



Association for the Improvement  
of American Infrastructure

*Together, we move P3s forward.*

## Real Estate v Public Private Partnership

In today's business environment, a confusing trend has emerged – to inaccurately or inappropriately label commercial real estate transactions as public private partnership (P3) projects. This paper seeks to clarify the differences.

A real estate transaction with a government entity often refers to a transaction involving the purchase, sale, or lease of real property; such transactions do not require there be any public purpose nor is there a need for any long-term involvement from the public entity.

In contrast, a P3 transaction between a private entity and a government entity typically ensures the public entity **retains ownership of the asset** while partnering with a private entity to design, build, finance, operate, and maintain the asset for a public purpose. The P3 contract is performance-based, risk-adjusted, and guarantees the long-term operation and maintenance of the asset on behalf of the public sector owner for a predictable cost and set period of time.

### REAL ESTATE v PUBLIC PRIVATE PARTNERSHIP: KEY DIFFERENCES

#### 1. Parties Involved

##### REAL ESTATE TRANSACTION INVOLVING A PUBLIC ENTITY:

- **Usually involves private individuals, companies, or investors**  
Often selected by a solicitation or auction process (particular process will be dictated by the public entity's property disposition statutes).
- **Government's role is usually restricted to:**
  - Seller or Lessor of Property
  - Grantor of economic development incentives (in some cases)

##### P3 AGREEMENT INVOLVES A PARTNERSHIP BETWEEN:

- **A public entity such as a government or municipal authority) and one or more private sector entities**
  - Developer/Equity partner
  - Construction/Design team
  - Operations and Maintenance vendor

#### 2. Purpose and Scope

##### REAL ESTATE TRANSACTION

- **Often focuses on the acquisition, disposition, or leasing of property for private commercial or residential use.**

##### P3 AGREEMENT

- **Typically seeks to develop public infrastructure, such as roads, hospitals, schools, or mixed-use developments, where the public and private sectors share resources, allocate risks, and rewards to deliver a public benefit.**

### 3. Financial Structure

#### REAL ESTATE TRANSACTION:

- Generally, a sale or lease transaction of government-owned property. **One-time transaction primarily financed by the private parties through loans, equity, and government incentives (including sometimes contribution of land).**

#### P3 AGREEMENT:

- A long-term (typically multi-decade) financing arrangement in which the public owner may provide land, subsidies, or other support, while the private sector usually raises capital investment, provides technical expertise, and brings operational efficiencies. The Federal government may provide additional financial support in the form of grants, loans, loan guarantees, or tax credits.

### 4. Risk and Return

#### REAL ESTATE TRANSACTION:

- Risk and return are typically borne by the private parties involved in the transaction.

#### P3 AGREEMENT:

- Risks and returns are shared between the public and private partners. The public sector's aim is generally more focused on public benefit, while the private sector seeks an appropriate risk-adjusted return on its investment.

### 5. Duration

#### REAL ESTATE TRANSACTION:

- Usually a one-time transaction with a defined closing period upon consummation of land sale or lease.

#### P3 AGREEMENT:

- Generally, long-term arrangements spanning decades, encompassing the design, construction, finance, operation, and maintenance of the asset. The public agency always retains ownership and ultimate control of the asset. It is never "sold" or "privatized."

### 6. Regulatory and Legal Framework

#### REAL ESTATE TRANSACTION:

- Governed by real estate laws, zoning regulations, and contractual law.

#### P3 AGREEMENT:

- Typically, but not always, requires state law to enable use of the P3 approach. Involves similar contractual provisions as real estate transactions, as well as public procurement and transparency laws and long-term contract management.

### 7. Project Management and Operation

#### REAL ESTATE TRANSACTION:

- Management and operation are usually handled by the owners or designated property managers.

#### P3 AGREEMENT:

- Managed on a performance basis by a concessionaire, with specific contractual provisions governing asset condition and availability throughout the entire length of the concession and at the time of return of the asset to the government.