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PROJECT PARTNERS

There are multiple keys to a successful P3. BY FRANK RAPOPORT

Public-private-partnerships are playing an increasingly crucial role in the new construction and renovation of public infrastructure projects nationwide. Commonly referred to as P3s, they are contractual agreements between public and private entities that allow private companies a significant degree of involvement in the delivery and financing of public buildings and infrastructure projects. Perhaps the most crucial benefit of such agreements is that P3s enable public agencies to undertake projects, which they might otherwise postpone or ignore due to lack of funds. Other advantages of P3s include reduced costs, better value, creation of a vast number of jobs, timely or accelerated project completion and access to private capital and private sector innovation.

Under a P3 agreement, the private entity assumes the project's financing and is entitled to either the revenue generated from project activities or to performance-based government payments. As opposed to typical procurement methods, in which public entities arrange for project financing, hire the designer, manage the construction bidding phase and oversee the project's construction, P3s only require the owner to select a qualified team that can ensure the development, construction, maintenance and operation of the project over its entire lifecycle.

There are several different types of P3 delivery options, of which the most common is the design-build-finance-operate-maintain (DBFOM) transaction. Contracts for infrastructure initiatives range from projects in which a public agency assumes full control of the project and the bulk of the risk, to those in which an agency conducts a certain type of sale of the asset, transferring full ownership and responsibility to a public entity. In the DBFOM framework, the public agency often issues a concession to the private partner, who agrees to be repaid through annual availability payments. While this type of agreement is highly popular, the preferred P3 contracting method will consistently vary depending upon individual state legislation and the public agencies' capacity for risk absorption.

Once the type of P3 has been agreed upon, the agency will begin the procurement process by issuing a request for information, followed by a request for qualifications. The agency will then issue a request for proposal to solicit fixed price offers. Once these requests are fulfilled, the agency will award the P3. Unsuccessful bidders have the right to a debriefing as well as a potential bid challenge or protest.

While there has been a fair amount of opposition to P3 procurement, much of this resistance is due to a misunderstanding of what a P3 represents. Union member fear has been tied to the misconception that private companies would own these public facilities. As an example, many public labor unions had vocally opposed P3s due to their initial fear that jobs would disappear. But many of the jobs remain unionized after the P3 is completed, typically governed by collective bargaining terms. Additionally, private concessions frequently create jobs through capital programs that had been sidelined by broke city governments.

In a P3, the private organization is given the opportunity to provide a public facility that has traditionally been built and managed by a public entity. The goal of the partnership is to provide benefits to the public through value-added private sector engagement. With a growing understanding of the P3 model and how it delivers public infrastructure and creates sustainable jobs and long-term economic development, municipal unions and their leadership are beginning to realize the benefits of the private capital and innovation that P3s inject into public projects. A notable example of the benefits of P3s is the partnership between the state of Connecticut, the Service Employees International Union, the Carlyle Group and several other local Connecticut businesses that were formed to redevelop, operate and maintain the state's 23 highway service areas.

The advantages of using P3s to deliver transportation and social infrastructure projects include:

- Reduced government spending by the optimization of capital funding plans;
- Innovative private sector design and project management by ensuring funding throughout the course of the project;
- Operational efficiency and management of facilities for aging buildings that require significant maintenance;
- Technological expertise from the private sector, which can lead to quality improvements and accelerated delivery of the project; and
- Reduced risk as result of working with a private partner that manages cost and schedule overruns.

Successful P3 projects that are gaining attention around the country include the upgrade of Interstate 595 in South Florida, the expansion of the Port of Miami Tunnel, the modernization of the Port of Baltimore, the new Capital Beltway HOT Lanes in Virginia, the construction of the new courthouse in Long Beach, Calif., and the newest P3 transit project – the Eagle Regional Transportation Project in Denver.

Key leaders across the country are now realizing that P3 opportunities encourage private sector investment in their state, provide long-term solutions for delivering core infrastructure and create economic development opportunities. Through P3 procurement, many of our country's much needed public utilities — such as courthouses, bridges, train stations and highways — can be made available for public use sooner, at a reduced life-cycle cost and in much better condition. These benefits last for the lifetime of these public assets. The assets are owned by the same government agency that is still accountable for their operation and maintenance and are provided through a willing and highly capable partner. P3s represent opportunities to restore and rebuild America's infrastructure, presenting ready opportunities for economic development and sustainable, long-term job growth. ◆

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