

# Public-Private Partnerships

## Reference Links

- State P3 Legislation, FHWA(Direct to: [http://www.fhwa.dot.gov/ipd/p3/state\\_legislation/index.htm](http://www.fhwa.dot.gov/ipd/p3/state_legislation/index.htm))
- P3 Agreements, FHWA(Direct to: <http://www.fhwa.dot.gov/ipd/p3/agreements/index.htm>)
- Guidebook on Implementing P3 for Transportation Projects, FHWA(Direct to: [http://www.fhwa.dot.gov/ipd/pdfs/ppp\\_user\\_guidebook\\_final\\_7-7-07.pdf](http://www.fhwa.dot.gov/ipd/pdfs/ppp_user_guidebook_final_7-7-07.pdf))
- P3 for Transportation: A Toolkit for Legislators, NCSL(Direct to: <http://www.ncsl.org/issues-research/transport/public-private-partnerships-for-transportation.aspx>)
- Center for Excellence in Public Finance, AASHTO(Direct to: <http://www.transportation-finance.org/>)
- Public Sector Decision Making for Public-Private Partnerships, NCHRP(Direct to: [http://onlinepubs.trb.org/onlinepubs/nchrp/nchrp\\_syn\\_391.pdf](http://onlinepubs.trb.org/onlinepubs/nchrp/nchrp_syn_391.pdf))
- Governance and Finance: Review of State Legislatures and DOTs, AASHTO and NCSL(Direct to: <http://www.ncsl.org/issues-research/transport/transportation-governance-and-finance.aspx>)
- Public-Private Transportation Act, VDOT(Direct to: <http://www.virginiadot.org/business/ppta-default.asp>)
- Public-Private Partnership Guidelines, Louisiana Transportation Authority(Direct to: <http://www.dotd.la.gov/administration/ta/documents/Public-Private%20Partnership%20Guidelines.pdf>)
- The Effect of Public-Private Partnerships and Non-Traditional Procurement Processes on Highway Planning, Environmental Review, and Collaborative Decision Making, SHRP 2 Report(Direct to: <http://www.trb.org/Main/Blurbs/168535.aspx>)
- Public-Private Partnership Enabling Legislation, AASHTO(Direct to: [http://www.transportation-finance.org/funding\\_financing/legislation\\_regulations/state\\_local\\_legislation/ppp\\_enabling\\_legislation.aspx](http://www.transportation-finance.org/funding_financing/legislation_regulations/state_local_legislation/ppp_enabling_legislation.aspx))

## Overview

### Did you know?

P3s are contractual agreements that allow private-sector participation in transportation projects. Several options exist for forming a P3, with varying roles and levels of responsibility.

Public-Private Partnership (P3) is a promising tool for developing or expanding transportation infrastructure. Currently, more than twenty states allow P3 in transportation planning, either through blanket policies or on a project-by-project basis. Lessons learned from pioneering projects indicate that early consideration of P3 increases the likelihood of success for both the public and private entities involved.

Three areas of information support this application:

1. Partnership Options. Deciding when to incorporate P3 into decision making requires understanding your options.
2. P3 and the Decision Guide. Each of the four planning phases provides opportunities to educate decision makers and stakeholders about P3s.
3. Innovative Financing. Financial resources made available by P3 may free up traditional funding to be applied to other projects.

## Partnership Options

### Pre-Development Agreement in Practice

The Mid-Currituck Bridge toll project is North Carolina's first P3. In 2009, the North Carolina Turnpike Authority and the Currituck Development Group signed a Pre-Development Agreement (PDA) to collaborate on feasibility studies, financial planning, engineering, and other project elements for the 7-mile two-lane toll bridge. The parties will later negotiate another agreement for the financing, construction, operation and maintenance of the bridge, pending the Record of Decision.

P3 options are becoming more attractive to transportation agencies as a way to bring innovation as well as financing into decision making. The goal is to involve the private entity early enough to shape project concepts, while maintaining a process that meets all requirements.

There are several options for P3 involvement before, during and after the NEPA process.

- Opportunities for private entities to get involved during the NEPA process may be through informal channels, such as meetings and forums, where public agencies and private partners explore ideas for innovation in project design, financing and delivery. This can initiate a relationship while waiting to make a final decision about committing to a more long-term partnership.
- Another option is for a private entity to offer an unsolicited proposal for a new project or a more cost-effective way of financing a project that the public agency is already considering. Unsolicited proposals introduce projects which otherwise may not be feasible due to political or financial constraints.
- With a more formal Pre-Development Agreement (PDA), the private sector partner may provide expertise on the project design for a reduced or deferred fee in exchange for right of first refusal during the project procurement phase. The PDA is one way of minimizing private partner risks associated with involvement before a project has secured final approvals.
- It is most common for partnerships to be formed after the Record of Decision. However, this also limits the ability to incorporate input from the private partner without revisiting environmental review decisions.

For more about making the decision to form a P3, see *The Effect of Public-Private Partnerships and Non-Traditional Procurement Processes on Highway Planning, Environmental Review, and Collaborative Decision Making*.

## P3 and the Decision Guide

The Transportation Decision Guide is a framework of key decisions required by law or regulation or which have become part of successful practice. These decisions require action by those empowered to make the final decisions about plan adoption, funding priorities or project implementation. Each key decision folder contains information about roles and responsibilities as well as the activities necessary to support decision making.

Explore the graphic below to learn about this relationship:

- Hover over any key decision to see summary information.
- Hover over the highlighted key decisions to understand the specific P3 relationship to the decision.
- Click on any highlighted key decision for detailed information concerning P3 influence on this decision. You will find useful information to support P3 integration into transportation planning in the Special Topics, Technical Support and Decision Making Questions tabs.

### How does the analysis of P3 inform

#### Long Range Transportation Planning

- **LRP-1 - Approve Scope of LRTP Process**  
Consider whether P3 and supportive revenue generation strategies (such as tolling) are a potential revenue source for the LRP. Identify potential internal or external financial or P3 experts to support exploration of P3 issues. If the area demonstrates no interest or ability to support P3 at this point, you may wish to reconsider during environmental review.
- **LRP-2 - Approve Vision and Goals**  
Establish plan goal(s) related to the use of innovative sources of financing and revenue as well as innovative procurement models.
- **LRP-3 - Approve Evaluation Criteria, Methods and Measures**  
Define evaluation criteria related to revenue generation, access to alternative funding, and technical innovation; the specific measures that will be assessed; and analytical methods to apply in scenario analysis.
- **LRP-4 - Approve Transportation Deficiencies**  
This key decision is not associated with application.
- **LRP-5 - Approve Financial Assumptions**  
Reach consensus on the ability to include innovative financing options in fiscal constraint.
- **LRP-6 - Approve Strategies**  
Incorporate strategies related to tolling, the use of alternative revenue and financing sources, and P3 consideration.
- **LRP-7 - Approve Plan Scenarios**  
Incorporate P3 projects/strategies into scenarios, including the impacts of P3 procurement on financing, revenue, and project timing.
- **LRP-8 - Adopt Preferred Plan Scenario**  
Consider the role of P3 financing and associated revenue generation strategies in achieving the plan goals and inform the selection of a preferred scenario.
- **LRP-9 - Make Conformity Determination by MPO**  
This key decision is not associated with application.
- **LRP-10 - Adopt LRTP by MPO**  
This key decision is not associated with application.
- **LRP-11 - Make Conformity Determination**  
This key decision is not associated with application.

#### Programming

- **PRO-1 - Approve Revenue Sources**  
Identify new financial developments and funding sources, including the use of P3 financing.
- **PRO-2 - Approve Methodology for Identifying Project Costs and Criteria for Allocating Revenue**  
Ensure that the methodology for allocating revenue and identifying costs is inclusive enough to cover P3.
- **PRO-3 - Approve Project List Drawn from Adopted Plan Scenario or Solution Set**  
This key decision is not associated with application.

- PRO-4 - Approve Project Prioritization  
Identify how P3 financing may impact the full list of projects for prioritization in the TIP and STIP.
- PRO-5 - Reach Consensus on Draft TIP  
This key decision is not associated with application.
- PRO-6 - Adopt TIP by MPO  
This key decision is not associated with application.
- PRO-7 - Approve TIP by Governor and Incorporate into Draft STIP  
This key decision is not associated with application.
- PRO-8 - Reach Consensus on Draft STIP  
This key decision is not associated with application.
- PRO-9 - Approve STIP with respect to Fiscal Constraint  
This key decision is not associated with application.

## Corridor Planning

- COR-1 - Approve Scope of Corridor Planning Process  
Decide whether P3 may be considered as a potential project delivery mechanism. Identify resource and information needs and engage relevant partners and stakeholders.
- COR-2 - Approve Problem Statements and Opportunities  
Identify challenges and opportunities for P3 development related to the scope, design and location of the corridor. Consider the financing and revenue potential of the corridor if developed through P3.  
**PDA** - Discuss with public partners the potential for P3 financing as well as the pros and cons of have a pre-development agreement (PDA) with the private sector stakeholder.
- COR-3 - Approve Goals for the Corridor  
Establish corridor goals related to the use of innovative sources of financing, revenue and procurement.
- COR-4 - Reach Consensus on Scope of Environmental Review and Analysis  
Identify concerns and issues associated with P3 and innovative financing strategies to determine the impact on scope of environmental review.  
**PDA** - Reach consensus on private sector stakeholder level of involvement during environmental review.
- COR-5 - Approve Evaluation Criteria, Methods and Measures  
Identify evaluation criteria, performance measures, and analytical methods related to the use of innovative sources of financing, revenue and procurement that can be used to assess the feasibility of developing the corridor through a P3.
- COR-6 - Approve Range of Solution Sets  
Evaluate and compare the costs of each proposed solution set depending on the use of P3 options to deliver one or more projects within the corridor. The use of P3 could influence the number of projects to be built in a corridor and the timing of the delivery of those facilities.
- COR-7 - Adopt Preferred Solution Set  
Involve private sector stakeholders in identifying those specific solutions that best suit P3 development and determine the priorities for implementation.
- COR-8 - Approve Evaluation Criteria, Methods and Measures for Prioritization of Projects  
This key decision is not associated with application.
- COR-9 - Adopt Priorities for Implementation  
Consider impact to overall prioritization of projects based on P3 participation or not.  
**PDA** - Discuss with private sector stakeholders any mitigation actions required to avoid potential negative impacts, as applicable.

## Environmental Review/NEPA Merged with Permitting

- ENV-1 - Reach Consensus on Scope of Environmental Review  
Reach agreement that the project has the potential to include P3 or innovative finance (i.e. tolling). Identify P3-related data, resources, and stakeholders to include in the ENV process.  
**PDA** - Consider the pros and cons of a pre-development agreement (PDA) if one has not been established previously.
- ENV-2 - Approve Notice of Intent  
Validate that the brief description of the action and possible alternatives included in the NOI are broad enough to include a potential P3.
- ENV-3 - Approve Purpose and Need/Reach Consensus on Project Purpose  
Use information from planning or other previous studies about financial feasibility and/or tolling in the development of the purpose and need.
- ENV-4 - Reach Consensus on Study Area  
Consider input from private sector stakeholders when defining the study area to facilitate flexibility in the subsequent design of the project.
- ENV-5 - Approve Evaluation Criteria, Methods and Measures  
Identify evaluation criteria related to project operations, financing, revenue generation and project delivery, as well as criteria and methods related to potential impacts and benefits of a P3.
- ENV-6 - Approve Full Range of Alternatives  
Identify alternatives that will support the use of innovative sources of financing, revenue and innovative procurement models consistent with the adopted purpose and need.
- ENV-7 - Approve Alternatives to be Carried Forward  
Consider if there are P3 supported alternatives that are fatally flawed and must be eliminated. Validate or revise previous funding /prioritization assumptions as required.
- ENV-8 - Approve Draft EIS with Conceptual Mitigation  
Compare all the impacts of alternatives developed through P3 with respect to financing, revenue, and technical analysis.
- ENV-9 - Approve Resource Agency Public Notice  
This key decision is not associated with application.
- ENV-10 - Approve Preferred Alternative / LEDPA  
Ensure the preferred alternative is consistent with P3 assumptions incorporated in the long range plan and purpose and need.

- ENV-11 - Approve Final Jurisdictional Determination  
This key decision is not associated with application.
- ENV-12 - Reach Consensus on Avoidance and Minimization for the LEDPA  
Reach agreement on any mitigation actions required to avoid potential negative impacts. Consider implications of the private sector stakeholder role in the permitting process including providing support for approval of the permit.
- ENV-13 - Approve Final EIS  
This key decision is not associated with application.
- ENV-14 - Approve the Record of Decision  
This key decision is not associated with application.
- ENV-15 - Render Permit Decision and Approve Avoidance and Minimization  
Consider implications of the private sector stakeholder role related to any advance mitigation.

## Innovative Financing

### Resources

- Project Finance, FHWA
- Transportation Funding and Financing, AASHTO
- Innovative Finance Primer, FHWA

Traditionally, agencies have used public funding and bonds for transportation projects. With P3s there are more financing options available. In addition to private banks and bonds that the private sector has access to, there are a range of finance tools for P3 projects - including innovative programs offered by USDOT. Private sector partners can bring expertise in arranging complex project financing packages, and help assume financial risk.

- Toll Funding

Due to changes in federal legislation in the last few decades, toll roads (which collect user fees) are again a possible financing tool for highway construction. Toll revenues may be used to repay project financing, or pay the private sector partner for operating and/or maintaining the facility.

[http://www.transportation-finance.org/funding\\_financing/funding/state\\_funding/tolls.aspx](http://www.transportation-finance.org/funding_financing/funding/state_funding/tolls.aspx)

The improvements for the I-595 Corridor Roadway in Florida include the addition of toll lanes. Toll revenues will be used to repay financing for the \$1,833.6 million project.

- Transportation Infrastructure Finance and Innovation Act (TIFIA)

USDOT provides direct loans, loan guarantees and contingent lines of credit for large-scale projects of regional or national significance, for up to 33 percent of the total project cost. TIFIA offers lower, fixed-rate financing, matching each dollar of traditional federal-aid funding with up to \$10 in additional assistance.

<http://www.fhwa.dot.gov/ipd/tifia/index.htm>

The North Tarrant Express in Texas received a \$650 million TIFIA loan for the \$2,047 million project.

- Private Activity Bonds (PAB)

USDOT issues tax-exempt bonds for highway construction. The funds are allocated by the Secretary of Transportation, who is authorized to issue up to \$15 billion in bonds for eligible transportation projects.

[http://www.fhwa.dot.gov/ipd/finance/tools\\_programs/federal\\_debt\\_financing/private\\_activity\\_bonds/index.htm](http://www.fhwa.dot.gov/ipd/finance/tools_programs/federal_debt_financing/private_activity_bonds/index.htm)

The I-495 Capital Beltway HOT Lanes project in Northern Virginia received \$589 million in Private Activity Bonds for the \$1.938 billion project.

- State Infrastructure Banks (SIB)

States can create a SIB, a revolving loan fund comprised of federal-aid transportation funds and/or state funds that provide grants or loans for transportation projects. Loan repayments replenish SIB funds, which are then available for new projects.

[http://www.fhwa.dot.gov/ipd/finance/tools\\_programs/federal\\_credit\\_assistance/sibs/index.htm](http://www.fhwa.dot.gov/ipd/finance/tools_programs/federal_credit_assistance/sibs/index.htm)

The Cooper River Bridge Replacement received a \$325 million grant and \$215 million loan from the South Carolina Transportation Infrastructure Bank for the \$675.2 million project.

- Section 129 Loans

Section 129 loans provide assistance to toll and non-toll transportation project. Loans repayments are then used to fund other eligible projects, though the requirements differ from SIB loans.

[http://www.fhwa.dot.gov/ipd/finance/tools\\_programs/federal\\_credit\\_assistance/section\\_129/](http://www.fhwa.dot.gov/ipd/finance/tools_programs/federal_credit_assistance/section_129/)

The President George Bush Turnpike in Texas received a \$135 million Section 129 Loan for the \$530.5 million project.

- Grant Anticipation Revenue Vehicles (GARVEEs)

Financing instruments (bond, note, mortgage, lease, etc.) are issued to provide project financing that will be repaid with future federal-aid transportation funding. This mechanism is used for very large projects with costs that exceed available financial resources, and requires approval from USDOT and FHWA.

[http://www.fhwa.dot.gov/ipd/finance/tools\\_programs/federal\\_debt\\_financing/garvees/index.htm](http://www.fhwa.dot.gov/ipd/finance/tools_programs/federal_debt_financing/garvees/index.htm)

The Intercounty Connector (ICC) in Maryland received \$750 million from GARVEE bonds for the \$2,566 million project.