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Public-Private Partnerships for Transportation Projects

by

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Introduction to P3s

- Public-private partnerships (P3s) are an innovative method of funding, delivering and procurement for infrastructure projects. P3s are used for a variety of infrastructure asset types.
- A contractual agreement between a public agency and a private entity to achieve all, one or a combination of the following:
  - Monetize an existing infrastructure asset.
  - Design, construct, finance, and/or operate and maintain an infrastructure project.
  - Transfer risks such as revenue, operations, environmental, labor, construction to the entity best able to retain and manage them.

Types of P3 Projects

Greenfield Projects

- Toll Roads (Port of Miami Tunnel, I-95 HOV/HOT Lanes, Goethals Bridge)
- Transit Projects (Denver Union Station, Eagle P3 FasTracks, Purple Line, Edmonton Light Rail)
- Social Infrastructure (Long Beach Courthouse, Alberta Schools, UC Merced, Indianapolis Justice Complex)

Reasons for Greenfield P3s

- Design-Build Savings – reduced construction costs
- Operations and Maintenance Savings – reduced O&M costs
- Private Sector Financing – longer-term debt and wide array of financing tools; access to private capital
- Accelerates project delivery
- Asset is still owned by public agency, which retains tight control on toll rate setting, O&M standards etc**.**
- Long-Term Risk Allocation and Transfers
- Long-Term lease provides tax benefits to private partner that can flow through as savings to public agency.

Types of P3 Projects

Brownfield Projects

- **Toll Roads** – Chicago Skyway (2005), Indiana Toll Road (2006), Pennsylvania Turnpike (2008), PR-22/PR-5 (2011)
- **Airports** – Luis Munoz Marin Airport (2012), Midway Airport (2013)
- **Water/Sewer** – Rialto, CA (2012), Bayonne, NJ (2012), Allentown, PA (2013)
- **Parking** – Chicago Meters (2009), Pittsburgh (2010), Ohio State University (2012)

Reasons for Brownfield P3s

- Operations and Maintenance Savings – reduced O&M costs
- Asset is still owned by public agency, which retains tight control on toll rate setting, O&M standards etc.
- Long-Term Risk Allocation and Transfers
- Fiscal reasons - budget tension, underfunded pensions
- Policy reasons

Financing Options

- Private Activity Bonds
- Equity; private capital
- Federal financing including TIFIA, RRIF, TIGER, HMT, FTA
- State Infrastructure Banks
- GARVEE Bonds
- State contributions
- Bank loans

Major Risk Allocation Issues

- Procurement Issues: best value analysis vs. lowest cost
- Delay Events
- Compensation Events
- Force Majeure Events
- Defaults and Remedies
- Termination

Availability Payments

Availability Payments

- Long-term agreement with fixed periodic payments to private party for DBOM/DBFOM of certain facilities and/or services
- Availability payments are typically not paid until construction is complete and the project is made “available” to the public agency
- Private parties do not bear revenue risks and have greater certainty as to return on investment.

Construction Related Issues

- O&M of asset during construction
- Control of design/construction
- Early works
- Delay events
- Acquisition of Project ROW, utility relocation
- Permits and approvals
- Substantial completion/segment completion
- Liquidated damages

User Fees/Tolling

- Limits/caps on user fees/tolls/fares
  - Statutory
  - Political
- Toll enforcement
- Suspension of tolls (emergencies)
- Allocation of revenue risk

O&M Related Issues

- Ongoing Capital Expenditures
- Procedures relating to maintenance
- Public Entity's right to oversee work
- Access and inspection rights
- Noncompliance points
- Handback