

New Mexico

Transportation Infrastructure
Revenue Subcommittee

Public Private Partnerships

September 10, 2013

**CDM
Smith**

Presentation Outline

- What is a P3?
- Legal Considerations
- Technical Considerations
- Financial Considerations
- Owner's Perspective
- Questions from Committee



WHAT IS A P3?

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What is a Public-Private Partnership or P3?

- P3s are contractual agreements between a public agency and a private entity
- Allows for greater private participation in the delivery of projects
- More than traditional Design-Bid-Build
- Focus on private financing involvement

Traditional Projects or Design-Bid-Build

- Public sector takes All risks - except construction
- Emphasis on Public Financing
- Low Bid Selection
- Operations and Maintenance (O&M) is the responsibility of the Public Agency after construction

P3 Projects or Design-Build-Finance-Operate-Maintain

- Risks shared between public and private sector
- Emphasis on Private Financing
- Best Suited or Best Value Selection
- O&M carried out by Private Sector; Public Sector oversight
- P3 Agreement defines Performance Standards

What P3s Are Not

- New Source of Revenue
- Privatization of Public Infrastructure
- Fit for every project
- Silver Bullet to all state and local needs
- Guaranteed success
- Easy & cost-free implementation

Potential P3 Benefits

- Potential cost savings
- Accelerated project delivery
- Innovative technologies and processes
- Budget and cost certainty
- Risk transfer
- Predictable and high service quality

Potential P3 Benefits

- Utilizes multiple financing sources
- Conserves public sector debt capacity
- Life-cycle project perspective
- Customer focused
- Leverages each partner's strengths

P3 Challenges

- Public acceptance
- Requires enabling Legislation
- High cost of private capital
- Public sector knowledge gap
- Different approach to oversight and contract management

P3 Challenges

- Restrictions on implementing tolls
- Reliability of traffic and revenue
- Pricing risk and proper risk allocation
- Issues of long term P3 Agreements

P3 Requirements

- Legal and institutional framework
- Organizational capacity to deliver P3s
- P3 represent value to the public sector
- Sufficient market interest



LEGAL CONSIDERATIONS

Enabling Legislation

- Contracting authority
- Financing and funding
- Procurement process

Issues to Consider

- User fee setting authority
- Multi-year contracting
- Debt limitations
- Assignability
- Performance and payment security
- Sensitivity to public policy considerations
- Experience working with a multi-disciplinary team

Some Key Risk Allocation Issues

- Hazardous materials
- Existing facilities and assets
- Competing facilities



TECHNICAL CONSIDERATIONS

Project Screening

- Project Need
- Revenue Source(s)
- Political Support
- Project Benefits
- Value for Money Analysis

Performance Standards

- P3 are not business as usual
 - Performance based not prescriptive
- Objective is to define how the project is to function, not how its designed and built
 - Some elements will need to be dictated but minimize
- Clear and objective measures
- Flexibility to address future requirements

O&M Considerations

- Public sponsor defines how it wants the facility operated
 - Can include customer service
- Non-compliance regime
- Capital Maintenance/Replacement
- Handback condition

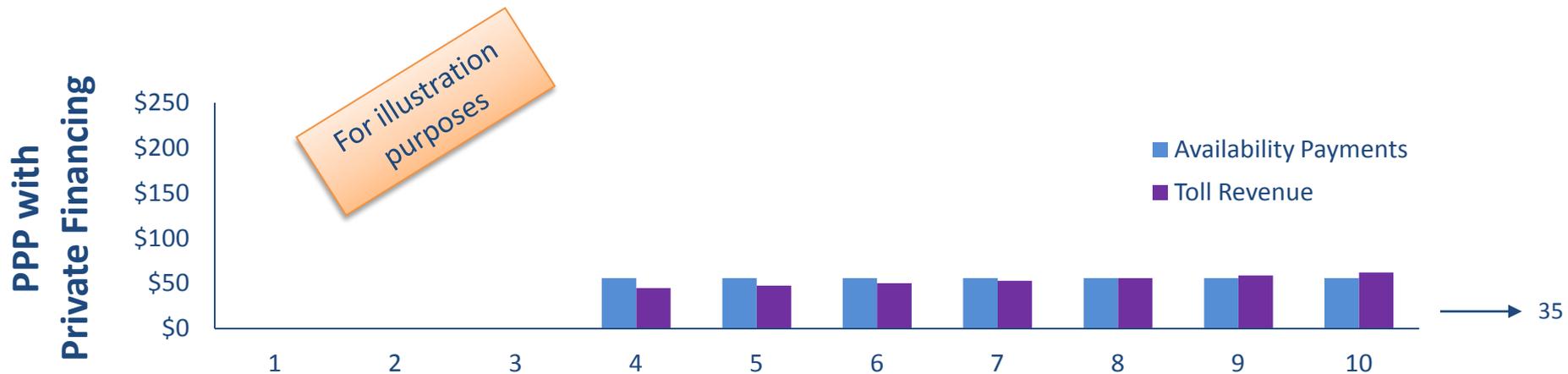
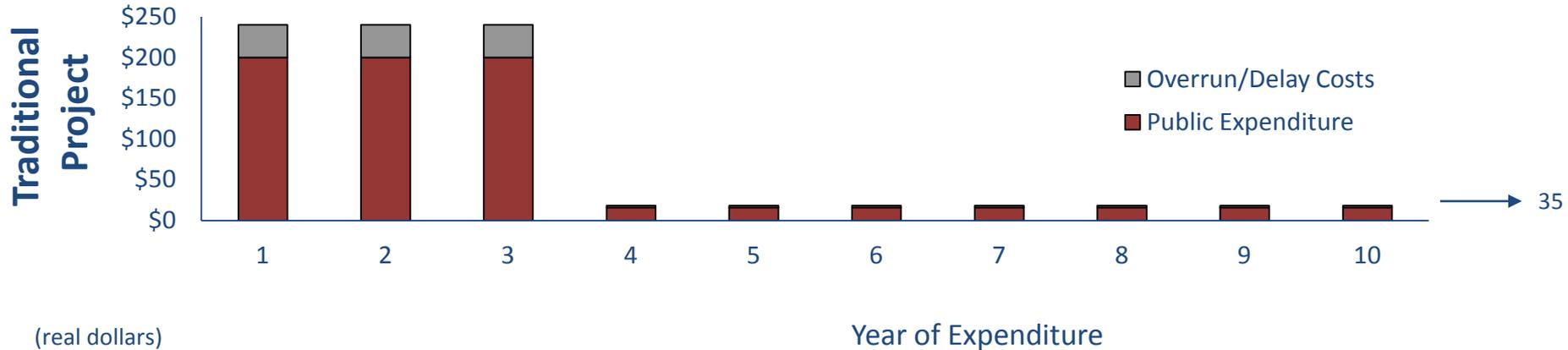
Other Technical Considerations

- Experience in preparing performance based technical provisions
- P3 experience
- Technical knowledge of facility
- Ability to identify project risks and develop mitigation/allocation strategies
- Financial market recognition



FINANCIAL CONSIDERATIONS

PPP from a Financial Perspective



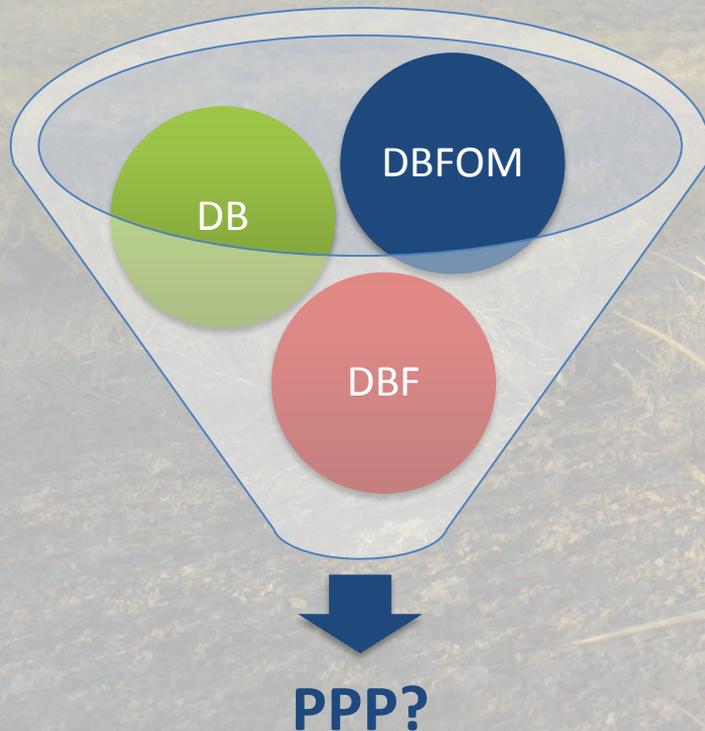
(Note: these are very general approximations and Traditional Project chart assumes major maintenance expenditures are smoothed)

Mini Case Study – I-595 PPP in Florida

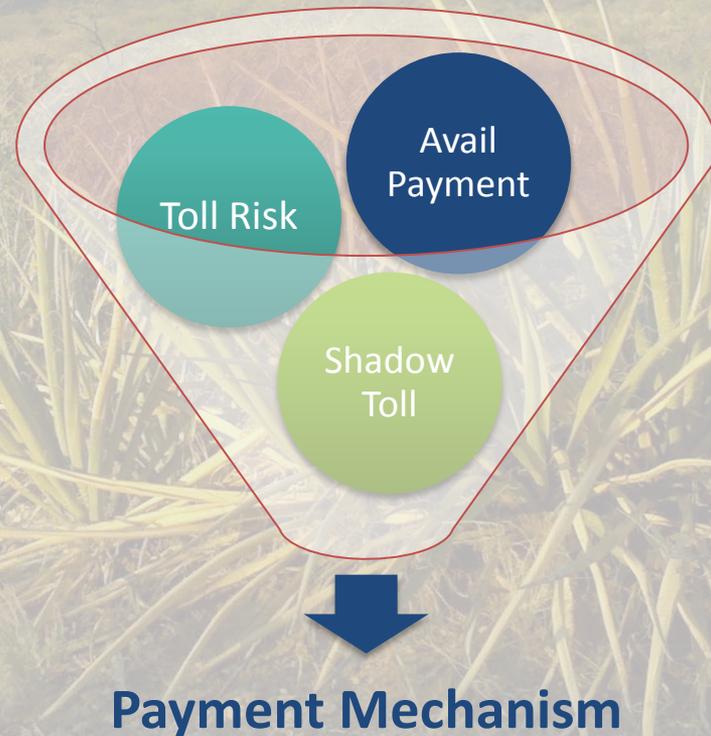
- **Florida’s objective: reduce congestion in corridor for all users**
- **Design-build-finance-operate-maintain (“DBFOM”) contract**
 - Largest construction contract in Florida history – \$1.2billion construction and 35 years of O&M
 - Successful financing despite economic crisis
 - On track to complete construction early, in summer 2014
- **First “availability payment”-based PPP in the U.S.**
 - No public money paid until the project is complete
 - Florida retains and sets tolls
 - Construction phasing reduced from 20 years to 5 years
- **Winning price ~\$275 million below Florida DOT estimates**

Threshold Procurement and Financing Decisions

“Alphabet Soup”

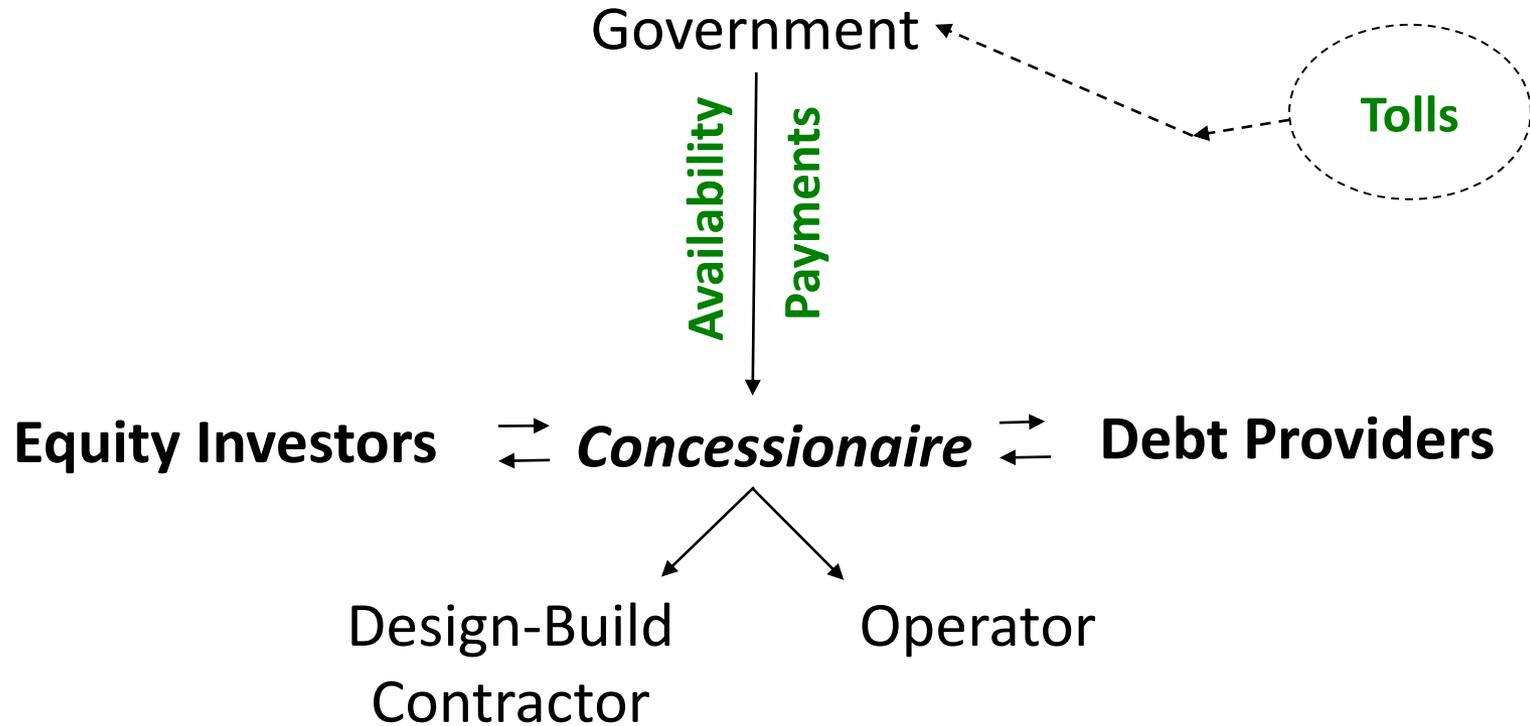


If a PPP, Then What Form?



Example Contract Arrangement

Design-Build-Finance-Operate-Maintain



In a well-designed PPP, the private partner should maximize profit by meeting the public goals

“Structuring” a Project as a P3

Project Team

Key Project
Characteristics
& Public Goals

PPP Business
Model

Financial &
Budgetary
Analyses

Contract
Development
& Procurement

Other Financial Considerations

- Independence and technical excellence
- Experience with PPPs and non-PPPs
- Understanding of US governmental entities
- Each project is unique
- Ability to work in multi-disciplinary team
- Market credibility – competition is key



OWNER'S PERSPECTIVE

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Avoiding Pitfalls

- Beware of the fog
- Assess risks: be aware & open minded
- Develop & align strategy with state leadership
- Keep stakeholders properly informed
- Do what you say: follow up and follow through

Impact of Changes in Political Landscape

- It is going to happen: plan on it
- Keep team communicating and focused on objectives
- Turn the impacts into opportunities
 - Institutional aspects
 - Procurement aspects

Owner's Perspective

- Alternative Delivery challenges the norms
- Maintain institutional integrity
- Cultivate leaders and decision makers
- Set the table for collaboration
- Let the P3 team deliver
- Leverage the power of P3



Questions from Subcommittee