

The logo for the Association for the Improvement of American Infrastructure (AIAI) is displayed in a large, bold, white sans-serif font. The letters 'A', 'I', and 'I' are connected at the top, with the second 'I' being significantly taller than the first 'I'.

# AIAI

Association for the Improvement  
of American Infrastructure

The background of the entire page is a low-angle, upward-looking photograph of a white metal truss bridge structure against a clear blue sky with some light, wispy clouds. The truss consists of numerous interconnected beams forming a complex triangular and rectangular grid pattern.

## **BEST PRACTICES GUIDE**

Public Private Partnerships

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# Best Practices Guide to Public-Private Partnerships

## INTRODUCTION TO PUBLIC PRIVATE PARTNERSHIPS

A Public Private Partnership, or a P3 as it is often called, is a contractual agreement formed between a public agency and a private sector entity that allows for private sector participation in the financing, design, construction, operation and maintenance of public infrastructure projects.

The private organization is given responsibility to provide a public good, a facility or service that has traditionally been provided and managed by a public entity, such as a state agency, a local government or a regional authority. The goal of the partnership is to provide benefits to the public through value-added private sector engagement.

The benefits of P3s include job creation, design innovation, efficiencies in project finance, transfer of risk, optimization of resources and capabilities, as well as the timely delivery, operations and long-term maintenance of public infrastructure. This procurement method has demonstrated that these assets are delivered on-time and under budget, utilizing innovative ideas and products to create long-term, life-cycle operational and maintenance efficiencies.

A P3 procurement for the delivery and operations and maintenance of public services and facilities is a viable alternative project delivery approach to complement traditional procurement practices. P3s have been proven throughout the world to be an effective way to deliver much needed civil and social infrastructure.

Partnerships between the public and private sector relate to all types of infrastructure needs. These include civil infrastructure: mass transit, surface and highway transportation, freight rail, air and maritime ports, water and sewer treatment plants, as well as social projects: educational (elementary, secondary and community college) facilities, hospitals, courthouses and correctional facilities, and other municipal or community-use facilities.

Partnerships between the public and private sectors represent opportunity. These relationships enable growth through access to leveraged financing, transfer of risk and optimization of resources and capabilities – in the furtherance of public good.

NOTICE: The material contained in this Best Practices Guide is for information only and does not constitute legal advice or opinions specific to any particular state. The Guide is intended for educational and information purposes only.

## APPROACH

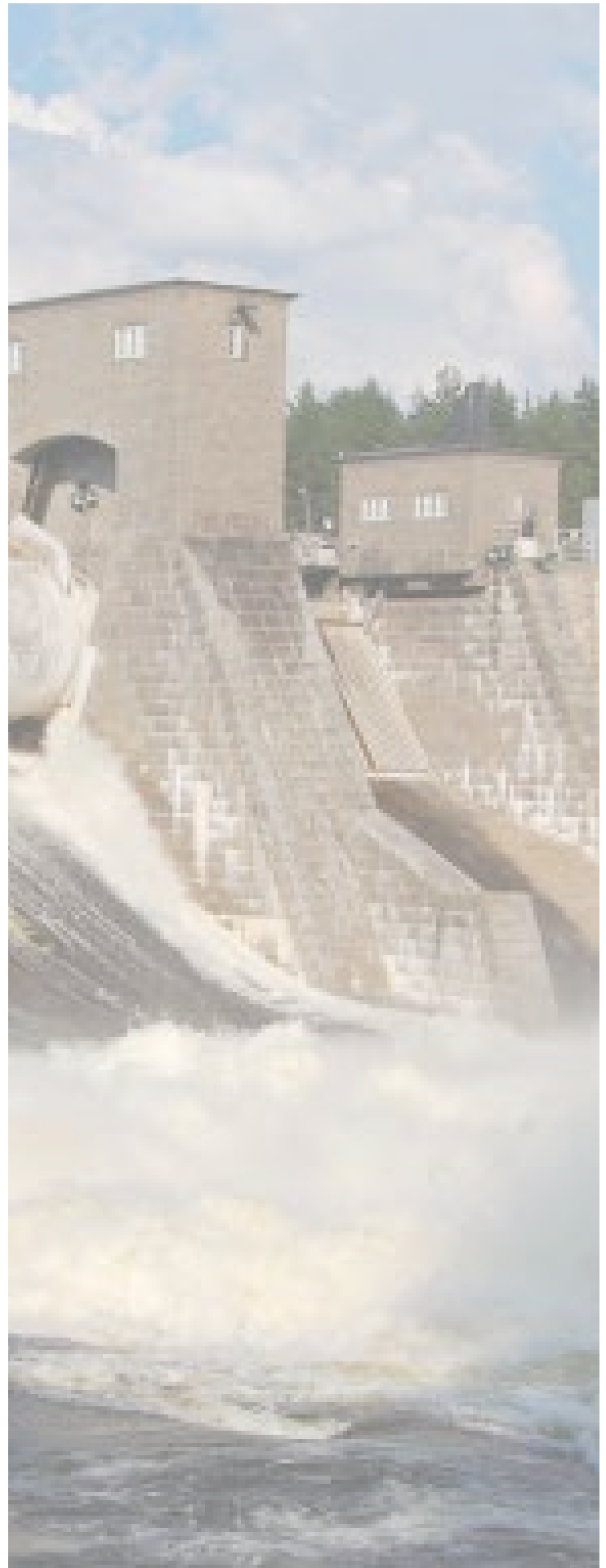
The current state of infrastructure in the United States, coupled with an inability to appropriate the funding necessary to restore and replace these critical assets has created a challenge for legislators. Pressed to maintain a meaningful position in an ever more competitive global and national marketplace, state, regional and municipal governments weigh priorities, consider how best to pay for the investments needed, and work to find creative ways to plan, design, finance, build, operate and maintain infrastructure.

P3 legislation enables a municipality or a state, even the Federal government, to tap in to the private sector's willingness to engage and participate in shared and mutually beneficial outcomes. P3s can allow projects to receive funding through traditional means and methods, as well as enable them to draw upon this stream of capital from innovative investors who hope to realize reasonable returns, while investing in local economies. Effective P3 legislation invites submission of original, market-driven proposals to address the needs for public infrastructure.

Since P3s are relatively new to the United States, there is need for education related to this procurement methodology. AIAI was formed to address this mandate. AIAI is comprised of leaders of the construction and development sectors with extensive national and international experience in delivering, operating and maintaining public infrastructure projects.

The best practices documented in this Guide are drawn from an analysis of existing and proposed legislation and current procurement methods of established entities engaged in delivering public infrastructure through such partnerships. Vetted through AIAI membership and coupled with a detailed state-by-state analytic framework, this is formatted to allow stakeholders to understand Public Private Partnerships.

The "Best Practices Guide: Public Private Partnerships" presents P3 as a viable alternative project delivery method and describes legislation to enable effective processes and procedures for the procurement of public infrastructure.



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*The following outline includes components of legislation with a description of the purpose for that element and an AIAI recommendation for best practices. This guide can be used as a stand-alone resource. It becomes a compelling tool when coupled with in-person education and supporting documentation provided through members and staff, based on their hands-on, practical experience.*

## 1. INTRODUCTION

In an introduction to a proposed P3 bill, public policy objectives are defined for private sector participation in the delivery and financing of public building and infrastructure projects.

Public Private Partnerships, or P3s, are contractual agreements formed between a public agency and a private sector entity. These types of agreements are referred to as Project Finance in the international markets. P3s can provide for shared skills, assets, resources, risks and rewards by both private and public sectors for the delivery of a service or to create a facility for public use. It is critical that P3 legislation conveys the context in which partnerships between public and private sector participants is intended to operate.

The Introduction section details how the proposed bill will facilitate processes and methods to deliver public infrastructure. This may include political dynamics, legislative environment, and the relative fiscal state of both the public sector agency and the economy.

### 1.1 STATEMENT OF NEED

P3s can include alternative delivery of a broad range of public services enabled through social and civil infrastructure. In the context of proposed P3 legislation, a Statement of Need includes guidance that can address the

specific need or clarify the intent of that proposed statute.

*The Statement of Need section details the intent of proposed legislation, thus enabling applicable public agencies to understand what can be accomplished within the intended scope of the legislation, as well as articulate for private sector participants the range of options which may be available to address the needs and priorities of the public private partnerships.*

#### **AIAI BEST PRACTICES RECOMMENDATION**

P3-enabling legislation should be broad-based, providing flexibility in the procurement processes that will facilitate submission of innovative and comprehensive proposals in support of public infrastructure needs.

## 1.2 DEFINITIONS

The use of standard terminology related to procurement processes and methodologies allows both public and private sector participants to become familiar with, and adopt and incorporate industry standard definitions within legislation. This will create clarity and align expectations related to P3 procurements.

*The Definitions section details generally-accepted, industry standard terms which describe the elements of the proposed bill necessary for understanding its intent.*

#### **AIAI BEST PRACTICES RECOMMENDATION**

P3 legislation should include definitions which are based on generally-accepted, industry standards in order to facilitate clarity and alignment in the procurement guidelines.

## 1.3 BREADTH OF MANDATE

Capturing the vision for a proposed P3 bill conveys the scope of P3 utilization to address public infrastructure

needs. Defining the parameters for which P3 procurement may apply increases the breadth of intended outcomes offered by the proposed statute and enhances the potential for public good.

*The Breadth of Mandate section details the intent and potential reach of the proposed P3 statute, including its use as an economic development stimulant, as a procurement reform or as an alternative strategy for project delivery when applied to civil or social infrastructure planning, design, financing, building, operations or maintenance.*

**AIAI BEST PRACTICES RECOMMENDATION**

P3 legislation should allow for a broad range of applicability to public infrastructure needs, to include civil and social projects, across as diverse a range of asset types as necessary to meet the needs of the public.

## 1.4 APPLICABILITY

P3 legislation can be and has been applied to a wide range of infrastructure projects, implemented by the full depth of government entities, including Federal, state, independent regional authority, county, city, town, village, school district or other geo-political subdivision.

*The Applicability section details which area of emphasis, as noted in the 'Statement of Need' and legislative intent sections, is the focus of the proposed bill. It can describe the levels of government to which the law would apply, or the types of projects or general guidance as to how the proposed bill is to be integrated with existing legislation.*

**AIAI BEST PRACTICES RECOMMENDATION**

A proposed P3 bill should identify the level(s) of governance for which public infrastructure projects may be procured and managed for the delivery of public infrastructure.

## 1.5 ASSET CLASS | PROJECT-TYPE

P3 legislation can be applied across a broad array of public needs. A proposed P3 bill can assess the existing legislative framework and identify which categories of projects could be allowed within the scope of the proposed statute. These infrastructure projects include:

**Civil engineering projects**

- bridges
- roads
- tunnels
- airports
- seaport
- pipelines
- water processing
- sewage treatment
- energy installations; and

**Social, building or vertical infrastructure projects**

- schools
- hospitals
- municipal buildings
- prisons
- parks or open space
- community-use facilities.

*The Asset Class | Project-type section details which projects may be appropriate for P3 alternative project delivery.*

**AIAI BEST PRACTICES RECOMMENDATION**

P3 legislation should allow for a broad range of applicability to include civil and social projects, facilitating a range of procurement options to empower responsible public entities to engage private sector innovation and efficiencies for the delivery of infrastructure assets.

## 2. AUTHORITY

States have utilized P3 strategies in a variety of ways to spur job creation, streamline government services, catalyze commerce, and fortify infrastructure. Through P3s, states can utilize private sector efficiency to effectively deliver, operate and maintain public infrastructure.

The Authority section details the processes and methods by which responsible public entities pursue and are granted the authority to plan for, execute and manage public private partnerships in support of public infrastructure needs. In order to facilitate and encourage competition and market forces on the part of private sector participants and effective management by public sector stakeholders, clarity and transparency are essential. A proposed P3 bill addresses the processes through which projects and proposals are reviewed and managed.

P3s are administered by or managed through a specific, responsible public entity, or are subject to review by a centralized authority. Proposed P3 legislation identifies which agencies or authorities are involved in procurement and management of P3 projects.

### 2.1 CENTRAL REVIEW

Public entities may not possess the requisite knowledge to assess the viability of a proposed P3 infrastructure project. A dedicated resource that is available to public entities, for the purpose of reviewing potential P3 projects, allows for the sharing of common experiences, best practices, lessons learned and effective strategies in the initial review and subsequent planning, procurement, operations and maintenance phases of public infrastructure projects. Leveraging specific sector expertise and experience in managing public private partnerships facilitates repeated success in future P3 projects.

A central resource, with knowledge of effective public private partnership strategies, and awareness of the technical or engineering requirements for the asset class being reviewed can best assess the viability of a proposed

project for alternative delivery. This assessment can determine if a P3 procurement is in the best interest of the public, meets industry standards, and has technical and fiscal merits.

*The Central Review section details the processes through which projects are reviewed for applicability of alternative project delivery methodologies and public private partnerships.*

#### **AIAI BEST PRACTICES RECOMMENDATION**

In order for public entities to effectively assess and manage P3 projects, a central review resource should be established, comprised of individuals who possess the requisite technical knowledge, financial expertise and public policy experience.

### 2.2 EXECUTIVE LEADERSHIP

Leadership is an essential ingredient for successful public private partnerships. Nowhere is this more evident in a P3 than with the chief executive; whether it is the Governor, state-level department of transportation or a school authority, having the commitment and political will in the office in charge of the project is vital. Champions for the merits of public private partnerships and stewards for public accountability ensure the long-term success of P3s in the development of public infrastructure.

*The Executive Leadership section details what involvement there is from the executive branch of the state or the responsible public entity, and restrictions placed on the ability to modify the course of approved P3s in procurement.*

#### **AIAI BEST PRACTICES RECOMMENDATION**

A proposed P3 statute should allow for the continuation of P3 projects that were procured independent of changes in administration or leadership.





## 2.3 AUTHORITY TO PURSUE P3

It is critical that responsible public agencies have clear guidance and authority to pursue alternative project delivery strategies, such as P3s for public infrastructure projects.

*The Authority to Pursue P3 section details processes through which the responsible public entity might apply for and be granted the authority to pursue a P3 as an alternative project delivery strategy for public infrastructure.*

### **AIAI BEST PRACTICES RECOMMENDATION**

A proposed P3 statute should specify the level(s) of government, or public sector agency which are eligible to engage in public private partnerships, including as broad a range of options as the responsible public entity is adequately prepared to manage.

## 2.4 COMMITMENT

The costs involved in the pursuit of public infrastructure projects can be significant and prohibitive when responding to solicitations for public infrastructure. In order to introduce market forces and allow for the most competitive and innovative submissions for public procurement, a proposed P3 bill can address processes that protect both public and private sector participants against unanticipated interruption or cancellation of projects, due to changes in agencies or branches of government beyond the procurement organization. This may include a stipend, which can be viewed as an indication of relative commitment.

*The Commitment section details the process through which a responsible public entity will assure their commitment to the completion of a P3-enabled public infrastructure project.*

### **AIAI BEST PRACTICES RECOMMENDATION**

Proposed P3 legislation should include specific provisions to detail how a responsible public agency is empowered to ensure completion of a project once it has reached the procurement stage.

## 2.5 P3 AGREEMENT

The P3 Agreement is a critical component in contractual understanding between and among participants in a public private partnership, and as such is the focal point for detailed discussion and concurrence related to the provisions which will govern the relationship between and among the participants in a public private partnership.

The specific terms and details of the contractual relationship between private sector participants and the responsible public sector entity are stipulated within the context of the P3 Agreement, also referred to as Partnership or Comprehensive Development Agreement. Due to the complex nature of these agreements, advisory resources are often utilized by responsible public agencies involved in P3s.

*The P3 Agreement section details the scope of the P3 agreement, including prospective terms and conditions that may be incorporated in the contractual relationship.*

### **AIAI BEST PRACTICES RECOMMENDATION**

Proposed P3 legislation should include details related to the development and restrictions or obligations that should be addressed within the P3 Agreement to plan, design, build, finance, operate or maintain the public infrastructure.



### 3. REVIEW

A proposed P3 bill should highlight how proposals are reviewed and managed. This can include clarifying how a proposal can move through an alternative project delivery assessment and approval, and what step(s) may be taken to ensure that a project is handled within the responsible public entity's applicable procurement processes.

Evaluation of proposals determines the extent to which a proposed project serves a public purpose, meets the criteria for a qualifying project, assesses the qualifications and experience of a private entity developer, reviews the project for financial feasibility, and warrants further consideration as a P3.

#### 3.1 PROPOSALS

A range of procurement options have been used in those jurisdictions where the authority exists to apply alternative project delivery mechanisms such as public private partnerships. In order to facilitate the flow of information regarding needs and capabilities, clear communication is essential. Communicating relevant provisions for procurement processes, within the context of P3 authority, is essential to stakeholders, and sets the stage for development and delivery of strategies for the funding, financing, designing, planning, building, operations and maintenance of public infrastructure projects.

*The Proposals section details processes associated with the submission process, once authority has been granted to pursue a P3 project.*

#### **AIAI BEST PRACTICES RECOMMENDATION**

Proposed P3 legislation should clearly outline public agency procurement processes and methodologies for soliciting, reviewing and evaluating proposals and selecting teams with which the responsible public entity partners to develop public infrastructure.



### 3.2 UNSOLICITED PROPOSALS

Innovation can be a key contributing factor in the delivery of public infrastructure. A proposed P3 bill can specify whether a public entity may allow for the submission of unsolicited proposals or alternative technical concepts for public infrastructure projects. Leaving open the possibility to learn of creative project concepts can be a difference maker for stakeholders. Allowing for unsolicited proposal submission invites innovation from the private sector in areas that may not have been addressed by the public entity.

*The Unsolicited Proposals section details the processes or methodologies through which unsolicited proposals are received, reviewed and managed.*

#### **AIAI BEST PRACTICES RECOMMENDATION**

Unsolicited proposals should be permitted, in order that market-driven and innovative private sector ideas can positively impact the development of public infrastructure.

### 3.3 REVIEW PROCESS

Expectations of both public and private participants are managed through clear and specific procurement guidelines. Standard evaluation criteria against which all proposals are assessed create consistency. Clearly articulated guidelines convey the relative importance of factors such as risk sharing, added value and/or economic benefits from the project, as well as the scope, complexity, or urgency of the public infrastructure project, allowing the respondent the information needed to be responsive to the criteria against which they will be measured.

*The Review Process section details the processes for the evaluation of solicited and unsolicited proposals.*

#### **AIAI BEST PRACTICES RECOMMENDATION**

Proposals for public infrastructure projects should be evaluated with published, objective criteria based on the project-specific needs and managed through existing procurement processes; with measurement weighted on a number of value-based factors and not solely price-driven.

## 4. FISCAL PROVISIONS

The financing of large-scale public infrastructure projects is a critical element to the P3 model. Included within this section are such issues as the application of fees for the submission of proposals, access to financing resources available from agencies or entities other than the responsible public entity, and what, if any, funding may be made available for a project from the agency managing the delivery of the public infrastructure project. The greatest degree of flexibility should be incorporated into procurement strategies, processes and methodologies when taking into consideration funding and financing alternatives that can enhance the fiscal viability of proposed P3s in support of civil and social public infrastructure projects.

### 4.1 PAYMENT FOR WORK PERFORMED

In taking into consideration the complexity and scale of public infrastructure projects, a proposed P3 bill may choose to consider the commitments made by private respondents that have progressed beyond the initial assessment phase of the procurement process. In so doing, a proposed P3 bill can allow for stipends, which are often viewed as indicative of relative commitment of the procuring agency.

*The Fairness Stipend section details provisions for terms and conditions under which a stipend would be authorized.*

#### **AIAI BEST PRACTICES RECOMMENDATION**

The responsible public entity should be authorized to pay a stipend to an unsuccessful bidder or proposer that has reached the pre-qualified bidder stage.

### 4.2 FEE FOR SUBMISSION OF PROPOSALS

Industry standard practices can and should be implemented for P3 projects, in order to encourage the broadest possible inclusion of industry leadership and creativity.

*The Fee for Submission of Proposals section details what, if any, submission fees are applicable and whether they apply to qualified responses to a public entity's solicitation.*

#### **AIAI BEST PRACTICES RECOMMENDATION**

In order to generate sufficient and appropriate responses to solicitations for proposals for public infrastructure projects, every effort should be made to exclude any provision for a submission fee.

### 4.3 SUBMISSION FEES FOR UNSOLICITED PROPOSALS

The best ideas for infrastructure solutions may originate from unconventional sources. A P3 bill can identify what, if any, obstacles can be cleared or resources are necessary and appropriate to address due diligence requirements related to proposals for infrastructure projects which may not originate from a response to a solicitation for a public infrastructure project.

An appropriate fee may be included in procurement processes at the state, local or Federal levels, in order to offset anticipated costs to evaluate the merits of unsolicited proposals and to enhance the level of innovation and sophistication brought to responsible public agencies for the development of public infrastructure projects through public private partnerships.

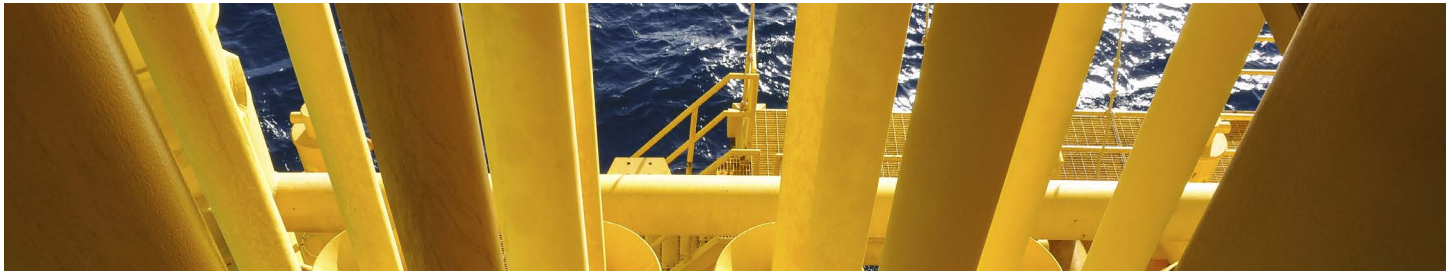
*The Submission Fees for Unsolicited Proposals section details what fees may apply, and a description of the intended use of those fees.*

#### **AIAI BEST PRACTICES RECOMMENDATION**

In order to encourage the submission of qualified proposals for public infrastructure projects, P3 legislation should include a provision for submission fees for unsolicited proposals.

### 4.4 FUNDING

P3s leverage access to private sector debt and equity commitments, and combine these resources with public sector funds, as available, to determine and access the financing necessary to deliver public infrastructure.



*The Funding section details whether public funding is available under the proposed statute, and if applicable, specific provisions that will govern their access and the use of public funds.*

**AIAI BEST PRACTICES RECOMMENDATION**

The greatest degree of flexibility should be encouraged when it comes to identifying financing alternatives, in order that P3 projects can leverage access to funding or financing in the form of public funds, private debt, equity, or credit assistance from local, state or Federal programs.

## 4.5 FINANCING RESOURCES

Access to public funding or financing resources differs according to the level of governance assigned to manage or procure a public infrastructure project through a public private partnership. As credit or debt financing resources continue to evolve, their eligibility as a finance instrument in support of public infrastructure projects can serve to enhance the viability of a P3 project.

*The Financing Resource section details whether a responsible public entity can access financing resources from other public agencies, such as Transportation Infrastructure Finance and Innovation Act (TIFIA) loan or credit assistance program, Water Infrastructure Finance and Innovation Act (WIFIA), or the applicability of Private Activity Bonds (PABs).*

**AIAI BEST PRACTICES RECOMMENDATION**

The broadest possible applicability of public sector, project financing resources, such as TIFIA, WIFIA and PABs, should be considered and utilized to meet the project finance requirements for both civil and social infrastructure.

## 4.6 CONFIDENTIALITY

Innovation is an essential ingredient for meaningful engagement between public and private sector participants. In order to stimulate and encourage the introduction of market innovation in design and planning, building technologies and construction techniques, finance and operations, it is critical that participants communicate and work together to develop an atmosphere of trust and confidence among and between the parties in a public private partnership. The strongest application of confidentiality protection will allow responders to provide innovation and creativity in submissions.

The proposed P3 bill should protect confidential information, stipulating how procurement processes allow for the protection of proposed fees and cost structure, design innovation, engineering and alternative technical concepts.

*The Confidentiality section details the protection provided for confidentiality of proposed fees and finance structures, sources of funds, and uses of capital and alternative technical concepts; taking into account accessibility to otherwise publically available resources through the Freedom of Information Act.*

**AIAI BEST PRACTICES RECOMMENDATION**

Intellectual property should be protected by the public procurement processes, in order that market forces and innovation can be brought to bear on public private partnerships for public infrastructure projects.



## 5. APPLICABLE LAW

In taking into consideration the existing body of legislation and any notable case law history which may impact P3s, a section related to the applicable legal framework may include: allowance for the use of eminent domain; performance and payment security; prevailing wage; or other locally pertinent statutory provisions.

In order to clarify intent or avoid confusion when interpreting legislative authority or procurement guidelines, proposed P3 legislation should assess, take into account and address those existing statutes and body of law, both Constitutional and case law, which could otherwise impact the smooth and efficient delivery of public infrastructure.

### 5.1 EMINENT DOMAIN

A proposed bill for infrastructure development, either buildings or large-scale engineering projects, should address whether or how legislative authority may convey to local governments (states, counties, regional authorities, cities, towns, villages or applicable political sub-divisions, school districts or other responsible public entities) the ability to pass laws to govern themselves as regards Fifth Amendment takings, so long as they abide state and Federal constitutions.

*The Eminent Domain section details specific provisions to align with the US Constitutional intent related to eminent domain, or Fifth Amendment takings, which could have an impact on public infrastructure development, either social or civil.*

### AIAI BEST PRACTICES RECOMMENDATION

*A proposed P3 bill should clearly articulate alignment with US Constitutional intent related to eminent domain, taking into account existing state and Federal authority as stated in the respective Constitutions.*

### 5.2 LABOR

Clarifying participation of labor, municipal or public sector employees, creates the opportunity and the forum for the understanding of and alignment with project goals and long-term objectives.

Proposed infrastructure development legislation can address the authority that may be granted to responsible public entities to direct or manage procurement processes, including any provision for participation of municipal labor, project labor agreements or other labor-related matters.

*The Labor section details the dynamic between and among public sector employees, or municipal labor, including distinction from privatization, utilization of project labor agreements or other instruments which could impact the delivery of public infrastructure.*

### AIAI BEST PRACTICES RECOMMENDATION

*A proposed P3 bill should clearly articulate how public sector employees, or municipal labor will be incorporated into infrastructure project delivery strategies.*

## 5.3 DIVERSITY & COMMUNITY ENGAGEMENT

Participation of locally-based businesses and disadvantaged, minority- and women-owned business enterprises, as well as those businesses that fully support veteran employment, can have significant influences on the long-term success of public infrastructure projects and regional economic revitalization. The use of qualified locally-based businesses can enhance the surrounding community through local job growth and economic development.

*The Diversity & Community Engagement section details incentives or mandates at the state and Federal level for inclusion and participation of minority- or women-owned, veteran friendly or small business enterprises, municipal unions or locally-based businesses.*

### AIAI BEST PRACTICES RECOMMENDATION

Legislation for the development of public infrastructure should encourage innovation and creative solutions for local and regional economic impact through inclusion of the most qualified, locally-based businesses for addressing local job growth and long-term economic stimulation.

## 5.4 PERFORMANCE & PAYMENT SECURITY

The stability of the emerging infrastructure finance and investment sector relies upon a range of industry participants. In order to effectively capture the full commitment of all, a proposed bill should require both performance and payment bonds for the design build or construction phase of the project.

*This Performance & Payment Security section details the proposed statute's treatment of a responsible public agency's performance and payment bond requirements that protect the public's interest in contract completion and protect sub-contractors, suppliers and laborers against the risk of non-payment during the design, build or construction phase of the project. This section can address*

*relationships between public partners, private sector participants and members of the special purpose entity.*

### AIAI BEST PRACTICES RECOMMENDATION

Securities for P3s are required to satisfy the needs of financial institutions, owners, subcontractors and suppliers. A combination of both liquid securities and performance and payment bonds provides the flexibility needed to reach financial close. Flexibility should be provided to require the appropriate level of security. Example: Code of Virginia, The PPTA, section 56-566.A.1.

## 5.5 INTELLECTUAL PROPERTY

Access to innovation is one of the most valuable benefits of a public private partnership. Protection of intellectual property for innovative solutions for proposed infrastructure plans, techniques, technologies or delivery methods creates the opportunity for the public sector entity to encourage and engage the creativity of private sector participants.

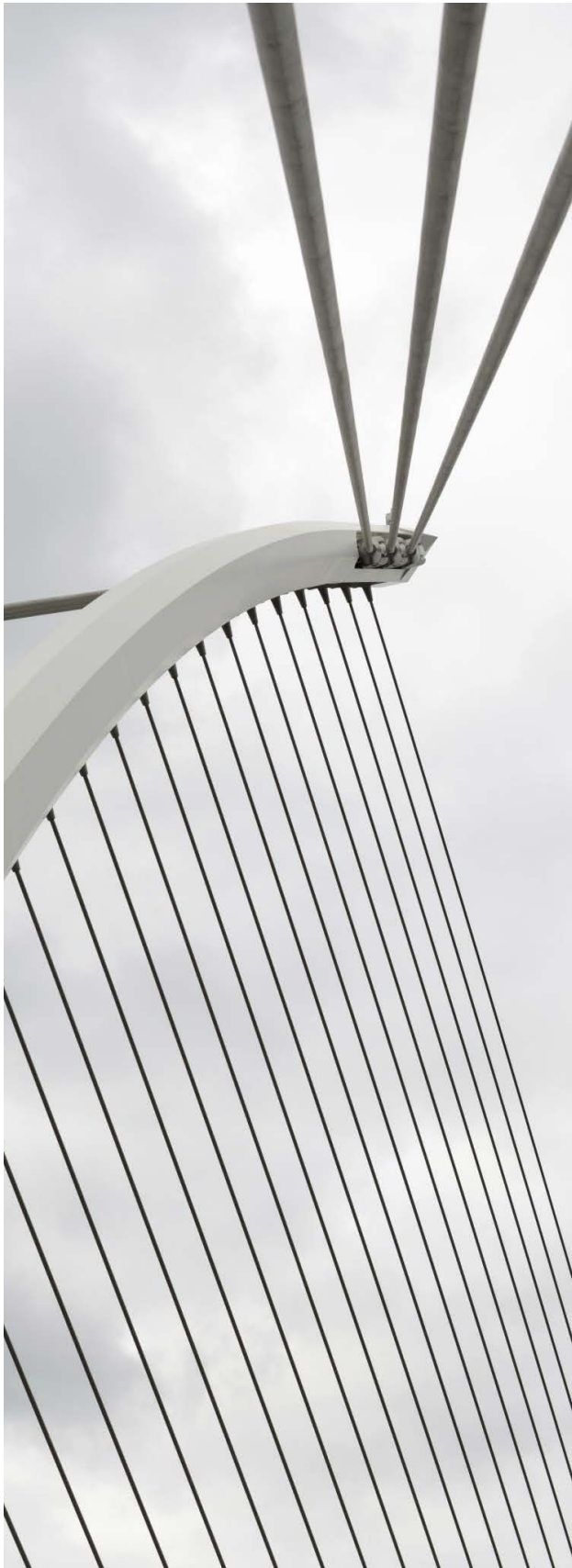
Established firms which pursue P3 relationships with a public sector entity may create proprietary information which could be of direct benefit to the project. There may be instances, when that intellectual property has been developed by an unsuccessful bidder, where a license can be extended to a successful bidder in order to capture the value of such innovations for a project.

Where applicable, a licensing fee for the use or application of that proprietary information can be incorporated into the project's cost structure.

*The Intellectual Property section details methods and means around which innovation and creativity are protected or licensed.*

### AIAI BEST PRACTICES RECOMMENDATION

Public agency procurement guidelines should protect intellectual property or work product that is unique to a specific project developed in response to a solicitation for public infrastructure.



### SUMMARY

Public Private Partnerships are contractual agreements formed between a public agency and a private sector entity. Proposed bills should detail legislative and procurement processes for private sector participation in the planning, designing, financing, building, operating and maintaining public building and infrastructure projects.

P3s provide for shared skills, assets, resources, risks, and rewards by both private and public sectors for the delivery of a service or to create a facility to address needs for public use.

The benefits of P3s include job creation, design innovation, efficiencies in project finance, transfer of risk, optimization of resources and capabilities, as well as the timely delivery, operations and long-term maintenance of public infrastructure. This procurement method has demonstrated that these assets are delivered on-time and under budget, utilizing innovative ideas and products to create long-term, life-cycle operational and maintenance efficiencies.

Best practices, drawn from around the country and across the globe, highlight a number of key ingredients for successful P3s. These include:

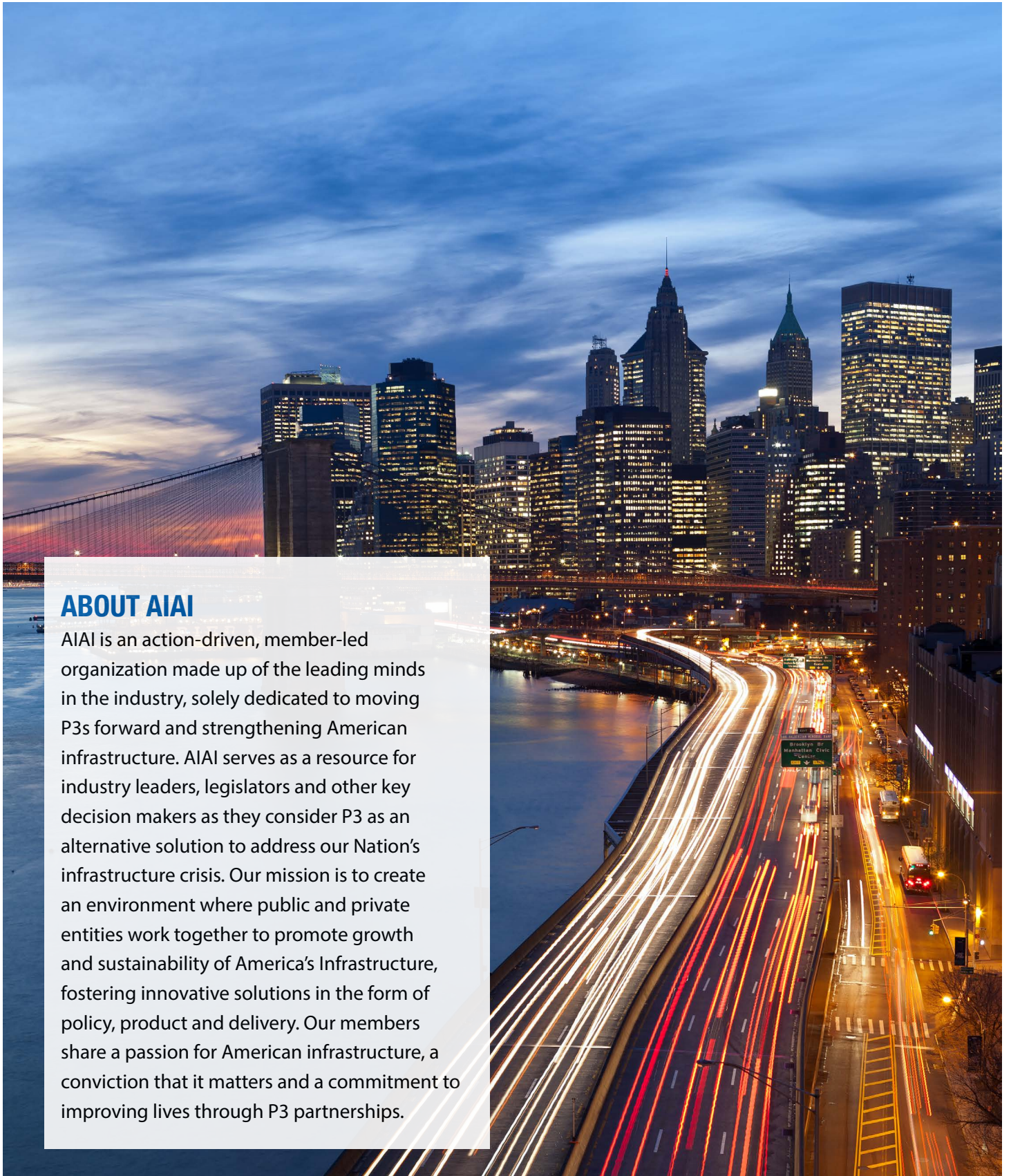
- Demonstrated leadership commitment;
- Central Review resources;
- Breadth of applicability to both social and civil infrastructure;
- Access to funding resources and project financing tools;
- Incentives for Innovation;
- Fairness Doctrine;
- Protection of intellectual property;
- Competitiveness Stipend; and
- Best available resources, including MWBE participation and community engagement.

Additional information is available to AIAI Members, as well as to the general public; and can be found on-line at: [www.AIAI-Infra.org](http://www.AIAI-Infra.org). These resources include detailed descriptions of best practices as drawn from case studies, comparable examples and review of model legislation, as well as draft language suitable for statutes that may be proposed in support of public private partnerships intended to address the needs of the public.



### ABOUT AIAI

AIAI is an action-driven, member-led organization made up of the leading minds in the industry, solely dedicated to moving P3s forward and strengthening American infrastructure. AIAI serves as a resource for industry leaders, legislators and other key decision makers as they consider P3 as an alternative solution to address our Nation's infrastructure crisis. Our mission is to create an environment where public and private entities work together to promote growth and sustainability of America's Infrastructure, fostering innovative solutions in the form of policy, product and delivery. Our members share a passion for American infrastructure, a conviction that it matters and a commitment to improving lives through P3 partnerships.



# AIAI

Association for the Improvement  
of American Infrastructure

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