



Public Private Partnerships

On July 13, 2009, Governor Jan Brewer signed into law HB 2396, which allows the Arizona Department of Transportation to use public-private partnerships as a tool to address Arizona's transportation requirements. This new law grants the Department broad authority to partner with the private sector to build or improve Arizona transportation facilities. The new authority gives ADOT additional methods to fund the construction and enhancement of roads, transit and other transportation facilities. Although often thought of simply as "toll roads", Public Private Partnerships (PPPs, or P3s) actually allow for many options to fund and construct new and enhanced facilities. With the passage of HB 2396, ADOT now has the legal authority to explore these options.

As ADOT considers how to best utilize the new law, the agency is using the following principles for implementation:

- Develop a program based on national Best Practices
- Develop a transparent process for the evaluation and implementation of P3 projects
- Integrate P3 projects into statewide transportation plans
- Use P3 projects to better leverage the State's limited resources
- Create P3 projects that are financially viable over the long-term
- Create P3 projects that will enhance mobility and improve safety

Arizona's new P3 law is one of the most comprehensive of any such laws in the nation, and gives the Department significant flexibility in developing P3 agreements that will serve the best interests of the state. This overview is meant only to highlight some of the more significant provisions of the law and program activities going forward.

Under the new law, public private partnerships include any project in which the private partner takes on risk and responsibility for transportation improvements that would have previously been borne solely by ADOT.

Public private partnerships include new contracting concepts, such as design-build, which allows a single proposer to both design and build a facility rather than the traditional approach of bidding out one contract for design, another for engineering, and another for construction. It also allows for the possibility that the private sector may design, build, maintain and operate a new facility, leaving ADOT in an oversight role only. In that scenario, the private proposer could be paid for its work with public funds, through tolls or fees from users, or some combination of the two. If tolls are to be part of a project, the toll setting process is required to be included in the project agreement.

The new law grants the Department the authority, after a competitive procurement process, to award a project based on best value to the State, or to reject all proposals. The best value can be based on price, financial proposal or other factors, though the Department is required to disclose its criteria as part of the project procurement. Public-private partnerships can be initiated either by the Department or through an unsolicited proposal. In the case of unsolicited proposals, if the Department feels the proposal has merit, then it is required to go through a competitive procurement process. ADOT has developed broad criteria for evaluating projects. These criteria will help to identify projects for which a P3 procurement is potentially warranted, assist both governmental and private entities wishing to pursue a P3 project in selecting projects to discuss with ADOT, and serve to protect Arizonans by ensuring that only viable projects are moved forward for further consideration and implementation.

The Department may approve the use of P3s by other public entities.

Personal information is confidential and kept protected under the new law. Improper use of such information is subject to a fine of \$10,000 per occurrence.

The new statute *does not* require ADOT to engage in new practices or to change the way it currently does business. Public-private partnership projects do not prohibit the Department from undertaking any improvement projects either currently identified or which may be identified in the future. The new law simply gives the ADOT the authority to explore new methods for the finance and construction of new or enhanced projects.

P3s make it possible to deliver much needed transportation projects in a timely manner, often years before the projects could be delivered using traditional project delivery methods. Because P3s are business ventures for the private sector, the private sector has become very efficient at delivering projects under this method. These efficiencies, combined with the private sector's resources, provide a more effective life-cycle cost and timely approach to delivering projects and provide a greater value for money for the public owner. In short, P3s will make it possible for Arizonans to get much needed transportation improvements faster than if conventional delivery methods are used, thus providing more travel options, reducing congestion, and improving roadway safety for Arizonans.

Resources

For additional information, please refer to the P3 Program component of the Arizona Department of Transportation website

http://www.azdot.gov/Highways/Projects/Public_Private_Partnerships/index.asp

or email P3Office@azdot.gov with any questions or input to enhance this new Arizona endeavor.