth. The Department's February 7, 2014 deadline for SOQ submissions is fast-approaching.

According to PennDOT, Pennsylvania has the largest number of bridges in the U.S. classified as "structurally deficient." Approximately 4,500, or 18 percent, of the Commonwealth's bridges are structurally deficient, while the national average is 7.3 percent. The average age of bridges in the Commonwealth is over 50 years old. However, this distinction will soon change as Pennsylvania moves forward with its much-anticipated Rapid Bridge Replacement Project.

In order to streamline design and construction, over 500 structurally deficient bridges of similar design will be replaced through one partnership agreement. The successful low-bidder will manage the bridges' design, construction and maintenance. PennDOT anticipates major cost savings since the same basic design and construction standards will likely be applied to multiple bridges. The state also intends to conserve costs by not funding the maintenance of those bridges for a yet to be determined number of years.

Originally due January 31st, the PennDOT's SOQ submission deadline was recently extended to February 2nd, following the release of the tender in December of last year. According to news sources, the procurement timeline is not thought to have been affected, and a shortlist of prospective bidders is set to be announced in March.

To assist project teams, Peckar & Abramson is staffed and ready to go with experienced counsel located just outside of Philadelphia. Our P3 Group is adept at addressing the regulatory, contractual, transactional, financial and political issues that accompany P3s. We will be monitoring all developments and continuing to comment upon and highlight opportunities for bidding teams in the Commonwealth of Pennsylvania.

Please Contact

Frank M. Rapoport, Esq.
frapoport@pecklaw.com
484.363.8481

Michael S. Zicherman, Esq.
mzicherman@pecklaw.com
201.343.3434

If you wish to continue receiving our memos, please send an email to frapoport@pecklaw.com with "PA P3 Watcher" in the subject line. Questions should be addressed to Frank M. Rapoport, Esq., Peckar & Abramson, P.C., 131 Lancaster Avenue, Devon, PA 19333, (484) 363-8481.

To learn more about the Rapid Bridge Replacement Project and P3 in Pennsylvania, visit www.P3forPA.pa.gov.

Pennsylvania P3 Background

In 2012, Governor Corbett signed into law the Public and Private Partnerships for Transportation Act, which authorized P3 projects in Pennsylvania. This law allows PennDOT and other transportation authorities and commissions to partner with private companies to participate in delivering, maintaining and financing transportation-related projects. Pennsylvania's P3 Board has approved three projects thus far— two proposals from the private sector and PennDOT's Rapid Bridge Replacement Project. Each project will improve transportation services and infrastructure through partnerships with the private sector.

Pennsylvania Legislation Update

Similar to the 2012 legislation that established guidelines for the use of P3s in transportation projects, state Rep. Eli Evankovich (R-Westmoreland/Armstrong) has sponsored a House Bill that would provide similar opportunities to local governments, school districts, counties and municipal authorities for the construction of water and sewage projects, school buildings and other public facilities.

An Act amending Title 62 (Procurement) of the Pennsylvania Consolidated Statutes, providing for public-private partnerships, for prerequisite for operation, for approval by responsible government agency, for service contracts, for affected local jurisdictions, for dedication of public property, for powers and duties of operator, for comprehensive agreement, for Federal, State and local assistance, for material default and remedies, for condemnation and for utility crossing; imposing duties on the Pennsylvania Public Utility Commission; and providing for governmental immunity, for procurement, for use of intellectual property and for regulations (HB 1838).

Before it can be voted on by the House of Representatives, the Bill must be considered and approved by the House State Government Committee.

P3 Course Available For Purchase

In August of 2013, the Pennsylvania Bar Institute offered its first ever concentrated P3 course, *The Anatomy of Pennsylvania's New P3 Infrastructure Act - Opportunities, Source Selection and Project Finance Solution*.

Delivered before a live audience, the presentation was videotaped and is now available for purchase along with a comprehensive manual. With practice tips from presenters Frank Rapoport, Robert

Shea and Robert Latham, the course is an indispensable tool for those bidding on P3 projects in the Commonwealth of Pennsylvania.

The course covers the following material:

- Understand what a P3 Project is and what it does
- Examine the two basic P3 project types
- Hear an overview of the P3 Transportation Law: Act 88 of 2012
- Explore key contract provisions in any P3 transportation agreement

Experienced Course Planners:

Frank M. Rapoport, Esq., Partner, Peckar & Abramson, PC, Devon

Mr. Rapoport concentrates his practice on construction, government contracts, infrastructure development and public-private partnerships (P3s). Mr. Rapoport is highly regarded for strategizing and implementing successful business-capture plans for clients pursuing P3, design-build and complex infrastructure projects.

Wally Zimolong, Esq., Zimolong Law LLC, Philadelphia

Mr. Zimolong is a litigator and trial lawyer, who litigates cases for construction contractors, building owners, real estate lenders and private equity firms.

Knowledgeable Faculty Members:

Robert J. Shea, Esq., Senior Deputy Chief Counsel

Pennsylvania Department of Transportation, Harrisburg

Robert Latham, CAE, Executive Vice President

Associated PA Constructors, Harrisburg

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