CONTRACTING & PUBLIC-PRIVATE PARTNERSHIPS (P3s)
A Guide for State & Local Government Officials & Administrators

Dr. Lawrence Martin & Dr. Joe Saviak
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Overview

Today, state and local government officials and administrators are confronted with unprecedented and continuing challenges. State and local governments are constrained by serious recurring budgetary difficulties in the form of stagnant or declining revenues and increasing costs. The shrinking government workforce negatively impacts your ability to deliver public services. Nationwide, much of our public infrastructure is deemed inadequate or obsolete. Yet, citizens still expect high quality public services and complain when the condition of public infrastructure does not meet their expectations.

What may appear to be a perfect storm of fiscal, managerial, and political challenges is also a once in a lifetime opportunity to fundamentally alter the way state and local governments deliver public services and public infrastructure. A historic window of opportunity for public sector leaders currently exists. There has never been a better time for state and local governments to rethink, reorganize, and reengineer public service delivery.

This guide is designed to inform state and local government officials and administrators about the tools of contracting and public-private partnerships (P3s). The guide provides advice for thinking about both the policy issues as well as the procurement and implementation issues involved with these tools. This guide is organized in a highly readable fashion and includes case study examples illustrating the current use of contracting and public-private partnerships (P3s).
This guide covers the following topics:

- Contracting and Public-Private Partnerships: The Basics
- The Financial Crisis Facing State & Local Governments - The Problem
- The Financial Crisis Facing State & Local Governments - A Partial Solution
- How To Start A Contracting Initiative
- How To Start A Public-Private Partnership (P3) Initiative
- Contracting and Public-Private Partnerships (P3s): Managing the Procurement Process
- Managing and Transferring Risk in Contracting and Public-Private Partnerships (P3s)
- Managing Contracts and Public-Private Partnerships (P3s)
- Managing the Politics and Successfully Communicating About Contracting and Public-Private Partnerships (P3s)
- HB 85 - New Statutory Authority for Local Governments in Florida to Engage in P3s

The citizens you serve hear about other states and communities increasing service quality while lowering service costs through contracting and public-private partnerships (P3s). They ask: **Why don’t we do the same thing here?** Whether you are a newly elected official or a veteran administrator, this is a must read guide. The strategies and real world proven approaches outlined in this guide are time tested and embraced by elected officials, public administrators, and citizens across all levels of government and political party affiliations.

Like any tool of public policy and administration, contracting and P3s must be wisely selected, effectively designed and implemented, and rigorously evaluated. Those who contend that contracting and P3s never work or always work are both incorrect. The evidentiary analysis must be done on a case by case basis. Best practices and lessons learned must be employed to achieve positive outcomes.

We trust that you will find this guide to be an invaluable resource. When properly designed, administered, and monitored, contracting and public-private partnerships (P3s) offer the opportunity to successfully provide quality public services and address critical infrastructure needs in ways that meet citizen expectations and deal effectively with ongoing budgetary realities.

**Dr. Lawrence Martin**
**Dr. Joe Saviak**

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Introduction

This guide is intended as an introduction for state and local government officials and administrators to the topics of contracting and public-private partnerships (P3s). The purpose of the guide is to assist state and local government officials and administrators in the selection, utilization, and evaluation of these important tools of public service and public infrastructure delivery. The guide is not intended as an exhaustive treatment of these subjects, but rather as an overview.

This guide was developed by Dr. Lawrence L. Martin, M.B.A., Ph.D., professor of public affairs at the University of Central Florida in Orlando and Dr. Joe Saviak, J.D., Ph.D. associate professor of public administration at Flagler College in Saint Augustine, Florida.
Chapter 2
Contracting & Public-Private Partnerships (P3s): The Basics

What is Contracting?

Contracting, also called “contracting out,” can be defined as the process of having services and activities provided by private contractors rather than by public employees.\(^1\) State and local governments contract with both private sector firms as well as nonprofit organizations. The emphasis here, however, is on contracting with private sector firms.

Estimates are that state and local governments annually expend between $1.1 and $1.5 trillion on contracting.\(^2\) Eighty percent (80%) of American cities use contracting to some extent.\(^3\)

Contracting can be described as “guarantor government.” Government guarantees that the service or activity will be provided to citizens, but non-governmental providers do the job.\(^4\)

State and local governments annually spend between $1.1 and $1.5 trillion dollars on contracting

Contracting is based on a buyer/seller relationship. A state or local government becomes the buyer and tells the private sector what it wants to purchase (the process is called procurement) and receives bids or proposals from interested private sector firms (the sellers).
State and local governments contract for a variety of services and activities.5

<table>
<thead>
<tr>
<th>Services &amp; Activities Most Frequently Contracted By State &amp; Local Governments</th>
</tr>
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<tbody>
<tr>
<td>• Building &amp; Grounds Maintenance</td>
</tr>
<tr>
<td>• Building Security</td>
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<tr>
<td>• Custodial Services</td>
</tr>
<tr>
<td>• Operation of Prisons &amp; Jails</td>
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<tr>
<td>• Fleet Management</td>
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<tr>
<td>• Landscaping</td>
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<tr>
<td>• Libraries &amp; Museums</td>
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<tr>
<td>• Parking Garages</td>
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<tr>
<td>• Parks &amp; Recreation</td>
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<tr>
<td>• Personnel &amp; Payroll</td>
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<tr>
<td>• Printing &amp; Graphic Design</td>
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<tr>
<td>• Zoo Operations &amp; Maintenance</td>
</tr>
<tr>
<td>• Planning, Building, &amp; Permitting</td>
</tr>
<tr>
<td>• Legal Services</td>
</tr>
<tr>
<td>• Computer Help Desk</td>
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<tr>
<td>• Food Services</td>
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<tr>
<td>• Ambulance Services</td>
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<tr>
<td>• Pest Control</td>
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<tr>
<td>• Solid Waste Collection</td>
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<tr>
<td>• Street Repair</td>
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<tr>
<td>• Parking Meter Maintenance</td>
</tr>
<tr>
<td>• Tree Trimming &amp; Planting</td>
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<tr>
<td>• Utility Billing &amp; Meter Reading</td>
</tr>
<tr>
<td>• Vehicle Towing &amp; Storage</td>
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<tr>
<td>• Information Technology</td>
</tr>
<tr>
<td>• Transit &amp; Paratransit</td>
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<tr>
<td>• Human Resources</td>
</tr>
<tr>
<td>• Risk Management</td>
</tr>
<tr>
<td>• Park Maintenance</td>
</tr>
<tr>
<td>• Accounting</td>
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<tr>
<td>• Operation of Animal Shelters</td>
</tr>
<tr>
<td>• Parking Meters</td>
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<tr>
<td>• Elevator Maintenance</td>
</tr>
<tr>
<td>• Substance Abuse &amp; Mental Health Counseling</td>
</tr>
<tr>
<td>• General Services</td>
</tr>
</tbody>
</table>

Over 90% of city officials support contracting. National League of Cities6
What are Public-Private Partnerships (P3s)?

National, state, and local governments have successfully employed public-private partnerships to deliver infrastructure and public facilities. Public-private partnerships, also called P3s, are different from contracting. P3s are not based solely on a buyer/seller relationship. Instead, P3s involve an alliance between government and the private sector with each partner sharing in both the risks and the rewards. It should be noted that P3s also involve the use of a contract. P3s can be thought of as a special type of contracting.

Public-Private Partnerships

A contractual relationship between a government and a private sector entity whereby, “the skills and assets of each sector are shared in delivering a service or facility for the use of the general public. In addition to the sharing of resources, each party shares in the risks and rewards potential in the delivery of the service and/or facility.”

In addition to being based on the creation of a true partnership between government and the private sector, public-private partnerships (P3s) have several additional features that further distinguish them from contracting. P3s can involve long contract time periods (5, 20, 50 years). Some P3s contracts can last as long as 99 years. With P3s, the private sector partner may provide a portion or all of the capital funding for the project and may assume significant risks from the government partner. For all of these reasons, P3s involve a higher degree of risk for both the government and the private sector partner than does contracting. Because of these features, P3s do not fit well into traditional government procurement and contracting policies and procedures.

A key feature for state and local governments in the utilization of P3s is the transfer of selected risk (project schedule risk, budget and operations risk, and other forms of risk) to the private sector partner.

How Public-Private Partnerships (P3s) Differ from Contracting

- Change in government/private sector roles and responsibilities.
- Longer contract time periods.
- Private sector partner may provide some or all of the funding for the project and may assume significant risks from the government partner.
- A potentially higher degree of risk for the partners.
- Contracting process does follow many traditional government procurement policies and procedures, but with a few important differences.
Most Common Uses of Public-Private Partnerships (P3s)

Other countries (e.g., Australia, Canada and especially the United Kingdom) have used P3s for a number of years and for a variety of purposes. State and local governments in the U.S. have only recently realized the potential benefits of P3s. State and local governments use P3s primarily for infrastructure.\(^\text{10}\)

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**Most Common Public-Private Partnerships (P3s)**

- Airports
- Bridges
- Highways
- Hospitals
- Parking Facilities
- Prisons
- Rail Systems
- Roads
- Tunnels
- Water/Wastewater
Types of Public-Private Partnerships (P3s)

P3s can and do differ from sector-to-sector (transportation, water/wastewater, etc.) and from state-to-state depending upon enabling legislation or its absence. Nevertheless, there are some general categories of P3s that can be identified. P3s run the gamut from the relatively straightforward operations and maintenance (O&M) to design-build (DB) partnerships to the more complex design-build-operate (DBO), design-build-operate-transfer (DBOT), build-own-transfer-operate (BOTO), build-lease-transfer-maintain (BLTM), lease-renovate-transfer-maintain (LRTM) to the most complex design-build-finance-operate-maintain (DBFOM).

The U. S. Department of Transportation considers single contracts for operations and maintenance (O&M) as well as single contracts for design-build (DB) to constitute P3s. P3s also include lease arrangements such as build-lease-transfer-maintain (BLTM).

The most common type of P3 is design-build (DB). Design-build is popular because it allows state and local governments to contract with one private sector firm for both the design as well as the construction of an infrastructure project. In doing so, the government can transfer substantial risk for the project schedule and budget to the private sector partner.

Under the more traditional design-bid-build approach, one private sector firm designs the project and another does the construction. Having one private sector firm perform both functions reduces project completion time, costs less, and provides equal or better quality.
Common Types of Public-Private Partnerships (P3s)

**Operations & Maintenance (OM)**
the private partner operates and maintains a public facility or asset, the government partner owns the public facility or asset.

**Design-Build (DB)**
the private partner both designs and builds a facility or asset, the government partner provides the funding and owns and operates the facility or asset.

**Design-Build-Operate (DBO)**
the private partner designs, builds, and operates the facility or asset, the government partner provides the funding and owns the facility or asset.

**Design-Build-Operate-Transfer (DBOT)**
the private partner designs, builds, and operates a facility or asset and transfers ownership to the government partner.

**Build-Transfer-Operate (BTO)**
the private partner constructs a facility or asset and transfers title to the government partner. The public partner leases the facility or asset back to the private partner under a long term contract.

**Build-Own-Transfer-Operate (BOTO)**
the private partner builds, owns, and operates a facility or asset for a period of time at which point ownership is transferred free of charge to the government partner.

**Build Lease-Transfer-Maintain (BLTM)**
the private partner designs, finances, and builds a facility or asset and leases it to the government partner for a predetermined period for a predetermined price.

**Lease-Renovate-Operate-Transfer (LROT)**
the private partner renovates a facility or asset. The government partner grants the private partner a concession to operate the facility or asset for a specified period of time and to charge a fee for the service or activity.

**Design-Build-Finance-Operate-Maintain (DBFOM)**
the private partner designs, builds, finances, operates, and maintains for a period time (e.g. 25 years), a facility or asset, the government partner, or users, provide the operating funds during the life of the facility or asset during the term of the contract.
Chapter 3
The Financial Crisis Facing State & Local Governments: The Problem

The housing bubble, the banking and financial system crisis, and the resulting Great Recession of 2008 that followed have significantly and negatively affected the finances of state and local governments. Federal aid to state and local governments has also declined as Washington grapples with its own financial problems.

The effects of declining revenues have cascaded throughout state and local governments affecting service levels, public employees, and citizens. Adding to the financial problems of state and local government is their historic spending patterns.

State and local government expenditures over the last decade have outpaced both population growth and inflation. It is generally acknowledged that state and local government spending has been growing at unsustainable levels.

Some experts predict that the financial situation of state and local governments will not improve significantly for some years. Other experts suggest that state and local governments are entering a “new normal” which will be characterized by smaller government, less revenues and expenditures, fewer public employees, and reduced service levels.

Revenues & Expenditures

- Local government finances have been characterized as “chronic, growing gaps” between revenues and expenditures.
- According to the National League of Cities, municipalities nationwide ended 2010 with the largest year-over-year reductions in general fund revenues and expenditures in the last 26 years.
In fiscal year 2012, the 50 states had a combined budget deficit of $103 billion.\textsuperscript{18} The U. S. Government Accountability Office (GAO) projects that the gap between local government revenues and expenditures will reach historic proportions in 2015.\textsuperscript{19}

**Debt, Pensions, & Health Care**

- The Federal Reserve estimates state and local government debt at $2.39 trillion.\textsuperscript{20}
- State and local governments have $1.3 trillion in unfunded pension liabilities.\textsuperscript{21}
- The U.S. Government Accountability Office (GAO) estimates that state government retiree health care obligations total $530 billion. The GAO was unable to identify any studies that estimated retiree health care costs for cities and counties.\textsuperscript{22}

**Employees**

- Since 2008, the number of public sector jobs eliminated by just local governments alone has been variously estimated at between 236,000 and 850,000. The consensus is that many of these jobs will not return when the Great Recession is over, but are gone forever.\textsuperscript{23}

**Infrastructure**

- The American Society of Civil Engineers (ASCE) rates the condition of the majority of America’s infrastructure as “mediocre” or “poor.” The ASCE rating scale runs from A to F, where A = exceptional, B = good, C = mediocre, D = poor, and F = failing (Table 1). The ASCE estimates that it will cost $3.6 trillion to bring the nation’s infrastructure up to “good” condition by 2020.\textsuperscript{24}

<table>
<thead>
<tr>
<th>Type of Infrastructure</th>
<th>ASCE Rating (A, B, C, D, F)</th>
</tr>
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<tbody>
<tr>
<td>Aviation</td>
<td>D</td>
</tr>
<tr>
<td>Bridges</td>
<td>C+</td>
</tr>
<tr>
<td>Dams</td>
<td>D</td>
</tr>
<tr>
<td>Drinking Water</td>
<td>D</td>
</tr>
<tr>
<td>Energy</td>
<td>D+</td>
</tr>
<tr>
<td>Hazardous Waste</td>
<td>D</td>
</tr>
<tr>
<td>Inland Waterways</td>
<td>-</td>
</tr>
<tr>
<td>Parks &amp; Recreation</td>
<td>C-</td>
</tr>
<tr>
<td>Rail</td>
<td>C+</td>
</tr>
<tr>
<td>Roads</td>
<td>D</td>
</tr>
<tr>
<td>Schools</td>
<td>D</td>
</tr>
<tr>
<td>Solid Waste</td>
<td>B-</td>
</tr>
<tr>
<td>Transit</td>
<td>D</td>
</tr>
<tr>
<td>Wastewater</td>
<td>D- (Poor)</td>
</tr>
</tbody>
</table>

Table 1 - American Society of Civil Engineers (ASCE) Rating of America’s Infrastructure\textsuperscript{28}
• One in four of America’s bridges are “deficient” or “functionally obsolete.”

• The National Education Association (NEA) estimates it will cost $310 billion to bring our nation’s elementary and high schools into “good” repair.

• Seventy-nine percent (79%) of municipal budget directors responding to a recent National League of Cities survey identified infrastructure as an increasing need.

The Questions

Diminished revenues combined with the staggering debt being carried by state and local governments give rise to two major questions:

• How can state and local governments make better use of their existing resources?

• How can state and local governments better maintain their existing infrastructure, provide for new infrastructure and finance both?
Chapter 4
The Financial Crisis Facing State & Local Government: A Partial Solution

Contracting and public-private partnerships (P3s) may be part of the solution to the financial problems being faced by state and local governments.

Contracting

The benefits of contracting are numerous. These benefits result largely from differences in the operating practices of private sector firms that enable them to innovate, reengineer, and restructure public services delivery while avoiding the regulations, collective bargaining agreements, and other restrictions placed on state and local governments.

Contracting leads to increased competition and choice in public service delivery. The private sector is frequently able to innovate and find new creative ways to deliver public services more efficiently. Contracting generally results in costs savings with equal or better service quality. Private sector firms may also have economies of scale compared to government that can also lead to cost savings. Because the private sector is not as rule

<table>
<thead>
<tr>
<th>The Benefits of Contracting</th>
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<tbody>
<tr>
<td>• Increased Competition and Choice</td>
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<tr>
<td>• Ability to Innovate, Reengineer, and Restructure</td>
</tr>
<tr>
<td>• Cost Savings</td>
</tr>
<tr>
<td>• Economies of Scale</td>
</tr>
<tr>
<td>• Quality Improvement</td>
</tr>
<tr>
<td>• Timeliness</td>
</tr>
<tr>
<td>• Access to Specialized Skills</td>
</tr>
<tr>
<td>• Ability to Deal with Variable Demand</td>
</tr>
<tr>
<td>• Access to Intellectual Property</td>
</tr>
</tbody>
</table>
bound as governments frequently are, they can deliver services and projects in a more timely fashion. Due to salary and wage differences between the public and private sectors, it is often difficult for government to access workers with specialized skills (e.g. information technology).

Private sector firms are better positioned to deal with fluctuating demand (peaks and valleys in workload) through the use of part-time and seasonal workers. Private sector firms sometimes possess intellectual property (technology and patents) that governments can only access through contracting.

The preponderance of the credible evidence from some 30 years of experience by state and local governments leads to the conclusion that in general: contracting results in lower service delivery costs and equal or better service quality.\(^{29}\)

Over the last two decades, literally hundreds of studies and evaluations conducted at the state and local government levels have documented the cost savings attributable to contracting.\(^{30}\)

How Does the Private Sector Do It?

The question is repeatedly asked: “How can the private sector deliver services and activities at less cost than state and local governments and still make a profit?” Research over several decades documents that private sector firms, working under government contracts, usually pay comparable salaries and wages, but they have inherent cost advantages in other areas. For example, private sector firms generally make more use of part-time and seasonal employees to smooth out workload peaks and valleys.\(^{31}\)

A Window of Opportunity

In spite of the reality of reduced resources, citizen expectations and demands for quality public services have not decreased. While resistant to new or higher taxes, citizens still expect the same range of public services convinced that state and local governments can “do more with less.”

A window of opportunity currently exists for state and local governments to innovate, reengineer, and restructure public services delivery through the use of contracting. Public employees are retiring from state and local governments in historic numbers in order to avoid impending changes to public pensions and health care.\(^{32}\)

There has never been a better time for state and local governments to rethink public service delivery! When this window closes, it may be years if not decades before another such opportunity occurs.

Cost Savings from Contracting

Indianapolis, Indiana contracted 80 services saving the city an estimated $400 million.

Philadelphia, Pennsylvania contracted 50 city services for a cost savings of $275 million.

Osceola County, Florida contracted its entire library system for an estimated $5 million dollars in cost savings.
Public-Private Partnerships (P3s)

Public-private partnerships (P3s) for infrastructure construction, maintenance, and operations may also be part of the solution to the financial problems faced by state and local governments. One way in which many state and local governments have dealt with their budget deficits and declining service levels is by deferring maintenance on existing infrastructure and delaying the construction of new infrastructure. These deferrals and delays have helped state and local governments address their short term financial problems. However, they have created longer term financial problems while degrading service levels. Maintenance of existing infrastructure and the construction of new infrastructure can only be deferred and delayed so long without substantially hindering and hurting the economic base of state and local governments.

The Benefits of Public-Private Partnerships (P3s)

Public-private partnerships (P3s) provide several benefits to state and local governments. P3s enable state and local governments to accelerate new infrastructure construction and rehabilitate existing infrastructure by spreading the costs over the life of the asset. A substantial portion of the risk associated with the design and construction of new infrastructure or the maintenance of existing infrastructure is avoided by government and becomes the responsibility of the private sector partner. Because more risk is transferred to the private sector partner, P3s tend to be completed on-time and within-budget with successful operational start-up. P3s can be a source of new or increased funding for infrastructure. For all of these reasons and others, P3s frequently result in significant cost savings to state and local governments.

The Extent of Public-Private Partnerships (P3s)

As of 2011, some 377 public-private partnerships (P3s) had been initiated in 24 states. One hundred and four (104) of these P3s were for transportation infrastructure (highways, roads, bridges and tunnels). Florida (16), California (12) and Texas (9) have initiated the greatest number of P3s.

In the transportation area, private sector P3 partners have committed some $80 billion in recent years.
Public-private partnerships (P3s) have demonstrated significant impacts on infrastructure maintenance and construction including: reduced project time, equal or better quality, lower costs, and substantial risk transfer from the government to the private sector.

Two particularly interesting case examples of P3 projects are the Long Beach California Court House and the Port of Miami Tunnel.37

The Impact of P3s on Project Duration, Cost & Quality

- The Virginia Pocahontas Parkway (Route 895) was completed for $10 million less than the original cost estimate.
- The Denver, Colorado E470 toll road was originally estimated to cost $597 million. It was completed at a cost of $408 million.
- A study conducted by the Federal Highway Administration found that design-build infrastructure P3s reduced project duration by 14%, reduced total costs by 3%, and maintained the same level of quality.

Case Example
Long Beach California Court House P3

The Judicial Council of California, Administrative Office of the Courts, conducted a P3 competition to select a private sector partner to design-build-finance-operate-maintain (DBFOM) a new $492 million courthouse in Long Beach, California. The new courthouse is to contain 500,000 sq. ft. of space and accommodate 31 courtrooms.

Long Beach Judicial Partners (LBJP), a consortium of several private sector firms, was selected as the private sector partner. All financing is provided by LBJP. The Long Beach project will be the first courthouse P3 in the U.S. The P3 contract runs for 35 years, 3 years for construction and 32 years for operations and maintenance.

Groundbreaking took place in April 2011 and the Long Beach Court House was officially open for business in August 2013.
Case Example
Port of Miami Tunnel P3

The Port of Miami actually sits on an island. Traffic entering and exiting the Port of Miami must do so on surface streets. The Florida Department of Transportation (FDOT) has entered into a transportation P3 with a private sector consortium partner, MAT Concessionarie LLC, to design-build-finance-operate-maintain (DBFOM) a tunnel that will connect the port with interstates I-395 and I-95.

The total cost of design and construction of the tunnel is $903 million. The private sector partner contributed $80 million to the project with the remainder of the funding in the form of debt and loans. Once the tunnel is open to traffic, all operating and maintenance costs will be paid by the State of Florida. The FDOT will collect container and passenger fees to provide the revenue stream to fund the partnership.

Construction of the tunnel began in May 2010 and completion is expected by May of 2014. Operational control of the tunnel will revert to the FDOT at the end of the P3 contract in October 2044.
State Enabling Legislation

According to the National Conference of State Legislatures, 33 states (Table 2) had enacted laws authorizing at least some form of public-private partnerships (P3s) by January 1, 2013. Enabling legislation is important because it sends a strong message to private sector firms that a state and its local governments are “open for business” when it comes to P3s. An enabling statute also removes uncertainty and risk for both the public and the private sector partners.

Table 2 - State P3 Enabling Legislation

<table>
<thead>
<tr>
<th>State</th>
<th>Broad Coverage</th>
<th>Unsolicited Proposals</th>
<th>Availability Payments or Shadow Tolls</th>
<th>Lower Level Authority</th>
<th>Prior Legislative Approval</th>
<th>Non-Compete Clause</th>
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<tr>
<td>Texas</td>
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<tr>
<td>Yes</td>
<td>24 (70%)</td>
<td>23 (70%)</td>
<td>8 (24%)</td>
<td>15 (44%)</td>
<td>11 (33%)</td>
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<td>10 (30%)</td>
<td>10 (30%)</td>
<td>25 (76%)</td>
<td>19 (56%)</td>
<td>22 (67%)</td>
<td>29 (88%)</td>
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</table>
The categories in Table 2 require some additional definition and explanation:

**Broad coverage** - refers to the scope of the P3 legislation. Is it restrictive (e.g. for transportation only) or broad covering most types of infrastructure projects?

**Unsolicited proposals** - refers to the ability of private sector firms to submit proposals to state agencies or local governments in the absence of a formal procurement process. The purpose of this provision is to encourage private sector firms to suggest P3 projects that state departments and local governments may not have considered.

**Availability payments and shadow tolls** - refer to payments (subsidies) provided by state or local governments to private sector partners when tolls either cannot be imposed or when tolls are insufficient to cover all operating expenses.

**Lower level authority** - means the legislation also applies to sub-state governments (cities and counties, etc.).

**Prior legislative approval** - means that specific P3 projects must be submitted to the state legislature for review and approval before implementation can begin.

**Non-compete clause** - means that the state and its local governments will not construct any additional infrastructure projects in the general area that will negatively affect the finances of the P3. “Prohibited” means the state legislature specifically prohibits the use of non-compete clauses in P3 contracts.

The information presented in Table 2 is drawn from several sources. It is important to note that state legislation dealing with P3s is constantly being altered, updated, and revised.
Chapter 5
How to Start a Contracting Initiative

Determining which services and activities are good candidates for contracting is an important first step. Several issues should be taken into consideration when identifying services and activities for contracting.

State and local governments now have decades of experience in contracting for various services and activities. In general, services or activities that have been successfully contracted by neighboring states or local governments are a good place to start.39

<table>
<thead>
<tr>
<th>State Contracting Rank Order</th>
</tr>
</thead>
<tbody>
<tr>
<td>• 23 states contract for custodial services</td>
</tr>
<tr>
<td>• 23 states contract for landscaping services</td>
</tr>
<tr>
<td>• 20 states contract for pest control</td>
</tr>
<tr>
<td>• 19 states contract for moving services</td>
</tr>
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<td>• 15 states contract for facilities maintenance</td>
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</table>

<table>
<thead>
<tr>
<th>Local Government Contracting Rank Order</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Vehicle Towing &amp; Storage</td>
</tr>
<tr>
<td>• Legal Services</td>
</tr>
<tr>
<td>• Operation of Cultural &amp; Arts Programs</td>
</tr>
<tr>
<td>• Commercial Solid Waste Collection</td>
</tr>
<tr>
<td>• Fleet Maintenance</td>
</tr>
<tr>
<td>• Child Day Care</td>
</tr>
<tr>
<td>• Tree Trimming &amp; Planting</td>
</tr>
<tr>
<td>• Street Repair</td>
</tr>
</tbody>
</table>
Core versus Ancillary Services & Activities

Ancillary services and activities generally lend themselves better to contracting than do core services. This observation is particularly relevant for smaller local governments that may not be experienced in contracting. Core services and activities include police, fire, corrections, and others. Ancillary services include: human resources, fleet management, facilities maintenance, information technology (IT), specialized engineering and other professional services as well as printing, custodial and other “back office” type services and activities.

Evaluating Services & Activities for Contracting

The Colorado State Auditor’s Office (CSAO) has developed criteria for use in evaluating services and activities for contracting. The CSAO approach has been used by numerous other state and local governments for a number of years. The CSAO approach consists of nine criteria: (1) market strength, (2) political resistance, (3) service quality, (4) impact on public employees, (5) legal barriers, (6) risk, (7) resources, (8) control, and (9) cost.

Market Strength - refers to the degree of competition that can be expected for a particular service or activity. A simple method for assessing the degree of competition is called “the yellow pages test.” If the local telephone directory lists several local firms that provide the particular service or activity, then competition in the market probably exists.

Political Resistance – some services and activities generate more controversy than others. In general, selecting services such as police and fire usually generates more political controversy than such services and activities as information technology (IT), grounds maintenance, security, parks and recreation, and solid waste collection.

Service Quality - will the quality of the service or activity increase, decrease, or stay the same? At a minimum, steps should be taken to ensure that contracting results in at least the same level of quality.

Impact on Public Employees – services and activities that displace large numbers of career public employees generate opposition from the employees themselves, unions, and some citizens. The impact can be reduced by requiring contractors to offer employment to displaced public employees or by retraining and reassigning career public employees to other positions in other government departments.

Legal Barriers – Before beginning, it is important to know if contracting for a particular service or activity is prohibited by statutes, ordinance, regulation, policy, or a collective bargaining agreement.

Risk – refers to the degree that contracting for a specific service or activity exposes the state or local government to increased risk including: financial, service disruption, corruption, or other factors.

Resources – will contracting lead to more efficient and effective use of existing government resources, enable the state or local government to access private sector expertise, facilities or equipment, or help address revenue or expenditure shortfalls or restrictions?

Control – the extent to which contracting decreases state or local government control over a particularly sensitive service or activity?

Cost – the anticipated cost savings to be achieved by contracting.
By employing these nine criteria, state and local government should be able to identify the services and activities most likely to result in successful contracting initiatives.

**Bundling Services & Activities**

In addition to contracting for a single stand-alone service or activity, state and local governments can also consider bundling services or activities. Bundling involves combining two or more services or activities into a single procurement and contract. Bundling can be a method for increasing competition. Larger dollar value contracts tend to generate more private sector interest and competition. Osceola County, Florida bundled the management and operations of several library branches into one procurement and contract resulting in significant cost savings without reducing service levels.43

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**Case Example**

**Bundling Library Facilities in Osceola County, Florida**

In January 2012, Osceola County, Florida contracted with Library Systems and Services (LSSI) to administer and staff the day-to-day operations of the six branches that comprise the county library system. Osceola County anticipates that it will save some $5 million over the five year life of the contract. LSSI offered employment to all current county library staff. The county continues to be responsible for interior and exterior maintenance of the libraries and is also responsible for any capital costs that exceed $10,000.

Per the contract, LSSI has agreed not to change library hours of operation and pledges that it will comply with all professional standards set by the Florida Library Association.
Chapter 6
How to Start A Public-Private Partnership Initiative

One of the largest P3s in the nation involves the City of Chicago and the Chicago Skyway.\textsuperscript{64}

P3 Policy & Planning Issues

How does a state or local government initiate a public-private partnership like the Chicago Skyway? The Pew Center for the States suggests that state and local governments should consider several policy and planning issues before starting a P3 initiative.\textsuperscript{45}

\begin{tabular}{|l|}
\hline
P3 Policy & Planning Issues \\
\hline
1. Determine if state P3 enabling legislation exists? \\
2. Determine infrastructure needs. \\
3. Determine the “gap” between needs and available resources. \\
4. Determine infrastructure priorities. \\
5. Determine how available revenues will be apportioned between competing infrastructure needs. \\
6. Determine how to deal with unsolicited proposals. \\
\hline
\end{tabular}
Case Example
The Chicago Skyway: An Operation & Maintenance P3

The Chicago Skyway is a 7.8 mile toll road connecting Interstate 94 to Interstate 90. In 2005, the City of Chicago was looking for ways to unlock value in its fixed assets. The city made a decision to enter into a public-private partnership (P3) for the operation and maintenance (O&M) of the Skyway. The city leased the Skyway for 99 years to a consortium of Macquarie/Cintra for an up-front payment of $1.8 billion. Macquarie Infrastructure Group is an Australian company; Cintra is a Spanish company.

The private sector partner operates and maintains the Skyway in accordance with contractual provisions that require the use of industry best practices including: safety concerns, drainage issues, snow removal, toll collection procedures, and others.

The private sector partner immediately moved to install more lanes and switched to electronic tolling, improvements that increased service levels and operational efficiency. The city had been unable to undertake these service improvements due to budgetary constraints.

The P3 contract specifies predetermined tolls through 2017. After 2017, the private sector partner may increase tolls annually by: (a) 2%, (b) the Consumer Price Index, or (c) the increase in the nominal gross domestic product per capita, whichever is greater.

The City of Chicago has used the $1.8 billion in proceeds from the P3 to: pay down debt, fund other non-transportation projects, and create a reserve fund. In addition, the city has avoided future operation and maintenance costs for the Skyway.
Determine if State Enabling Legislation Exists

The first step in starting a P3 initiative is to determine if P3s are recognized under state statutes and what the legislation permits and prohibits. If legislation does exist, then it is important to know what it covers and how it applies. For example, some state legislation (see Table 2) prohibits the inclusion of non-compete clauses in P3 contracts. If no state legislation exists, then the risks of starting a P3 project can be considerable. In the absence of a P3 statute, the state legislature or the governor can involve themselves in a P3 project at any time with potentially negative consequences, even after lengthy negotiations have already been conducted and the private sector partner has incurred costs.

Determine Infrastructure Needs

A state or local government interested in starting a P3 project should identify its infrastructure needs, both in terms of maintenance and construction. Unless a government has already conducted an infrastructure needs assessment, this crucial step should be undertaken. It is difficult, if not impossible, for a state or local government to develop a P3 plan without knowing what its infrastructure needs are.

Determine the Gap Between Needs and Resources

Determine the gap between the infrastructure needs and the resources available to address those needs. The size of the gap may come as a surprise to some state and local government officials and administrators.

Determine Infrastructure Priorities

Once needs and available resources are determined, infrastructure projects can be prioritized to ensure that the most critical projects are addressed first.

Determine How Resources will be Allocated

Certain infrastructure projects may qualify for state or federal grants. Federal or state regulations may also specify requirements dealing with how such funds may be utilized or how the planning process is to be conducted. The objective is to match available resources with specific infrastructure projects.

Determine How to Deal with Unsolicited Proposals

If state P3 enabling legislation authorizes unsolicited proposals, then a policy needs to be established on how to treat them. Should unsolicited proposals simply be rejected out-of-hand or should they be considered? How will unsolicited proposals be considered? What if an unsolicited proposal does not address an infrastructure priority? Unsolicited proposals may not address priorities, but they may nevertheless generate additional revenues or decrease existing maintenance costs that in turn may free up funding for priority projects. For example, the Arizona Department of Transportation (ADOT) received an interesting unsolicited proposal to operate and maintain the state’s 25 highway rest areas.

Determine if P3 Expertise is Available In-House

Although not specifically addressed by the Pew Center for States, an important issue is determining if P3 expertise is available in-house. P3s are still relatively new and many state and local governments have little experience with them. It is important to ensure that the interests of the government are protected in the sometimes complex negotiations associated with P3s. If in-house P3 expertise is unavailable, consideration needs to be given to seeking outside consultation.
Case Example

Arizona Department of Transportation
Unsolicited P3 Proposal for Highway Rest Areas

The Arizona Department of Transportation (ADOT) received an unsolicited proposal from Infrastructure Corporation of America (ICA) to operate, maintain, and improve 14 Arizona highway rest areas. According to the ICA unsolicited proposal, by entering into a P3 for the highway rest areas ADOT will:

• Gain fiscal predictability over its total operations and maintenance cost by establishing a pre-determined annual cost,
• Avoid short term and long term personnel costs,
• Generate new revenues through an innovative targeted marketing program,
• Introduce and integrate environmentally friendly services.

The P3 contract was signed in October 2013 and ICA is now operating the 14 highway rest areas.

Federal Funding Sources for Transportation P3s

Private Activity Bonds - $18 billion in federal funding available to fund highway and freight transfer facilities.

Transportation Infrastructure Finance & Innovation Act (TIFIA) - provides federal credit assistance (direct loans, loan guarantees, stand by lines of credit) to finance transportation P3s. Each dollar of federal funds can provide up to $10 in TIFIA credit assistance and leverage $30 in transportation infrastructure investment.
Chapter 7
Contracting & Public-Private Partnerships (P3s): Managing the Procurement Process

Managing the Contracting Process

State and local government usually contract using one of three major procurement methods: the invitation for bids (IFB) process, the request for proposals (RFP) process, or the request for qualifications (RFQ) process.47

The Invitation for Bids (IFB) Process

The invitation for bids (IFB) process, also called “sealed bidding” and “competitive sealed bidding,” is used when a state or local government knows exactly what it wants to buy in terms of a service or activity. The IFB is a very structured process that allows for no negotiation. A detailed scope of work or work statement is prepared that specifies in detail exactly what the government wants to buy. A bidder has only to submit the cost or price it will charge to provide the service or activity.

The contract is awarded to the “responsible bidder” submitting the lowest “responsive bid.”

Responsible bidder means that the bidder has the requisite staff, expertise, experience and financing, or the ability to acquire such, in order to fulfill the stated terms and conditions of the contract. A responsive bid is one which complies with all the requirements set forth in the IFB. For example, an IFB usually specifies a set date and time by which all bids must be received by the government. A bid submitted late would be considered “non-responsive.”48
The IFB process is used primarily to purchase standardized and routine services and activities that can be specified in writing and included in a detailed scope of work or work statement that becomes part of the contract. Examples include: custodial services, park maintenance, computer help desk, solid waste collection, elevator maintenance, etc.

**The Request for Proposal (RFP) Process**

The request for proposal (RFP) process, also known as “competitive negotiation,” is used when state or local governments only know in general terms the service or activity they want to buy.

State and local governments also use the RFP process when they want to obtain new ideas or new approaches to providing services or activities. In the RFP process, negotiation is not only desirable, but is generally required. Proposers submit detailed approaches as to how they would provide the service or activity.

Considerable variation can and does take place in how state and local governments implement the RFP process, conduct negotiations, and select the contractor. In general, the successful proposal is the one that is most advantageous to the government price and other factors considered. Because of the emphasis on factors other than price, the RFP process is also sometimes referred to as “best value” contracting.

Use of the RFP process is appropriate for any non-standard service or activity and any time a state or local government is seeking to tap the creativity and innovativeness of the private sector.

**The Request for Qualifications (RFQ) Process**

The RFQ process can be thought of as the first step in a two-step process. The second step can be: an invitation for bids (IFB), or a request for proposals (RFP), or direct negotiations.

The idea behind the RFQ is to pre-screen prospective private sector firms before inviting a small number to prepare and submit bids or proposals or to enter directly into negotiations. It can involve considerable time and expense on the part of state and local governments to review and evaluate bids and proposals. By pre-screening potential bidders and proposers, the RFQ process saves everyone both time and money.
Managing the P3 Process

The most important part of managing the P3 process is selecting the private sector partner.

Selecting the Private Sector Partner

The California Debt & Investment Advisory Commission (CDIAC) recommends that state and local governments, as part of their due diligence, secure, review, and evaluate the following information from each prospective P3 partner. The information would be secured as: (1) part of a request for proposals (RFP) process or (2) part of a request for qualifications (RFQ) process or follow-up to an unsolicited proposal.

Criteria for Selecting a P3 Partner

1. Qualifications & Experience
2. Financial Capability
3. Risk Transference
4. Litigation & Controversy

Qualifications & Experience - The prospective P3 partner should demonstrate the necessary expertise to complete the project including previous work of a similar nature, qualifications of staff, management capability, access to technology, and other considerations.

Financial Capability - The proposed P3 partner should demonstrate it has the necessary resources, or has arranged for the necessary resources to fund the partnership.

Risk Transference - The proposed P3 partner should clearly demonstrate its understanding of the risks associated with the project (costs, financing, construction, quality assurance, etc.) and the willingness to assume those risks.

Litigation & Controversy - The proposed P3 partner should not be involved in any current litigation or current controversies that might jeopardize the project.
Chapter 8
Managing Risk in Contracting & Public-Private Partnerships (P3s)

The transference of risk from the government to the private sector is one of the great advantages of contracting and public-private partnerships (P3s).

The main benefit of transferring risk from the public sector is that it generates incentives for the private sector to supply cost effective and higher quality services on time.

- David Corner, United Kingdom National Audit Office

Some basic types of risk exposure shared by both contracting and P3s are: demand risk, service interruption risk, financial risk, political risk, and force majeure risk. Demand risk refers to situations where assumptions about the demand for a service or activity prove unreliable. Service interruption risk refers to situations where the delivery of a service or activity is disrupted because of the failure of a contractor or private sector P3 partner to perform. Financial risk refers to financial exposure for service or activity delivery or specifically in the case of P3s exposure for construction or rehabilitation costs. Political risk refers to stakeholder dissatisfaction with a state or local government deciding to engage in, or expand, contracting or a public-private partnership (P3). Force majeure risks refer to unanticipated acts outside the control of either partner that adversely affect the P3.
For both contracting and P3s, risk factors are frequently interrelated. How well one type of risk is managed also has implications for other types of risk. For example, service interruption risk, and how well it is managed, can affect political risk.

**Contracting Risks**

In contracting, most types of risk are generally transferred to the contractor. When contracting is employed, assumptions are made about the demand for a service or activity. State and local governments do not want to pay for services and activities that are not actually provided due to low demand. Demand risk can be transferred to the contractor by utilization of performance-based contracting (PBC). PBC is structured so that contractors are only paid for the actual provision of specified amounts (outputs) of a service or activity or for the achievement of specified results, impacts, or accomplishments (outcomes).52 With PBC, as much as 100% of demand risk can be transferred to the contractor.

<table>
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<tr>
<th>Risk in Contracting &amp; P3s</th>
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<tbody>
<tr>
<td>Construction Risk</td>
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<tr>
<td>Demand Risk</td>
</tr>
<tr>
<td>Service Interruption Risk</td>
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</tbody>
</table>

**Service Interruption Risk**

When service or activity delivery is interrupted, particularly a highly visible service or activity (e.g. solid waste collection), the government has a problem. The primary method of managing service interruption risk is to prescreen prospective contractors to ensure that the one selected has the requisite skills, knowledge, staff, service delivery experience, and management and finances to adequately perform and to comply with all contract terms and conditions.

Secondary methods of managing service interruption risk include: (1) dividing an individual service or activity between multiple contractors and (2) mixed delivery. Mixed delivery involves holding back a portion of a service or activity and continuing to provide it with public employees. With both strategies, a service interruption caused by the inability of a single contractor to perform can be mitigated by reallocating portions of the service or activity among the other contractors or public employees. The cities of Phoenix, Arizona and Indianapolis, Indiana have used mixed delivery for years.53 Today, about 40% of cities that contract use mixed service delivery.54

**Political Risk**

The primary method of managing political risk in contracting is for state and local governments to target the services or activities that will generate the least amount of opposition from public employees, public employee unions, and citizens. In general, ancillary services (as opposed to core services) generate less political risk. Requiring contractors to offer employment to displaced career public employees is another good mitigating strategy.

**Financial Risk**

If a state or local government utilizes performance-based contracting (PBC), then a large proportion or all of the financial risk can be transferred to the contractor.
Public-Private Partnership Risks

In P3s, the conventional wisdom is that the partner (government or private sector) best positioned to deal with the risk, should assume the risk.\textsuperscript{55}

**Demand Risk**

Demand risk is usually assumed by the private sector P3 partner. Demand risk becomes a problem when a dedicated funding stream (tolls or fees) is used to fund the operating expenses of a P3 project. Demand forecasts and revenue projections can be highly unreliable, particularly for P3s of long duration (10, 20, 30, 99 years). It does no one any good for the private sector partner to default on the P3 project or to declare bankruptcy because revenues are insufficient to cover operating costs. P3s should be structured so that if demand declines to a point where revenues are insufficient to fund operations, then tolls or fees can be increased or some other remedy invoked in order to maintain desired service levels (e.g. availability payments or shadow tolls).

**Service Interruption Risk**

Like contracting, the primary method of dealing with service interruption risk is to pre-screen and select capable private sector P3 partners. It has been said that trust is one of the most important components of a P3. The government must be able to trust that the private sector P3 partner “will do the right thing” to make the project work.\textsuperscript{56}

**Political Risk**

It is generally acknowledged that government is best positioned to manage political risk. P3s, like contracting, can generate political opposition from essentially the same groups. With P3s however, their newness and the lack of citizen familiarity can also generate opposition. Managing and mitigating political risk is largely related to how well government explains the value and benefits of P3 projects to stakeholders and mobilizes their support.

**Financial Risk**

With P3s, financial risk varies depending upon the type of project. For example, operations and maintenance (O&M) projects have less overall financial risk than do design-build-finance-operate-maintain (DBFOM) projects.

**Force Majeure Risk**

Force majeure risk (also called an “Act of God”) is generally shared equally by both the government partner and the private sector partner.

**Additional P3 Risks**

P3 projects create additional risks including site risk (e.g. suitability) and design and construction risks. P3s are usually structured so that these additional P3 risks are assumed by the private sector partner.

The expertise of state and local governments in P3s is an important variable in managing and mitigating financial risk. P3s are still relatively new in the U.S. and expertise in developing and managing P3s is not evenly distributed among state and local governments. An important aspect of managing and mitigating financial risk is the ability of state and local governments to access P3 expertise through either in-house staff or outside consultants.
Chapter 9
Contracts & Public-Private Partnerships: Managing Implementation

According to many experts, contracting and public-private partnerships require different management approaches during implementation. With contracting, the emphasis is on managing the contract. With public-private partnerships (P3s), the emphasis is on managing the relationship between the partners.

It is useful to remember that contracting is based on a buyer/seller relationship, while P3s are based on true partnerships, with each partner sharing in the risks and rewards of the partnership. Consequently, with contracting, the primary purpose of contract management is to ensure that the work is satisfactorily performed. With public-private partnerships, the primary purpose of contract management is to ensure that intended and measurable goals and outcomes sought by the partnership are achieved.

Contracting

The trick in contract management is ensuring that the contract is implemented according to the agreed upon terms and conditions without impinging on the contractor’s independent decision-making. In other words, contract management deals with oversight including: adherence to the scope of work, meeting service or activity schedules, adhering to quality standards and ensuring that actions taken by the state or local government promote, but do not impede, the contractor’s progress.
Lessons Learned in Managing the Implementation of Contracts

Whole books have been written on the management of contracts. The emphasis in this section is on some of the major lessons learned over the years. State and local governments have been contracting for services and activities for decades now. Consequently, a considerable body of domestic literature exists on contracting that can be accessed.

Approaches to Managing Contracts & Public-Private Partnerships (P3s)

- **Contracting**
  Managing the contract to ensure that the work is satisfactorily performed.

- **Public-Private Partnerships (P3s)**
  Managing the relationship between the public and private sector partners to ensure that the goals and outcomes of the P3 project are achieved.
The lessons learned identified below are derived from multiple U.S. sources.

**Single Point of Contact** - a single individual, called a “contract administrator,” a “contracting officer” or some other appellation should be the sole designated person to represent the government and provide direction to the contractor. The importance of the single point of contact cannot be overstated. State and local government officials and administrators should be extremely careful when interacting with contractors. Seemingly innocent suggestions and opinions expressed to contractors can be erroneously interpreted as new direction resulting in contractors deviating from the contract and causing unintended consequences.

**Contract Design** – the contract is the agreement between the government and the contractor and no other understandings oral or written are generally deemed to exist. If something is not in the contract, the contractor cannot be held accountable for it. Consequently, good contracting begins with good contracts. Rushing to get a contract in place to meet some deadline always runs the risk of a poorly designed contract with all its attendant consequences.

**Scope of Work** – the scope of work, also called the “work statement,” should include both design specifications (inputs and process measures) and performance specifications (output, quality, and outcome measures), with the emphasis upon the latter.

**Ability to Modify the Contract** - it is virtually impossible to anticipate every contingency that can arise during the term of a contract. Thus, every contract is considered an “incomplete contract.” Contract amendment clauses are standard in most state and local government contracts. What is not necessarily standardized is an expeditious process to modify the contract. Government must have a timely method to amend the contract when needed, otherwise performance may suffer and contract time frames may slip.

**Ability to Deal with Disputes** – disputes invariably arise. Contracts that contain “dispute clauses” or other forms of alternative dispute resolution are less likely to experience service or activity disruptions.

**Use of Performance-Based Contracts** - performance-based contracting (pbc) is the preferred method for services and activities. PBC involves tying payments and contract extensions to the contractor’s accomplishment of output, quality, and outcome performance specifications.

**Contractor Monitoring** - the word monitoring comes from the Latin “monere” meaning to warn. Contract monitoring can be thought of as an early warning system designed to identify when a contractor goes off course. Contract monitoring should be front-end loaded (more emphasis on the earlier stages of a contract than the later stages) and should vary depending upon the value of the contract (larger dollar value contracts get more attention).

**Public-Private Partnerships (P3s)**

The key in managing P3s is to remember that both the public and private partners essentially have equal status in the partnership and generally share in decision-making about the partnership. This changes the government’s approach to managing. It is the relationship between the public and private sector partners that must be managed. At the same time, the public partner should maintain policy setting and governance control.
Lessons Learned in Managing the Implementation of P3s

Because other countries, as well as international organizations, have more experience with P3s, the lessons learned identified below are based upon both international and domestic U. S. guidance. These lessons learned apply to the public sector partner.

**Creation of a P3 Unit** – owing to their newness and potential complexity, specific organizational units should be created to oversee P3s. An alternative here is to acquire the services of a P3 consultant who can provide guidance on procurement, contract negotiations, and contact administration and monitoring.

**Designation of a P3 Project Manager** – who becomes the primary interface with the private sector partner.

**Use of Outside P3 Consultants** - if outside P3 consultants are used, they should also be tasked with helping to train in-house staff to eventually take over, when and if total work volume justifies it.

**Project Management Teams** - should be created consisting of representatives of all government units involved in a P3 project.

**Early Involvement of Private Sector Partner** - private sector partners should be involved earlier, not later, in decision-making about the scope of the P3 project.

**Contract Provisions** - in addition to the clauses usually contained in a government contract, a P3 contract should also: (1) focus on measurable outputs and outcomes rather than inputs and methods used, (2) identify the number of asset upgrades, if any, and when they are to occur, (3) identify if, when and how much tolls or user charges may be increased, and (4) specify what happens to the asset at the end of the P3 project.

**Documentation of Decisions and Directions** – The length of P3s can run for 20, 30, 50 even 99 years. Staff of both the government and the private sector partners at the end of a P3 will most likely not be the same ones from the front end. Thus, it becomes important to document all decisions made throughout the term of the P3 project.

**Contract Term** – international experience finds that most P3 terms range from 30 to 40 years.
Chapter 10
Managing the Politics and Successfully Communicating About Contracting & Public-Private Partnerships (P3s)

Successful public policies do not simply sell themselves. Managing the politics and effectively communicating the benefits of contracting and public-private partnerships (P3s) is critical. Citizens and stakeholders often lack a strong or in-depth understanding of contracting and P3s as tools of public policy and administration. Rumor loves a vacuum and opportunities for misinformation abound.

To be successful with the political and communication issues involving contracting and P3s, state and local government officials and administrators need to take several steps.

Engage Politically

Understanding the politics surrounding contracting and P3 initiatives enables state and local government officials and administrators to design and implement strategies to cope with the political challenges.

Engaging politically means understanding the political environment in which a contracting or a public-private partnership (P3) initiative is taking place. Stakeholders, the policy process, formal and informal rules, deadlines and timing, values and priorities of key actors, media coverage, and the role of public opinion can all influence the outcome of the initiative.
Conduct Stakeholder Analysis

All public policy issues, including contracting and P3 initiatives involve and impact a specific set of stakeholders both within government and the community. These individuals and organizations believe they have a vested interest in the outcome of contracting and P3 decisions. The purpose of the stakeholder analysis is to identify who supports the contracting or P3 initiative and who opposes it. Armed with this information, strategies can be developed to attract and support proponents and to reduce opposition. An effective stakeholder analysis involves asking and answering multiple questions in an honest and objective way.

| Stakeholder Analysis | Five Questions |
|----------------------|----------------|----------------|
| 1. Identify all stakeholders (who cares about contracting or P3s for this service or project)? |
| 2. What is the position (pro or con) of each stakeholder? |
| 3. What resources and capabilities are possessed by each stakeholder? |
| 4. What can each stakeholder (pro and con) do about the contracting or P3 initiative? |
| 5. What is the stakeholder’s level of intensity? |

Stakeholder analysis is essential to designing and executing effective political and communication strategies to support a contracting or P3 initiative.

The likely list of stakeholders for a contracting or P3 initiative can include a wide range of internal and external parties: citizens, elected officials, administrators, program managers, program clients, infrastructure users, public employee unions, public employees, the media, other governments, the business community, and nonprofit organizations.

Stakeholders may respond to an initiative with active support, agreement, neutrality, disinterest, or limited or intense opposition. Options for managing opposition include: persuasion, negotiation, compete to win, agree to disagree, and attempting to “sneak it thru” (this last option is not recommended).

Selecting services and infrastructure projects that attract support while generating less opposition is a sound strategy.

Design & Implement a Communications Plan

Communication can inform, inspire, and manage expectations so that a contracting or public-private partnership (P3) initiative has an increased probability of being adopted and successfully implemented. Effective communications can ensure that all audiences have a good conceptual understanding of contracting or P3s and comprehend the benefits of a specific contract or P3 project.

Through successful education efforts, the public can come to appreciate both the opportunities and challenges inherent within a major contract or P3 project. Elected officials and public managers have an opportunity and responsibility to communicate the content, merits, and
limitations of policy choices to citizens and stakeholders in order to maintain trust and confidence.

State and local government officials and administrators as well as contractors and P3 partners should communicate with all identified stakeholders. Overlooking a stakeholder can result in missed or lost support or active opposition.

A well-researched and designed communications plan effectively executed by experienced professionals is strongly recommended. The plan should also be evaluated to ensure that intended communications objectives resulted in actual outcomes (e.g. the percent of public knowledge and support of the contract or P3 significantly increased following implementation of the plan).

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P3 Communications Case Study
Cecil Commerce Center

The initiative to successfully transform the Cecil Field Naval Air Station (NAS) into the Cecil Commerce Center through a public-private partnership offers valuable lessons for P3s with respect to the priority of effectively communicating with policymakers and the public. The private sector P3 partner, corporate leaders, and the business community were instrumental to the success of this communications effort.

The closure of a massive military base 17,000 acres in size presented both very significant economic threats and opportunities and political challenges for the City of Jacksonville. A proposed master plan to redevelop this property into the Cecil Commerce Center employing a public-private partnership approach promised to attract $1.3 billion in private sector investment in new infrastructure and development bringing new major employers to the location adding jobs and increased tax revenue for the city. What could have been a serious economic injury to the city with the closure of a very large military base could instead be converted into a long term economic engine for the community utilizing a public-private partnership.

This proposed P3 agreement required Jacksonville City Council approval in 2010. Policymakers are sensitive to public opinion and community reaction. Communications became the deciding difference between whether this P3 would be adopted and implemented or not. Vocal and persistent opposition sought to confuse policymakers and the public. Prior to the vote, opponents attempted to derail the agreement via paid advertising and media coverage which incorrectly portrayed it as a bad deal for taxpayers. Proponents determined that a well-researched and skillfully executed communications plan was needed for policymakers and the public to understand and appreciate the full benefits of this P3. Private sector leadership and participation from the business community helped ensure that policymakers and the public were accurately informed. In the end, the City Council approved the proposed P3.

Critical lessons from this P3 communications case study include (these equally apply to major service contracts):

- The private sector can have a decisive role in ensuring policymaker and public understanding of the P3
In addition to their other roles in the project, effectively communicating to stakeholders, policymakers, and the public about the P3 is “the job” of the private sector P3 partner (p. 46).

Have a specific, detailed, and actionable communications plan for each P3 project.

Do not assume that there will be no public opposition to a proposed P3 - do not allow opponents to own the microphone in the absence of communications from you about the P3 before, during, and after the project.

Even in the absence of organized, vocal, or visible opposition, do not assume public understanding and acceptance of the P3 project.

Due to their complexity, public–private partnerships can easily fall victim to misinformation. Likely misunderstandings can arise from or center on issues like the role of the private sector partner (e.g. their financial interest in the project), the actual benefits to the public, potential risks associated with the project, and the level of public oversight. Factual message points explaining the project early, effectively, consistently, and continuously are essential. Make sure your message is easily comprehended – “communicate the deal in terms that everyone can understand” (p.46). The message must also be delivered by credible sources through the appropriate channels of communication to effectively reach stakeholders and citizens.

When communicating with citizens, focus on the specific benefits of the project.

Enlist project champions such as business leaders who will lend their credibility and trust with policymakers and the public to the project to foster policymaker and citizen support.

Present the project to business groups and request their support – fully engage the entire business community in support of the project.

Build a support coalition with a diverse set of organizations and individuals to educate the public about the P3.

Partner selection, measurable outcomes, and clear public oversight are key to project understanding and acceptance with citizens.

Have a skilled and knowledgeable communications team for this effort.

Conclusion

In the absence of effective political and communication strategies, stakeholders and citizens may not embrace a contracting or P3 initiative. Citizens and stakeholders cannot just be told – they must be convinced of the specific benefits when contracting or a P3 is selected as a policy choice. Stakeholder analysis, engaging the full business community, selection of the right services and projects, use of a communications plan and experienced communications professionals, support of project champions, and effective education of policymakers and the public is highly recommended. Both parties – public and private – must know and successfully execute their specific roles and responsibilities in communicating about the contract or P3 project. These attachments offer valuable information concerning successful communications.

Attachments

Appendix A identifies several key principles in communicating persuasively about contracting and public-private partnerships (P3s).

Appendix B provides a February 2012 Mason Dixon statewide survey of voter attitudes in Florida about contracting and P3s. It is one of the few statewide surveys on this subject. Following the full survey with its results is a memo offering analysis of the survey and how the public and private sector can utilize these findings to effectively communicate about contracting and P3s. Elected officials and administrators should pay special attention to utilizing the messages which work, avoiding the arguments which do not, and pre-empting potential public concerns.
Chapter 11
HB 85 – Local Governments in Florida Given New Statutory Authority to Engage in P3s

Following its passage during the 2013 regular session of the Florida Legislature, Governor Rick Scott signed CS/CS/HB 85 into law. CS/CS/HB 85 now known as Florida Statutes Section 287.05712 provides new, clear, and specific statutory authority to local governments in Florida to engage in public-private partnerships for infrastructure and facilities. Prior to this law, local governments could participate in P3s for infrastructure and facilities. This enabling legislation removes uncertainty for both public and private sector partners and should incentivize their expanded use for infrastructure and facilities by local governments.

The legislative findings which support the new law identify the need for timely and cost-effective public infrastructure, the challenge of insufficient existing financial resources at the local level, and the availability of federal, state, and private sector financing. Moreover, the Legislature finds that P3s can accelerate delivery of quality infrastructure while reducing costs.

The law authorizes a wide range of entities of local government to engage in public–private partnerships to provide a diverse spectrum of public purpose projects. A “responsible public entity” could include a county or city government, a school board, any other political subdivision of the state, or a regional agency. A “qualifying project” can be a new or improved asset involving a variety of public purposes such as transportation, education, recreation, wastewater management, or health care. Any accepted public purpose could justify the use of a P3 under this law.

A seven member task force is charged with developing and providing recommendations to the Governor and Legislature by July 1, 2014 for an established process and consistent criteria to guide the use of P3s by governments in Florida. Local governments may still presently proceed
with P3s while the task force conducts research and generates its recommendations.\textsuperscript{70}

Under this law, P3 projects must meet specific criteria: (1) citizens are best served by the implementation of this P3 project, (2) the facility is either owned or ownership will be transferred to the responsible public entity, (3) there will be measures undertaken sufficient to prevent service disruptions or unacceptable costs, (4) there will be provisions to enable the responsible public entity to increase needed capacity to the facility or infrastructure, and (5) at the end of the comprehensive agreement, the responsible public entity will own the asset or infrastructure. In addition, the projected cost must reasonably resemble comparable facilities, an effective finance plan is in place, and the plans of the private sector partner will result in a timely delivery of the infrastructure or facility.\textsuperscript{71}

Consistent with this law, private sector partners must conform to the standards for a firm eligible to be selected under the local government’s regular procurement process. Before the procurement process can begin, an independent analysis must validate the cost-effectiveness and specific benefits to be secured for the public by the proposed project.\textsuperscript{72} Local governments may enter into an interim agreement to commence the P3 process that does not require them to become a party to a comprehensive agreement.\textsuperscript{73}

Under this law, the P3 and P3 relationship will be governed by a comprehensive agreement. The comprehensive agreement must contain a specific set of provisions which: (1) ensure performance and payment involving participating firms using accepted and available tools (bonds, letters of credit, etc.), (2) facilitate the most efficient pricing of the security package, (3) address the transfer of the asset should the private sector partner default or the agreement be terminated, (4) specify the review of all plans and inspection of the project by the responsible public entity, (5) ensure that a policy of public liability insurance is sustained, (6) facilitate oversight by the responsible public entity of appropriate maintenance of the facility by the private sector partner, (7) specify the regular filing of financial statements by the private sector partner, (8) detail all revenue sources and payment mechanisms to be utilized in the project, and (9) identify all responsibilities of the private sector partner in the project. In addition, the responsible public entity may add a specific provision to the agreement which enables them
to provide grants or loans of federal, state, or local funds to the private sector partner for the project. Additional provisions can be entered into the agreement by public sector partners that address issues such as notice of default and cure rights and termination of the agreement.74

User charges to provide revenue for the project are authorized. A number of financing mechanisms such as private financing or lending or leveraging public funds can be utilized. However, no local government may commit its full faith and credit to guarantee the finances of the project. Upon expiration of the agreement, the responsible public entity may maintain user charges for the operations and maintenance of the facility or infrastructure.75

The local government can lease existing user charge financed public assets to private sector partners whereby user charges will continue to be utilized to generate revenue.76 The sovereign immunity of the local government remains in place and is not relinquished by entering into an agreement for a public purpose facility pursuant to this law.77 Notice to all affected local governments of a proposed project allowing for receipt and consideration of their written comments concerning the project is required by this law.78

Unsolicited proposals can be received by local governments. Consistent with Florida’s commitment to competitive procurement, the project must be advertised so that the local government can receive competing proposals. Local governments can charge a reasonable fee for review and evaluation of an unsolicited proposal. Unsolicited proposals must contain specific elements: (1) a project description, (2) a plan specifying the financial commitments of the private sector partner to the project, (3) a plan to obtain property interests necessary to the project, (4) proposed user charges and revenue raising mechanisms, and (5) any additional required information needed by the responsible public entity.79

This legislation also created Florida Statutes Section 336.71 which enables county governments to utilize P3s for construction, expansion, or enhancement of county roads. These partnerships must adhere to specific requirements such as having sufficient protections in place to prevent service disruption or cost overruns, the use of provisions addressing post-agreement public ownership, and the presence of documented evidence of meaningful cost savings to the public compared to employing the traditional procurement process for this infrastructure. The cost savings must be independently confirmed by a professional engineer whose findings will be publicly available at least 14 days prior to a public meeting being held on the issue.80
Appendix A

Key Principles in Persuasively Communicating About Contracting & Public-Private Partnerships

Language Matters

Words have the power to shape perceptions and define debates.81 State and local government officials and administrators should be mindful to select the right words and phrases in discussing contracting and P3s. Key words and phrases that convey the reasons and expected benefits of contracting and P3s such as “quality” and “cost savings” should be emphasized.

As confirmed by the Mason-Dixon statewide survey of Florida voters, “contracting” and “public-private partnerships” are positive and favorable terms with citizens while “privatize” and “outsourcing” produce negative responses.

Who Defines the Debate Wins the Debate

It is the responsibility of state and local government officials and administrators to frame the debate on contracting and P3s in terms that are accurate and meaningful to stakeholders. Opponents may attempt to cast the debate inaccurately as one of “profiteering,” “poor service,” or “higher costs”. Framing the debate can largely determine who wins and who loses the communications contest. 82

Speak in One Voice

A well-defined message consistently repeated through all available channels of communication is crucial. Mixed or conflicting messages can confuse stakeholders and undermine credibility. Message discipline is essential. 83
Work with, Not Against, the News Media

The press is neither your friend nor your enemy. They just have a different job. Helping them do their job helps you. Government generally relies upon media coverage to keep stakeholders informed as opposed to using paid advertising. With contracting and P3s initiatives, state and local government officials and administrators will want to get ahead of the story. Being proactive and driving the news coverage is important. Be transparent and provide the media with all the facts, information, interviews, documents, etc. they need to do their job. Never ignore or delay in responding to media requests! 84

If You Don’t Buy What You’re Selling, Stakeholders Won’t Either

Stakeholders are unlikely to register much enthusiasm for a contracting or P3 initiative that is not communicated well or is not communicated by credible figures in a timely manner and in an enthusiastic way.

Repetition, Repetition, Repetition

All communication revolves around the guiding principle of repetition. To move someone from initial awareness (I just heard about it) to an attitude of acceptance (I am positive about contracting and P3s) to a behavior of adoption (I am in full support), the individual needs to hear the same effective message 6-7 times. Rarely does a single communication do the job. 85

A Good Message and a Good Messenger

The winning combination is a good message delivered by a good messenger. A bad messenger can undercut a good message. Successful policies, like contracting and P3 initiatives, need credible and effective messages and messengers. As confirmed by the Mason-Dixon statewide survey, the central winning message is cost + quality = support.

Use All Communications Channels

People receive information from a wide range of sources today. Government can make the mistake of thinking that if the major daily newspaper or the local TV news features a single story on a contracting or P3 initiative, the whole world saw it and now understands it. A better approach is to utilize the medium that is most likely to connect with your intended audience. Effective communication occurs when the right message is delivered to the right audience through the right channels. 86

Avoid Self-inflicted Injuries

Don’t oversell the policy choice. Only utilize accurate information. Be clear about limitations and manage citizen expectations. Opponents and reporters can employ the opportunity you hand them via an overstatement or gaffe to influence public opinion or get you off message and playing defense for days during a critical period in the discussion.
**Always Have Your Communications Professional at the Decision-Making Table**

Communications professionals are going to be able to identify issues and make recommendations that would not necessarily be apparent to others in the meeting. Their involvement at all stages of the policy process will prove helpful.

**A Charge Unanswered is a Charge Believed**

Those in public service are often victimized by this communications reality. Do not allow a charge which is false or inaccurate to be repeated in public settings or in media coverage without an immediate and effective response.87

**Know Your Audience**

There will be a core message whose points are available to be utilized in front of every audience. However, the core message can be tailored to fit the specific concerns of different audiences through the emphasis or de-emphasis of certain message points. Questions from each audience can be anticipated with effective responses prepared in advance. 88
Appendix B
Statewide Public Opinion Poll on Contracting & Public Private Partnerships (P3s)

How The Poll Was Conducted

This poll was conducted by Mason-Dixon Polling & Research, Inc. of Jacksonville, Florida from February 22 through February 24, 2012. A total of 625 registered voters were interviewed statewide by telephone. All stated they were likely to vote in the November general election.

Those interviewed were randomly selected from a phone-matched Florida voter registration list that included both land-line and cell phone numbers. Quotas were assigned to reflect voter turn-out by county.

The margin for error, according to standards customarily used by statisticians, is no more than ±4%. This means that there is a 95 percent probability that the “true” figure would fall within that range if all voters were surveyed. The margin for error is higher for any subgroup, such as a gender or party grouping. For the purposes of this poll, both contracting and P3s are referred to by the single umbrella term of public-private partnerships.

Florida Poll Regions


CENTRAL FLORIDA: Voters interviewed in Brevard, Lake, Marion, Orange, Osceola, Seminole, Citrus, Sumter, Volusia, and Indian River counties.

TAMPA BAY: Voters interviewed in Hernando, Hillsborough, Pasco, Pinellas, and Polk counties.

SOUTH EAST FLORIDA: Voters interviewed in Okeechobee, St. Lucie, Martin, Palm Beach, Broward, Miami-Dade, and Monroe counties.

SOUTHWEST FLORIDA: Voters interviewed in DeSoto, Glades, Hardee, Hendry, Highlands, Manatee, Sarasota, Charlotte, Collier, and Lee counties.
Mason Dixon Florida Poll Results

QUESTION: In terms of the taxes you currently pay, how would you rate the quality of services you receive from the Florida state government? Would you rate them as excellent, good, fair, or poor?

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QUESTION: In terms of the taxes you currently pay, how would you rate the quality of services you receive from your local government? Would you rate them as excellent, good, fair, or poor?

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QUESTION: How familiar are you with the concept known as Public-Private Partnerships? Would you say you are: very familiar, somewhat familiar, not too familiar or not at all familiar?

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QUESTION: Public-Private Partnerships is the concept of bringing together private sector businesses with state and local government agencies to provide public services of equal or higher quality at lower costs. In general, would you say that you support or oppose this concept?

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QUESTION: Public-Private Partnerships have been discussed as options to improve quality and lower costs in a variety of government services. Please tell me if you support or oppose using Public-Private Partnerships in each of the following areas that have been traditionally operated and managed almost exclusively by government agencies and employees.

- Utility services?

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- Police and fire services?

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- Information technology?

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- Maintaining fleets of government-owned motor vehicles, including cars, vans and trucks?

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- Prisons and other correctional services?

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- Building and maintenance of public facilities?

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- Library management?

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- Water and wastewater management?

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- Financial and accounting services?

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- Garbage collection, recycling, and solid waste management?

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- Parks and recreation services?

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QUESTION: I am going to read several statements. After each one, please tell me if you agree or disagree with it.

- I would oppose Public-Private Partnerships if it meant that some government employees would lose their jobs

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- Private businesses are generally more efficient than government when it comes to delivering many public services.

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- I would be more likely to support Public-Private Partnerships if I knew that the government employees currently providing the public services would be offered employment with the private firm that was hired to provide these services?

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- When government leaders contract with private firms to provide public services, it generally leads to favoritism and corruption.

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- I would oppose creating Public-Private Partnerships if it only reduced costs, but did not improve the quality of services.

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- When government leaders contract with private firms to provide public services, supporters claim it will save taxpayer money, but it really ends up costing us more.

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- Having private businesses providing or supporting some public services would reduce government bureaucratic red tape

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- The problem with contracting with private businesses to deliver public services is they are only interested in profit, rather than serving the public.

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- When spending money to deliver public services, government leaders should seek to create more private sector jobs, rather than increasing the number of public employees.

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- Taxpayers will save money because private businesses may not require as many employees to provide a service and will pay less for employee benefits and pensions.

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- Private businesses hired to provide public services will be less responsive to citizens compared to government.

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QUESTION: I am now going to read you a series of terms used to describe options which public managers have in providing services to the public. When I read each option, can you tell me whether you have a positive or negative reaction when you first hear this term?

- “Privatize”

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- “Public Private Partnership”

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- “Smart Contracting”

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QUESTION: Due to the economy, many local and state government agencies are seeking to reduce costs to balance their budgets. When facing the challenge of budget cuts, which of the following cost-reduction strategies would you prefer to see employed: (ORDER ROTATED)

22% - Eliminate programs or services outright
9% - Provide services to fewer citizens
61% - Contract with the private sector to keep similar service levels at a reduced cost
8% – Not Sure (NOT READ)
QUESTION: In the next election, government spending will be a key issue. If a candidate publicly champions public-private partnerships as a cost-savings strategy would that make you more likely to vote for them, less likely to vote for them or would it have no effect on your vote?

MORE LIKELY 25%
LESS LIKELY 20%
NO EFFECT 52%
NOT SURE 3%

QUESTION: Looking ahead, how long do you feel it will take for the economy to improve significantly? Will it improve:

2% – Within the next 6 months
9% – Between 6 months and a year from now
22% – Between 1 year and 2 years from now
64% – More than 2 years from now
3% – Not Sure (NOT READ)
DEMOGRAPHICS:

PARTY REGISTRATION:

Democrat  271 (43%)
Republican  248 (40%)
Independent or Other  106 (17%)

AGE:

18-34  73 (12%)
35-49  166 (27%)
50-64  183 (29%)
65+  198 (32%)
Refused  5 (1%)

RACE/ETHNICITY:

White/Caucasian  458 (73%)
Black/African American  78 (13%)
Hispanic or Cuban  78 (13%)
Other/Refused  11 (2%)

SEX:

Male  304 (49%)
Female  321 (51%)

REGION:

North Florida  125 (20%)
Central Florida  130 (21%)
Tampa Bay  120 (19%)
Southwest Florida  70 (11%)
Southeast Florida  180 (29%)
MEMORANDUM

DATE: February 28, 2012
TO: Government Services Partnership Institute
FROM: Dr. Joe Saviak and Carol Saviak
RE: Utilizing the Mason-Dixon Survey Results for Effective P3 Communications

The data from the Mason-Dixon Polling & Research February 2012 statewide survey of voter opinion in Florida on the concept of public-private partnerships can be effectively employed to guide future strategic communications by private and public sector partners to build and sustain support for contracting and P3 initiatives. For purposes of this analysis and discussion, contracting and P3s are simply referred to as P3s.

WHY DOES THIS DATA MATTER?

The data collected helps private and public sector partners understand public opinion to design and deliver effective communications to build and sustain public support for P3s. Understanding public opinion and designing and executing effective communications and political strategies is essential to success. Defining or framing the debate in terms that resonate with voters is critical to winning the public debate and support of citizens and elected office holders.

The data reveals that there is a low level of voter familiarity with the concept of public-private partnerships – 64% report being “not too familiar” or “not familiar” with P3s (Q4). This is not a well-defined and thoroughly understood public policy choice among Florida voters which presents both opportunities and threats. Although we will see there are a number of already held public perceptions towards using private firms to provide public services, this is also an issue waiting to be largely defined for voters by advocates and opponents (in contrast to a longstanding and universally known policy issue like Social Security with which voters may have much more experience and direct contact as well as more understanding of how it works and why it is needed compared to a lower profile policy issue like P3s).

However, when informed of the definition, voters are generally supportive of the concept of P3s (Q5) by a margin of close to 3 to 1 (62%-24%). In fact, voters definitely view P3s as the preferred policy for sustaining services while reducing government costs vs. the other options of eliminating or reducing services (Q33 – 61% choose P3s).

In summary, the public seems open and receptive to this policy choice but we will see that it depends on which service and how it is presented and whether their concerns about it are being addressed.
SPECIFIC SERVICES WHICH VOTERS ARE OPEN TO CONTRACTING

This data will help public administrators select services where contracting might be favorably received by citizens and avoid those which could be met with significant community resistance. Selection of services for contracting is vital to success and ancillary services as opposed to core functions (public safety) are preferred.

The data reveals voters are open to private sector providers delivering specific services:

**High level of public support (>65%):**
- Building and maintenance of public facilities (Q11) 74.7%
- Garbage collection, recycling, and solid waste management (Q15) 72.6%
- Information technology (Q8) 69.0%
- Library management (Q12) 67.2%

**Strong level of public support (>55%):**
- Maintaining fleets of govt-owned vehicles (cars, vans, trucks) (Q9) 63.8%
- Utility services (Q6) 59.0%
- Water and wastewater management (Q13) 58.4%
- Parks and recreation services (Q16) 57.0%
- Financial and accounting services (Q14) 56.0%

**Limited level of public support (<45%):**
- Prisons and other correctional services (Q10) 43.7%
- Police and fire services (Q7) 38.2%

In summary, start with those which score highest with the public and avoid public safety. A secondary reason for avoiding public safety is the political strength of key stakeholders such as public employee unions (police and fire).

MESSAGING OPPORTUNITIES

Successful public policies do not simply sell themselves. The poll revealed several winning and losing arguments which will be very helpful in successfully communicating with voters regarding public-private partnerships. Message selection is also beneficial to the elected officials who represent those voters and are being asked to adopt P3s in local government. Those officials and private sector partners need to know how to message this issue so they create and maintain public support while reducing the risk of controversy which could stop a proposed P3.

One of the key findings is that cost savings alone is not enough to trigger and sustain support of P3s. 64% report that they would oppose a P3 that produced cost savings but did not improve the quality of services (Q21). This finding makes sense as just over half of voters (53%) report being satisfied with the current quality of services from local government (Q3). Logically, they would not want to see a decrease in the present quality of service they receive. 46% rate current services from local government as “fair” or “poor” and likewise, they would not want to see a reduction in quality of services either (they are not satisfied now). The winning formula is cost + quality = support for P3s.

This poll sought to assess the effectiveness of competing arguments which will likely be advanced during a discussion of a proposed P3. Changing widely or deeply held public perceptions is a difficult communications assignment. It is much easier to advance arguments consistent with public perception and effectively address perceived concerns presently held by the public.
For example, in examining the potential negative reaction to public sector job losses as a result of a P3, voters seemed relatively sympathetic to public sector employees (51% agreed that they would oppose a P3 which meant some government employees would lose their jobs – this held even with Republicans at 49% - Q17). In the current economy, it may be that voters who are anxious over their own employment situation may be more sympathetic to the idea of anyone losing their job right now. Therefore, this argument cannot be dismissed by P3 advocates. However, voters respond positively when public sector employees are potentially offered positions with the private firms (69% support - Q19). Any P3 message needs to address this potential public concern over government employee job losses by pointing out that the contracting firm intends to offer employment opportunities (not guarantees) to affected government employees.

**POSITIVE PERCEPTIONS**

We tested and discovered several positive perceptions where the benefits of contracting/P3s resonate with voters, including:

- Comparative Efficiencies of Private Sector (60% agree - Q18)
- Benefit of Reducing Government “Red Tape”/Bureaucracy (60% agree - Q23)
- Benefit of Creating Private Sector Jobs (66% agree - Q25)

The public is predisposed to believe that P3s are more efficient, avoid bureaucratic red tape, and can create private sector jobs which they see as preferred to increasing public employment using those same public funds. Advocates of P3s will find that these arguments resonate with citizens. **Once again, the central message will still be reduced cost while maintaining or improving quality.**

**NEGATIVE PERCEPTIONS**

We also tested and discovered several potentially damaging criticisms of contracting/P3s, which should be pre-emptively and effectively addressed in public communications:

- Can Lead to Favoritism/Corruption (64% agree - Q20)
- End Up Costing More (61% - Q22)
- Profit Motive (62% agree - Q24)

The public is predisposed to believe that P3s can lead to favoritism/corruption and higher costs, and the only concern of participating firms is profit not public service. This is not a surprising finding. Institutional trust of all sectors – public, private, and non-profit – is at an all-time low and any historical reservoir of public goodwill towards business is at low ebb. In recent years, the public has seen saturation media coverage of companies receiving government bailouts (GM and Wall Street), special treatment (Solyndra), and there have been a series of high profile corporate misconduct scandals (Enron). The public is skeptical of government-business relationships.

Therefore, P3 advocates who dismiss or ignore these public concerns and these likely attacks from opponents do so at their own peril. Left unaddressed or unmet with an effective response, these arguments can do real damage. **These attacks must be pre-emptively and effectively addressed both in the design and management of P3s (contract design, performance measures, and accountability tools) and in the communications about P3s (talking points, media coverage, and paid communications).** P3 advocates should not wait until opponents seek to capitalize on these arguments which find fertile ground within the public mind. P3 advocates do not want to be in a defensive posture – as the saying goes, if you are defending, you are losing. Be proactive and pre-empt these concerns – take them off the table.
Why Do P3s Save Money? (Q26)

The public seems to understand that P3s can be more efficient and reduce their costs through decreased labor expenses compared to government (63%). However, given some sympathy towards job losses for public employees, this may not be an argument with which you lead the debate.

LESS EFFECTIVE ARGUMENTS

The data also revealed a less effective argument which could be levied by critics/opponents. This point did not strongly resonate with voters.

- Unlike the attacks discussed above, voters did not appear to be strongly moved by the idea that private firms would be “less responsive” than public agencies (52% disagreed with the idea that private firms would be less responsive to citizens compared to government - Q27).

This attack will likely be made by P3 opponents and it should be addressed. It can be pre-empted by contract design and messaging which emphasizes customer satisfaction. P3 advocates should know that opponents do not have a fatal weapon in their hands with this argument. Nonetheless, it has some traction with voters (45%) so it should not be ignored.

LANGUAGE MATTERS

- Voters react positively to the terms “Contracting,” “Public-Private Partnerships,” and “Smart Contracting” (Q31, Q30, Q32)
- Proponents of Contracting/P3s should avoid using the terms “Privatize” and “Out-Source” which produce negative voter reactions (Q28, Q29). Privatize has a 54% negative reaction and out-sourcing achieves a 66% negative response. Expect these to be the terms of choice of opponents.
- Contracting scores the highest favorability rating with 69% positive followed by P3s with 61% and smart contracting with 60%.

SURVEY LIMITATIONS

It is important to recognize survey results represent a “snapshot” of voter opinion at a specific point in time. Public opinion can shift over time (in either direction) as a result of different variables, including the communications strategies employed by parties interested in these debates.
CONCLUSION

This survey research has revealed the general level of support for the policy of P3s, levels of support of P3s for specific public services, effective messages to deliver to build and sustain public support, real concerns to effectively address to maintain citizen support, and the right language to employ with P3s.

**This survey confirms that advocates need to define and drive the debate over P3s.** The debate should be conducted on documented strengths of P3s while also pre-empting and neutralizing the likely attacks. This research validates that there is a real window of opportunity for obtaining public support.

Citizens want quality services without raising taxes and they believe the economy is not likely to recover immediately so new resources are not forthcoming to fund those services. They believe that P3s have the potential to be the solution to sustaining quality services while coping with reduced resources. With proper design and effective management of P3s coupled with winning messages successfully delivered in support of P3s, P3 advocates can win the communications contest and advance the utilization of P3s in Florida.
References


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85 Ibid.
86 Ibid.
Special Acknowledgements

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**Government Services Partnership Institute (GSPI)**

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Shawn Heister  
Taylor Smith  
Walt Bussells  
Carol Saviak  
Brad Coker

**ABOUT GSPI**

The **Government Services Partnership Institute** was created to assist public and private sector organizations seeking to enhance contracting practices and public service delivery and to provide resources to entities seeking to develop public-private partnerships.

**CONTRACTING & PUBLIC-PRIVATE PARTNERSHIPS**

  
  Dr. Lawrence Martin & Dr. Joe Saviak

For additional information, please contact Dr. Saviak at 904-599-5678 or jsaviak@flagler.edu
Contracting & Public Private Partnerships
A Historic Window of Opportunity

Today, state and local government officials and administrators are confronted with unprecedented and continuing challenges. State and local governments are constrained by serious reoccurring budgetary difficulties in the form of stagnant or declining revenues and increasing costs. Shrinking government workforces negatively impact the ability to deliver public services.

Nationwide, much of our public infrastructure is deemed inadequate or obsolete. Yet, citizens still expect high quality public services and complain when the condition of public infrastructure does not meet their expectations.

What may appear to be a perfect storm of fiscal, managerial, and political challenges is also a once in a lifetime opportunity to fundamentally alter the way state and local governments deliver public services and public infrastructure. A historic window of opportunity for public sector leaders currently exists. There has never been a better time for state and local governments to rethink, reorganize, and reengineer public service delivery.