



THE NATIONAL COUNCIL FOR
**PUBLIC-PRIVATE
PARTNERSHIPS**

1023 15th St., N.W.
Suite 200
Washington, DC 20005
(202) 962-0555
www.ncppp.org
www.facebook.com/thencppp
Twitter: @TheNCPPP

1



THE NATIONAL COUNCIL FOR
**PUBLIC-PRIVATE
PARTNERSHIPS**

P3s for Public Buildings

January 22, 2015

**Presented by
Elizabeth Cousins,
Nossaman LLP**

2

Introduction

- About NCPPP and NCPPP Core Values
- What is a P3?
- History of P3s in the U.S.
- Roles of the Parties in a P3 structure
- Why P3s for Public Buildings?
- Issues Impacting Public Building P3s
- NCPPP Events
- Questions?



3

About NCPPP

- Established in 1985
- Headquartered in Washington, DC
- Non-profit membership organization dedicated to educating on public-private partnerships
- More than 250 member organizations
- Focused on all types of P3s, including innovative and emerging partnerships



4

NCPPP Core Values

- NCPPT is the leading organization providing education on public-private partnerships
- NCPPT is the unbiased and neutral resource for advancing excellence in public-private partnerships
- NCPPT is the organization that unites professionals and organizations engaged in public-private partnerships (P3s)



5

What is a P3?

- Public and private sectors work together to achieve an outcome
- Typical P3 includes:
 - Long-term contract between public and private sectors
 - Private finance
 - Bundling of design, construction, maintenance and sometimes other services
 - Handback of asset at the end of the term
- P3 Variations:
 - Build, Own, Operate, Transfer P3 (“BOOT”)
 - Primary revenue stream from a charge paid by users (eg a toll road)
 - Availability Payment P3 (“Availability PPP”)
 - Primary revenue stream paid by way of a service payment by government throughout the operating term
 - Hybrid?
 - Combination of private finance with contribution by government
 - Cap and collar or revenue risk sharing options
 - Design, build, finance



6

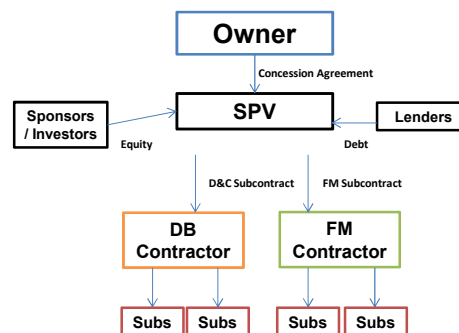
History of U.S. P3s

- P3s have been used with considerable success in the U.S. for transportation projects
- P3 delivery of buildings in the U.S. has been limited – examples:
 - Long Beach (CA) Courthouse
 - Current procurements:
 - University of California, Merced 2020 Project
 - City of Indianapolis Consolidated Justice Facility Project
 - Pipeline?
 - Miami-Dade Water and Sewer Department's water treatment plant expansion
 - The Multnomah County Courthouse in Oregon
 - Prince George County's Storm Water project in Maryland
- Compare internationally where P3s have included health, education, housing, civic facilities, justice and transport infrastructure
- No equivalent of TIFIA and PABs for public buildings



Roles of the Parties in P3 structure

- Owner procures project
- Consortia formed to bid for Project
- Equity investors establish SPV
- SPV responsible for design, build, (operation) and maintenance over term
- Owner pays a service payment or gives SPV right to collect charges



Why P3s for Public Buildings?

Advantages	Disadvantages
Value for money outcomes?	Lack of flexibility/future decision-making
Cost, time and budgetary certainty (including advanced FM planning)	Failed P3s
Increased project scoping by government	Higher cost of financing compared with government borrowing
Increased oversight by financiers	Not suitable for every project
Project scoping and risk assessment	Lack of authorizing legislation
Innovation	
Interface management	
Superior risk management and transfer	
Delivery of government priorities	

Issues Impacting Building P3s

1. Authorizing legislation
2. Adapting the risk allocation from transport P3s for Building P3s
3. Leveraging appropriate user pays funding sources for buildings
4. Increasing education for philosophical change
5. Concerns regarding performance of long-term services by the private sector
6. Need for specialized skill sets within the industry (e.g., drafting of performance based specifications, FM expertise)

Issue 1 – Authorizing Legislation

- From legal perspective, starting point is determining whether there is sufficient authority to use P3 delivery model
- Public building P3 projects involve significant investment of time and money
- Insufficient authority may:
 - Prohibit undertaking of a project that would otherwise be feasible using P3 model
 - Make procurement of a project vulnerable to risk of successful protest or challenge
 - Adversely affect implementation of project
- Several states have specific P3 authorizing legislation for buildings:
 - North Carolina
 - Florida
 - Indiana
 - New Jersey
 - Texas
 - Virginia
- Varying degrees of scope and flexibility
- Other states have legislation not specifically designed for P3s but that may potentially provide authority for same

Issue 2 – Adapting the Risk Allocation from Transport P3s

- Dealing with a constrained site (i.e., not linear as per many roads)
- Impact of interface with Owner operations
- Interface between DB and FM Contractors
- Payment mechanism issues/considerations
- Outsourcing of core government services – further complexity
- Design review/stakeholder management and involvement
- Architectural /urban design
- Whole of life considerations
- Technology impacts – ability for change/future decision-making

Issue 3 – Leveraging User Pays Funding Sources for buildings?

- Not always an obvious funding source for buildings (e.g., as per tolls)
- Existing operating budgets, increase in taxes or other funding?

Issue 4 – Increasing Education for Philosophical Change

- Not a one-size-fits-all approach – business case assessments, vfm, etc.
- Champions for change
- Statutory environment
- Appropriate Owner structure for delivery (e.g., project management office)
- Consistency of procurement approach and framework
- Choosing the right partner - best value (vs. lowest price)



13

Issue 5 – Concerns Regarding Long-Term Services by Private Sector

- Concern that private sector is less accountable
- Perception of loss of public employee jobs
- Perception of higher cost of services

Issue 6 – Need for Specialized Skill Sets

- P3s for Public Building require skill sets not previously required on transport P3 deals
- Not a one-size-fits-all approach
- Champions for change
- Consistency of procurement approach and framework



14

NCPMP Events



February 12-13, 2015 • Washington, DC

- Spotighting how federal government implements policies that encourage greater use of PPPs
- PPP leaders from GSA, DOT, DOD, EPA, VA and Army Corps of Engineers have confirmed participation
- Keynote addresses from Lt. Gen. Thomas Bostick of Army Corps of Engineers, U.S. Rep. Mike Rogers, Co-Chair of the Congressional P3 Caucus, and U.S. Rep. John Delaney, sponsor of the Partnership to Build America Act



15

NCPMP Events



- July 20-22, 2015 in Boston
- “The National Conference for Public-Private Partnerships”
- NCPMP’s annual event that assembles public and private sector leaders to share best practices and forge connections
- One of the largest national events of its kind



16

NCPMP Events

- Federal Energy Workshop and Defense Energy Partnership Forum – Fall 2015
 - Special event highlighting new trends in energy PPPs
- P3s for Public Buildings Summit – Fall 2015
 - Joint event with the Performance Based Building Council
 - The nation’s only educational event dedicated to developing and implementing PPPs for buildings

Questions





THE NATIONAL COUNCIL FOR
**PUBLIC-PRIVATE
PARTNERSHIPS**

1023 15th St., N.W.
Suite 200
Washington, DC 20005
(202) 962-0555
www.ncppp.org
www.facebook.com/thencppp
Twitter: @TheNCPPP

Todd Herberghs, Executive Director
(202) 962-0555, ext. 422
therberghs@ncppp.org

Paul Kalomiris, Deputy Director
(202) 962-0555, ext. 440
pkalomiris@ncppp.org