Leveraging Maryland's Public-Private Partnership (P3) Legislation for Investment in Transportation Technology

ITS Maryland 2013 Annual Conference October 8, 2013

Towards a More Comprehensive P3 Approach

2010 P3 Law

(Chapters 640 and 641 of 2010)

Joint Legislative and Executive Commission on Oversight of P3s (2011)

2013 P3 Law (Chapter 5 of 2013)

(signed on April 9th; effective July 1st)

Executive Order

(Summer 2013)

Agency Regulations

(Summer 2013)

Maryland's P3 Definition

Method for delivering public infrastructure assets using a **long-term**, **performance-based agreement** between a Reporting Agency and a Private Entity where appropriate risks and benefits can be allocated in a cost-effective manner between the contractual partners in which:

- Private Entity performs functions normally undertaken by the government, but the Reporting Agency remains ultimately accountable for the public infrastructure asset and its public function; and
- State may retain ownership in the public infrastructure asset and the private entity may be given additional decision-making rights in determining how the asset is financed, developed, constructed, operated and maintained over its lifecycle.
- Does not include an asset sale or a short–term operating space lease.

Key Details of P3 Law

- Creates predictable, transparent, and streamlined approach, incorporating best practices and lessons learned from other states, while addressing the needs of Marylanders
- Allows agencies to consider unsolicited proposals for potential competitive solicitations
- Outlines key requirements for competitive solicitation processes
- Exempts P3s from state procurement (Division II of State Procurement Article)
- Requires that reporting agencies promulgate regulations for the development, solicitation, evaluation, award, and delivery of future P3 projects
- Requires that the Board of Public Works (BPW) review and designate any
 potential P3, ensuring that future P3 projects receive the highest level of
 scrutiny BEFORE the State seeks bids from potential partners
- Outlines key terms and provisions that should be part of a P3 Agreement

Maryland's P3 Oversight Process

Agency Decision to Solicit for a P3

Presolicitation Report Sent to Budget Committees, Comptroller, and State Treasurer

Review by Budget Committees, Comptroller, and State Treasurer

Presolicitation Report Posted Online for Public Review

45 days max, with 15-day extension possible for larger projects

Review and Designation by Board of Public Works

Solicitation Process

(Public notice of solicitation, proposal review, negotiations, reach acceptable agreement terms)

Agreement Terms Sent to Budget Committees, Comptroller, and State Treasurer for Concurrent Review and Comment

Agreement Posted Online for Public Review

30 days max

Board of Public Works Approval of Agreement

Executive Order established P3 Subcabinet and framework for collaboration and knowledge sharing

Agency P3 regulations, policies, and project pipeline

P3 Subcabinet reviews key issues and makes recommendations for enhancements

Further analysis and application of key concepts to P3 projects

Knowledge from completed projects highlighted in Statewide information repository

P3 Regulations

- Processes for identification, screening, and advancement of P3 concepts, including:
 - Process for unsolicited proposals
 - High level and detailed level evaluations of potential P3 concepts
 - Presolicitation report development
- Components of a multi-phase solicitation process, including:
 - Requests for Qualifications
 - Requests for Proposals (draft and final)
 - Information availability during solicitation process
 - Industry review meetings
- Details regarding potential reimbursements
- Framework for evaluation, negotiation, and award of P3s
- Timeline for Regulations:
 - Department of Transportation/Transportation Authority: Summer/Fall 2013
 - Department of General Services: Winter 2013
 - University System: Spring 2014

P3 Unsolicited Proposals

Should contain key information required to conduct high-level screening of proposed P3 concept including, but not limited to:

- Preliminary ideas of scope, schedule, and project lifecycle considerations
- Preliminary qualitative evaluation of relevant benefits and cost
- Preliminary description of financial concepts
- High-level description of financial feasibility
- Relevance to other transportation facilities/public infrastructure assets
- Rationale for a P3 delivery method relative to a conventional project delivery approach
- Clear indication of any proprietary information that should be protected

Evaluating Potential of P3 Concepts

Receive P3 concept

Either unsolicited proposal or internally generated

High level screening

Initial screening of appropriateness, viability, and effectiveness as a P3

Detailed level screening

More comprehensive screening, including relevant analyses

Presolicitation development

Complete tasks required for the development of a presolicitation report

Secretary's recommendation to submit a presolicitation report

Contact Information

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