

Public Private Partnerships (P3s) in Transportation: Can it Work in Minnesota?

Governments' around the globe are looking at P3s to design, build, finance and operate large-scale infrastructure projects in a way that speeds up project timelines, reduces costs, and shares risks with the private sector. As Jay Lindgren of Dorsey Whitney points out, P3s are ultimately complex contractual agreements between a public agency and private entity where skills and assets are shared, as well as risk and reward.

Marilee Utter, of Citiventure, described Denver's Eagle P3 which is being used to expedite the construction of two commuter rail projects and will require the concessionaire to build and design the rail lines as well as purchase vehicles, build a maintenance facility, install electrical systems and park and ride facilities, and operate and maintain the system over the 46-year contract period. In the contract, Denver's Regional Transit District (RTD) has established performance-based standards, built in indexed cost increases, and provided the contractor with opportunities to negotiate material changes every ten years. The successful bidder will be paid \$10 million/month with incentives and penalties based on product delivery.

Why do it? According to Ms. Utter, RTD will be able to advance the project's start from ten years to two and-a-half, they will get commuter rail expertise and guaranteed 15-minute headways, and they will be able to lock-in a fixed price contract for 46 years, while still controlling service and fare prices. The concessionaires are interested because they will be getting a 12 percent return on investment and have the opportunity to reap additional profit if the project is delivered successfully. Because their payment is for a fixed-fee, the bidders have limited exposure and risk related to ridership numbers and transit revenue generation.

The panel's final speaker, Richard Fyfe, Assistant Deputy Attorney General for British Columbia's Ministry of Transportation and Infrastructure, argued that the real benefit to P3s is the "extended warranty" that governments receive when a private company is accountable for design and maintenance. BC's P3 process includes extensive up-front negotiations, where the provincial government pays an honorarium to all proposers in exchange for ownership of "intellectual property." In this way the project can benefit from all of the good ideas discussed and not just those in the winning proposal. Fyfe added that the long hours in up-front negotiation, lead to quicker project closing at the end.

What will it take to do P3s in Minnesota? As Lindgren summed up, there is currently limited express statutory authority in Minnesota. The most effective solution is for the State Legislature to adopt a comprehensive Minnesota P3 Act. As states look to expedite and bring more private sector capital and expertise to projects, the P3 model is likely to gain popularity. P3 won't be the best fit for every project, but it should be one more "tool in the toolbox."