

## Building a successful P3 program as a means to deliver infrastructure

The best advice to procuring agencies is to avail yourself of quality advisors - those who have worked on P3 projects and have the experience and knowledge to effectively guide you in the process. Engage specialized technical, legal and financial advisors early on and throughout the entire P3 process to supplement the in-house expertise. Advisors should have relevant experience in the delivery of comparable projects and contractual structure to maximize the method's utility and cost-effectiveness.

These up-front costs may seem daunting, however when compared to the life cycle savings and the overall value you will receive during the procurement process and asset delivery, the value is immeasurable.

### KEY POINTS

#### **When developing a program or setting up a P3 office, it makes sense to build a pool of advisors.**

The benefit of this pre-planning is the ability to ensure you have vetted out the various organizations and understand the skill sets each advisor brings to your team. This is especially useful when looking at procuring various infrastructure types.

#### **Always follow your state and local laws.**

Typically while you need specialized P3 legislation in place to procure through the model, the procurement rules follow your state and local guideline.

#### **Include DBE Goals for your RFQ.**

Achieving and incorporating diversity goals into all aspects of procurement is not only a best practice, in most cases it is a requirement.

### BEST PRACTICE

**Prior to beginning a procurement, enlist quality advisors to mitigate and navigate the P3 procurement process.**

## BUSINESS MANAGEMENT / TECHNICAL SERVICES

**Business Management / Technical Services are focused on the program and project support that the government will require to successfully meet its' goals. Service providers will support the project in accordance with the public entities' procurement guidelines and rules.**

### Core Functions:

- Provide program management, project management, administrative business support services, all staff and activities as required in the provision of these services, in meeting the needs of the P3 program;
- Aid in researching, developing, and drafting requests for information, requests for qualifications and request for proposals, as well as other associated procurement documents, as needed;
- Assist in the development of negotiation strategy, development of commercial documents, draft agreements, associated project exhibits, providing information related to business feasibility and supporting the business case with the Owner Agency, other government offices and other advisory service providers;
- Develop professional analytical research-based reports and information for staff, as well as other government officials, on current projects, policy issues, innovative ideas, concepts and industry best practices, both nationally and internationally, that will improve the overall value-for-money of any project;
- Facilitate proactive and interactive public engagement activities related to the development and implementation of the P3 program and specific projects, expertise with public engagement / public relations to include public meetings is critical;
- Provide document control support and information technology support services including, but not limited to, web-based and paper data room management; and
- Provide long-term project monitoring services, as needed by the Owner Agency and/or on behalf of the agency, to assist in the enforcement of the P3 agreement.

## FINANCIAL ADVISORY SERVICES

**Financial Advisory Services are focused on the financial assessment, evaluation of P3 programs/projects, project finance structuring and leading projects to financial close. Service providers will support the project in accordance with the public entities' procurement guidelines and rules.**

### Core Functions:

- Research, develop and draft detailed valuations, monetization and financial analyses, innovative alternative financial regimes, business case development, value for money analysis, options analysis and other financial activities in support of the development of P3 projects and program proposals;
- Aid in researching, developing, and drafting requests for information, requests for qualifications and request for proposals, as well as other associated procurement documents, as needed;
- Provide expert advice and guidance on financial and policy decisions related to the P3 program and projects, including development of financial data related to high-level and detail-level screenings of conceptual and candidate P3 projects;
- Develop reports and inform the agency of unique and innovative financial ideas, concepts and industry best practices, both nationally and internationally to promote the development of multi-modal projects and other innovative P3 projects;
- Provide support for the development, negotiation and execution of agreements and/or contracts;
- Evaluation of impacts, costs and benefits related to revenues and cost, review and analyze requirements for insurance policies, project revenue projections, life cycle cost, revenue sharing, refinancing alternatives, demand estimates, risk assessment and all other financial analysis appropriate and required for the development of P3 projects; and
- Provide program management, project management, administrative support and all other activities as required in meeting the needs of the P3 program regarding this category of services.

## LEGAL ADVISORY SERVICES

**Legal Advisory Services from attorneys and firms with considerable sector-specific expertise and experience in P3s. Service providers will support the project in accordance with the public entities' procurement guidelines and rules.**

**Legal Advisory Services shall include, but not be limited to the following:**

### **Core Functions:**

- Review and update of agency documents as needed, including Rules and Guidelines;
- Work with the Owner Agency and other advisors to structure the P3 procurement documents and to advise on the procurement approach to limit legal risk to the agency and maximize value-for-money;
- Advise on contractual issues on project agreements, project terms and conditions, leases, risk transfer, revenue sharing and tax implications associated;
- Develop contract terms and conditions based on the specific need of the agency
- Provide guidance regarding the approach in negotiations with bidders and possibly undertaking some aspects of the negotiations as needed;
- Draft all legal aspects of the final P3 agreements with the agency
- Additional and more general advice on taxation, property, planning, environmental law especially federal requirements), banking, competition law, intellectual property and ethics.