Public Private Partnerships in Canada and the United States: An Introduction

Chip Fletcher

Hillsborough County Attorney

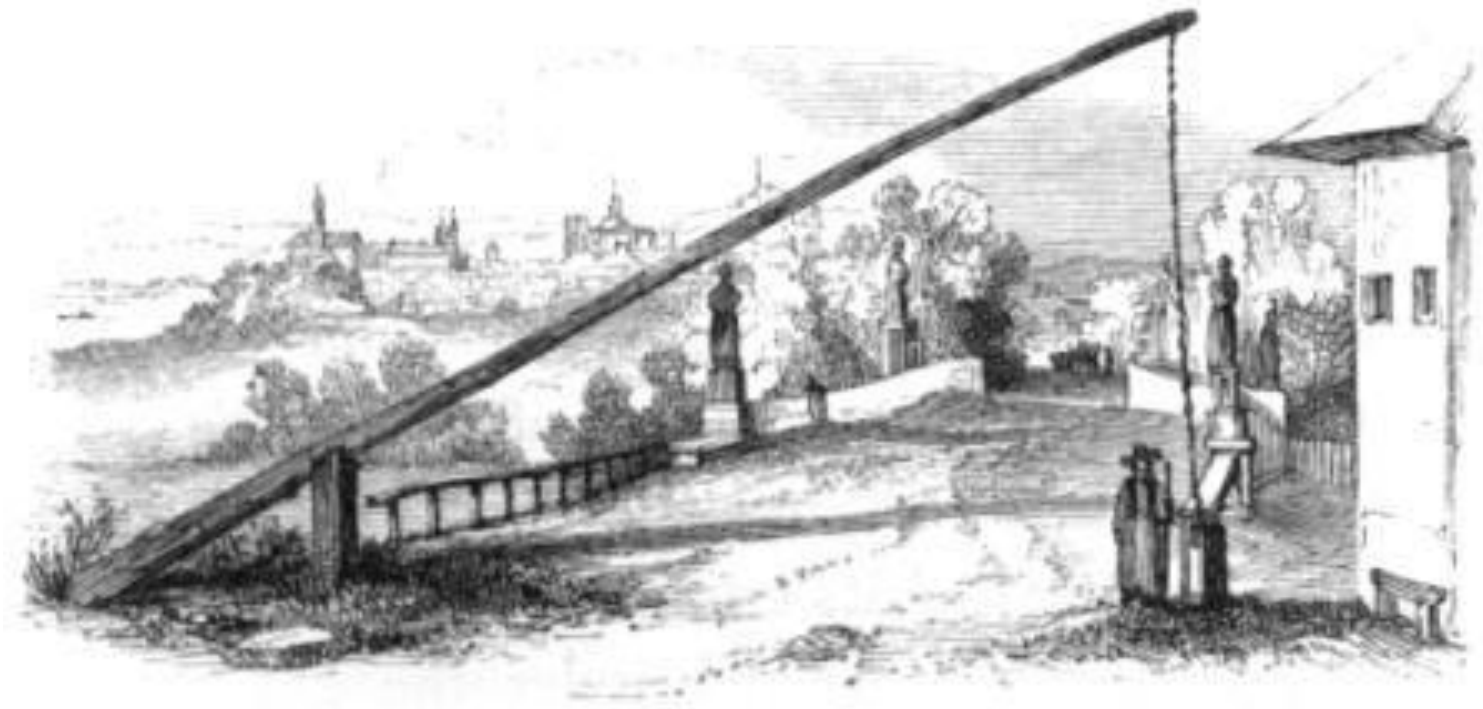
IMLA's 82nd Annual Conference

October 17, 2017

Hillsborough County Florida

HCFLGov.NET

What is a P3, PPP or Triple P?



First U.S. public-private turnpike - 1792

Examples of Successful P3s





Examples of Successful P3s

www.visittampabay.com

VISIT TAMPA BAY

TREASURE AWAITS

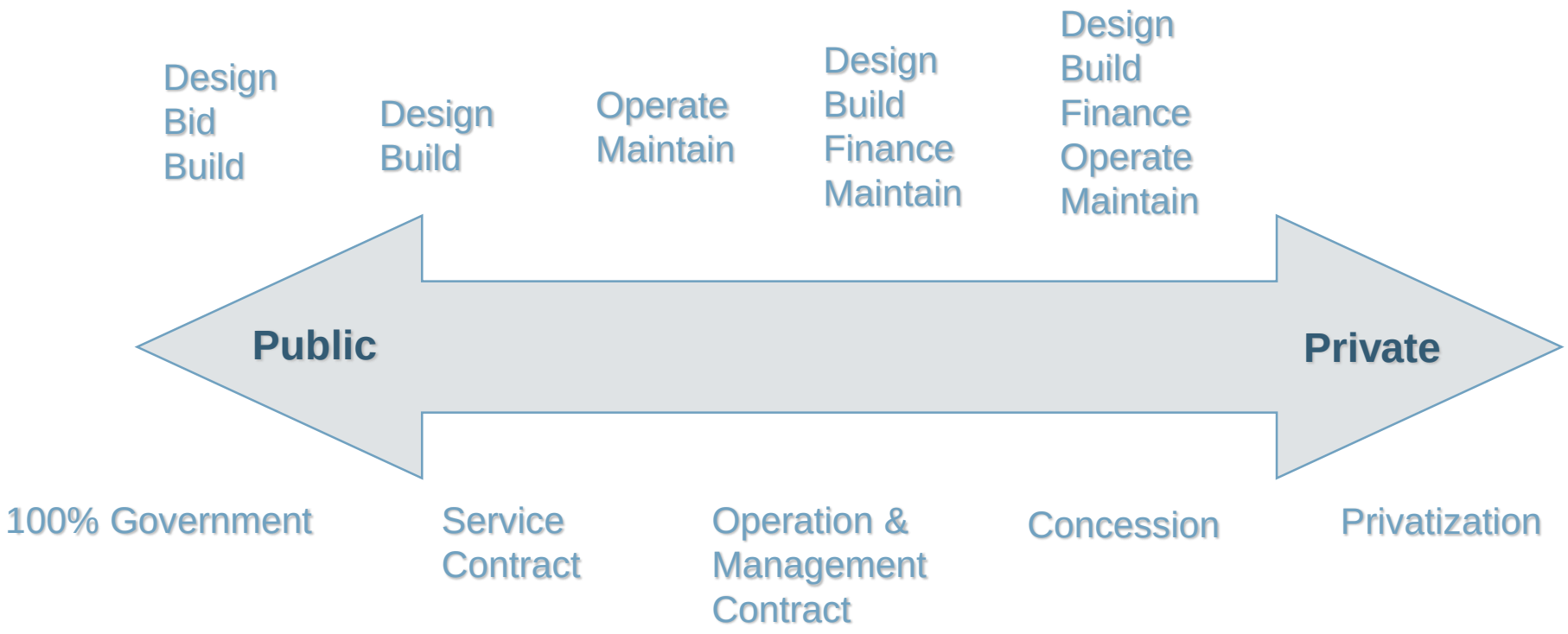
Examples of Successful P3s



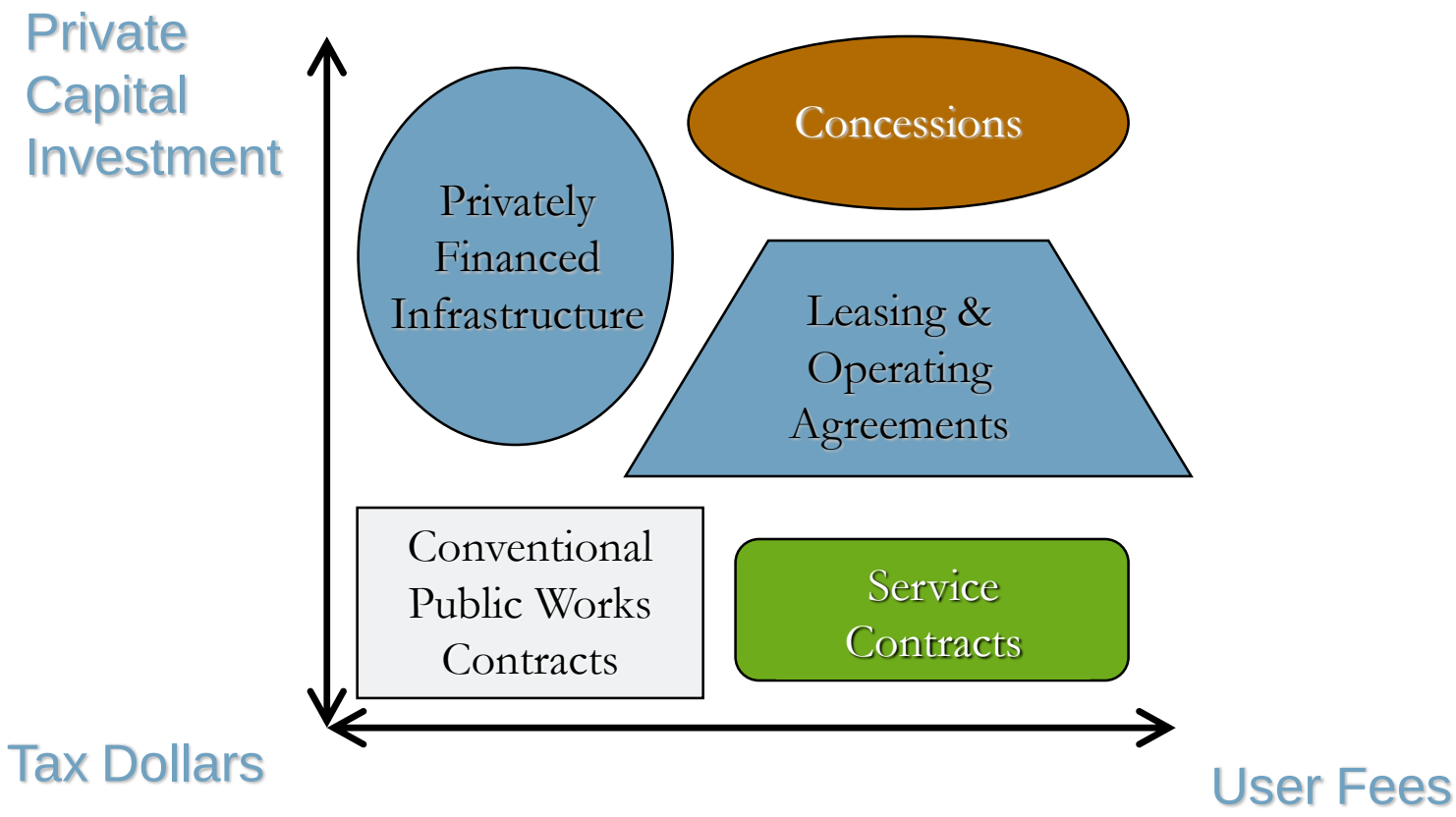
McKay Bay
Waste-To-Energy Facility

City of Tampa Florida

Continuum of P3s



Continuum of P3s



P3s Are Typically Considered When …

- **P3s are typically considered when there are identified public needs, but:**
  - Insufficient public funds (capital or operating)
  - Specialized expertise is needed to manage effective service delivery
  - When business case and value for money analysis support a P3

- **P3s are <u>not</u> typically considered for:**
  - Enforcement of police powers
  - Public safety services
  - When policy makers desire a high degree of control

Advantages and Disadvantages of P3s

- **Advantages:**
  - Reduces overall project cost
  - Can accelerate schedules
  - Transfers appropriate risks to private partner
  - Provides access to private expertise and creativity
  - Access to new sources of capital

- **Disadvantages:**
  - Difficult to use on small projects
  - Requires more documentation
  - Lose some flexibility
  - Long-term commitment
  - Risk in selecting wrong partner

Conventional Procurement vs. P3

Conventional Procurement (Design-bid-build)	P3 Procurement
Public sector keeps all risks	Risks shared between public and private partners
Succession of separate contracts	Integration of two or more project phases
Public financing	Private financing can be included
Lowest responsible bidder	Best suited bidder

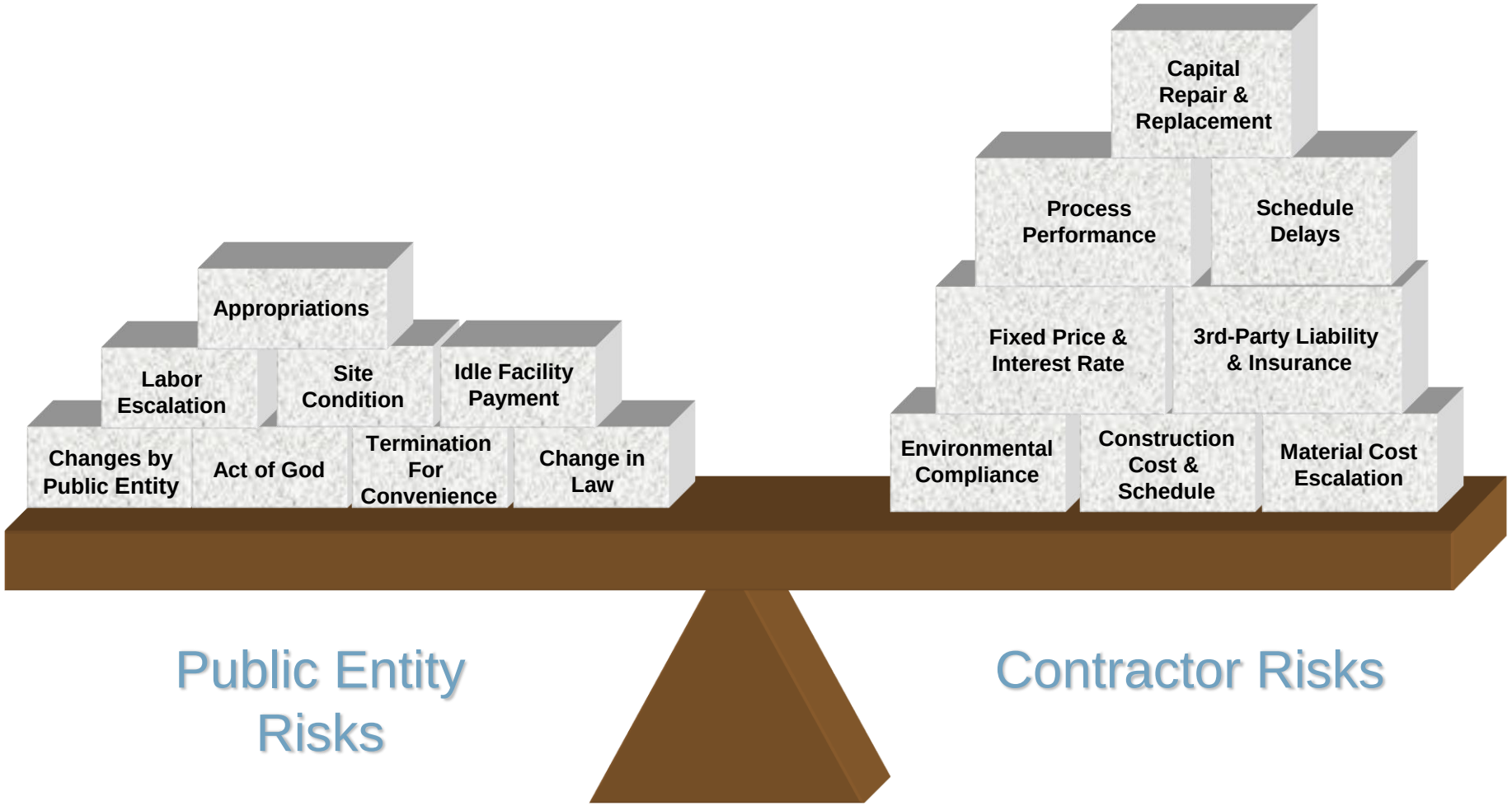
Conventional Procurement vs. P3

Conventional Procurement	P3 Procurement
The government identifies the type of equipment to be installed in a new wastewater treatment plant, including the size, treatment technology, and grade of the equipment.	The government specifies the volume of wastewater to be treated and the standards that must be met before being discharged. The private partner is responsible for selecting the equipment that will reliably meet the required standards.

Conventional Procurement vs. P3

Conventional Procurement	P3 Procurement
A County is building a new courthouse. Payment will be made to the engineers and contractors based on construction draws with a small holdback (usually 10%).	The County identifies the needed public asset with specifications to meet the required justice administration functions. The County pays for the asset once it has been delivered and meets the required specifications. The price of the project is committed to at the time of the proposal, and the private partner assumes cost overrun risk. O&M over the term of the project is set in the contract, subject to escalation.

P3 Risk Allocation



Key P3 Terms

- **Business Case:** A document prepared by a project owner describing the need and costs/benefits of a project, the procurement method, and the financial and non-financial impacts the project may have.
- **Whole Life Cost:** The total cost of ownership of an asset over its life. Reflects the integration of design and construction with ongoing maintenance and life cycle.
- **Public Sector Comparator (PSC):** A detailed analysis carried out by the project owner to determine the all-in lifecycle cost of providing the project or service. The PSC can be measured against the private sector proposal to determine the quantitative benefit to the public sector.
- **Value for Money (VfM) Analysis:** Describes the quantitative and/or qualitative benefits to the public expected from a particular procurement approach. Quantitative value is achieved through lower cost of a particular procurement approach, and qualitative value is achieved when a procurement approach better supports the public objectives without increasing costs.
- **Fairness Monitor:** An independent third party that verifies the fairness of the procurement process.

Canada vs. U.S.

What Canada is known for:

- Mature P3 environment
- Accepted business models
- Consistent results
- Fairness monitor
- Centers of excellence

What the U.S. is known for:

- Emerging market
- Diverse legal authorities
- Inconsistent business models
- Inconsistent results
- Skepticism



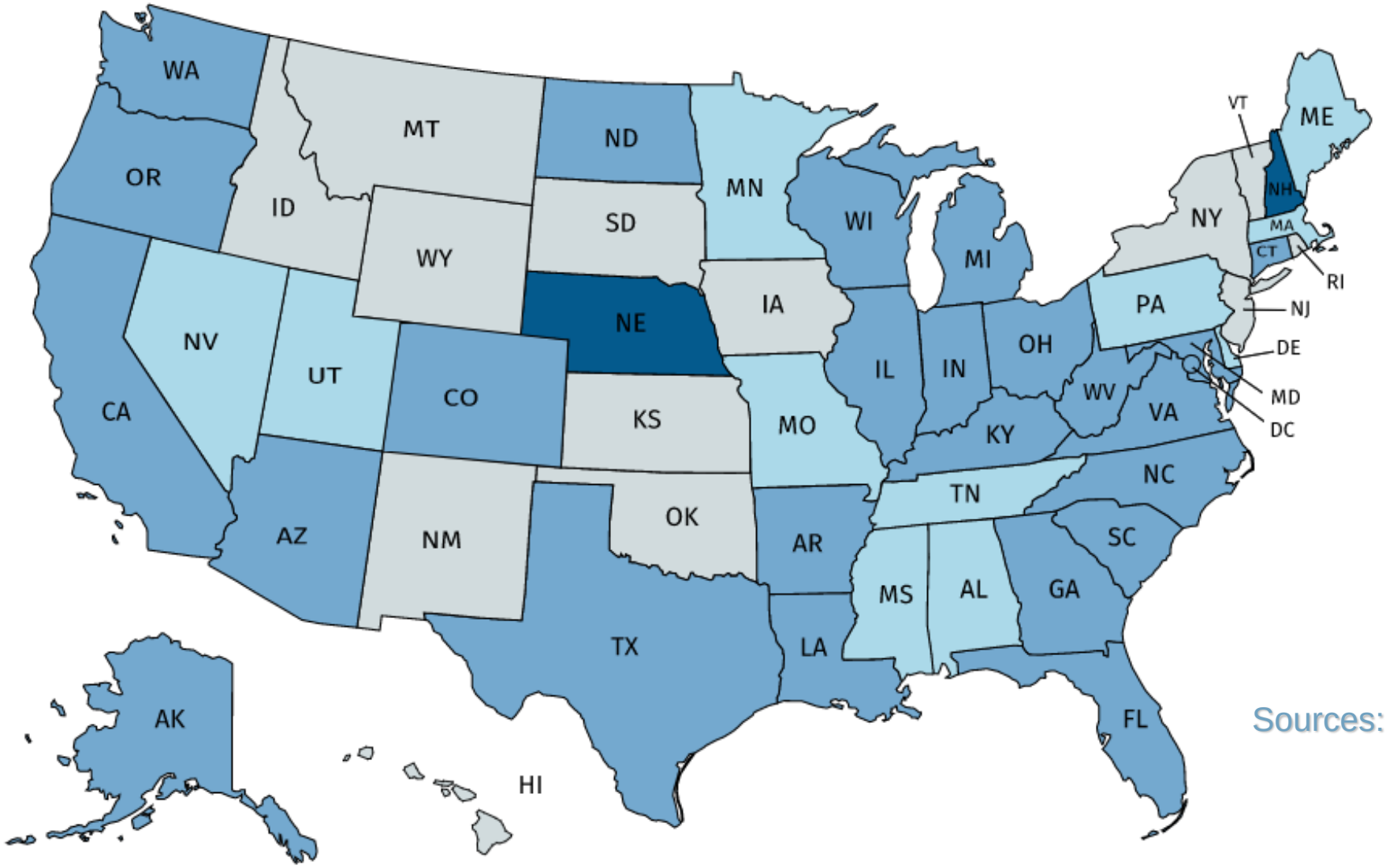
Canadian Approach

- Typically no specific P3 legislation
- Governments establish policies and best practices
- Centers of Excellence
  - Infrastructure Ontario - www.infrastructureontario.ca
  - Partnerships BC - www.partnershipsbc.ca
  - Infrastructure Quebec (Société québécoise des infrastructures) - www.sqi.gouv.qc.ca
  - PPP Canada - www.p3canada.ca

U.S. Legal Authority

- **Federal agency-specific statutes and rules:**
  - Department of Defense
  - Department of Transportation
    - Federal Aviation Administration
    - Federal Highway Administration
    - Federal Transit Administration (in rulemaking)
- **State and local governments:**
  - Typically authorized in state procurement statutes
  - Specific P3 statutes are typically supplemental to other authority

States With Specific P3 Legislation



Sources: www.ncppp.org
www.ncsl.org

Parting Thoughts on P3 Programs

- **Unsolicited advice**
  - Focus on best practices
  - Grow institutional capacity ***at all levels***
  - Establish relationships with specialist advisers – ***legal, technical and financial***
  - Develop a P3 policy
  - Consider establishing a P3 Office
- **Resources**
  - State-focused P3 organizations
    - I.e., fcp3 Florida Council for Public Private Partnerships
  - National Council for Public-Private Partnerships
  - The Canadian Council for Public-Private Partnerships

Questions?

Chip Fletcher
County Attorney
Hillsborough County Attorney's Office
601 E. Kennedy Blvd., 27th Floor, Tampa, FL 33602
P: (813) 272-5670
F: (813) 301-7142
E: fletcherc@hillsboroughcounty.org
W: HillsboroughCounty.org