

STATE OF PUBLIC-PRIVATE PARTNERSHIPS IN THE U.S.

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A 2011 survey for the Canadian Council for Public-Private Partnerships found that seven in ten Canadians were open to the private sector delivering services in partnership with the government in areas such as roads, hospitals, schools, public transit systems, and water. By sector, the survey showed that two-thirds of those polled supported public-private partnerships (P3s or PPPs) for hospitals, water, and schools. More than 70 percent supported P3s for roads, recreational facilities, and transit.

It makes you wonder what those numbers might be south of the border, here in the United States. Holding to the maxim that governments are measured not on what they own but on what they deliver, I suspect that most Americans would not have a problem with P3s, as long as they delivered the promised outcomes. So why are there not more P3s in the United States?

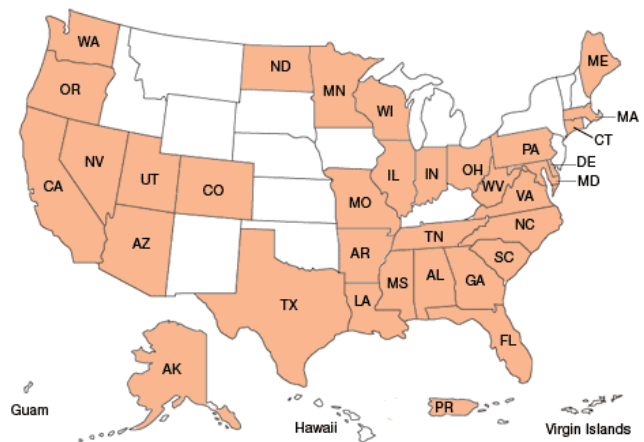
A year ago, I wrote that the United States is a trend when it comes to PPPs. I also wrote that “[w]hen it comes to public-private partnerships, the U.S. has been the land of eternal promise and perpetual disappointment.”¹ While I remain bullish, questions remain. Let us look at the U.S. P3 market.

The Good News

In the U.S., P3s are no longer the theoretical domain of think-tanks and advocacy groups such as the Reason Foundation, the Heritage Foundation, the Brookings Institution, or the National Council for Public-Private Partnerships (NCP3P). Theory has become law and laws have enabled actual PPP projects. As a testament to that public policy work, 34 states and territories now have some form of PPP laws on their books.²

A number of other states, including Kentucky, New York, and Hawaii, are considering legislation. The federal government has enacted and executed significant P3 initiatives such as Enhanced Use Leasing, the Military Housing Privatization Initiative, and the Transportation Infrastructure Finance and Innovation Act (TIFIA).

The United Kingdom, Canada, and Australia (and their sub-national units) are often held up as paradigms for how to run successful P3 programs and projects. In addition to those countries (I really do not want to leave anyone out), many others have functioning P3 units within the central government. The funny thing is that the U.S., long considered a laggard when it comes to P3s, actually has P3 activity in all the same sectors as countries with well-organized and strong P3 programs. The difference is



¹ “2013 Public-Private Partnership Trends,” IP3 Public-Private Partnership White Paper Series, February 2013.

² Many of these laws are transportation related.

that with some exceptions, the U.S. does not have similar centralized P3 units and process protocols nor is there as robust a pipeline of projects that can be found beyond its borders. For those of us that keep up with P3 news, we are always reading about a road or bridge project in some part of the world. In the U.S., we have the Indiana Toll Road (Indiana), Illiana Expressway (Indiana and Illinois), 495 Express Lanes (Virginia), the Goethals Bridge (New Jersey and New York), Midtown Tunnel (Virginia), and PR-22 and PR-5 (Puerto Rico), to name just a sampling of U.S. P3 surface transportation projects. Many of those projects and more have been catalyzed by TIFIA.

Countries as diverse as the United Kingdom, Germany, Chile, Jamaica, Australia, Malaysia, Brazil, the Philippines, Mexico, India, and others have completed or are pursuing airport P3s. Here in the U.S., the same has been done or is being pursued for Luis Munoz Marin International Airport (Puerto Rico), Stewart International Airport (New York), and LaGuardia Airport (New York).

Transportation infrastructure is not the only focus for U.S. P3s. There is an active market for the P3 filtration and treatment of water, with approximately 2,000 U.S. municipalities contracted with a private operator. Municipalities and public authorities are also partnering with private parties for parking services, including meters and facilities.

We also take for granted that street lamps come on at night. Most of us assume that the lights are paid for, yet we have no idea of the capital and operational costs for illuminating the common areas of our city, town, or village. The French have pioneered street lighting P3s based on availability payment models. What is good for Paris is apparently good for the Washington, D.C. Metropolitan Area. The Washington Metropolitan Area Transit Authority (WMATA; the folks that run the Washington transit system) recently contracted with Philips Electronics to light all of its parking facilities. Phillips will finance, install, and maintain lights and fixtures. In return, WMATA makes payments on a pre-set schedule to Philips. Moreover, Philips has guaranteed the energy savings.

Speaking of WMATA, it is working with the Maryland Transit Administration to develop a new 16-mile (27 kilometers) transit line, commonly referred to as the Purple Line, through a P3.

The U.S. has been a leader in the P3 housing sector, and it has been the military in the vanguard. All three branches of the military have aggressively developed attractive, desirable housing through P3s. Interestingly, a number of the private developers of military housing have transferred that expertise to the higher education market and are building student housing in partnership with public universities.

Then there is the justice sector. Long Beach, California, just to the south of Los Angeles, recently opened a 545,000 square foot courthouse developed through a P3. Indianapolis, Houston, and others are now in the process of tendering for public-private courthouses.

There is not enough space in the paper to cover all sectors and certainly not enough for all the P3 projects, but you get the idea that there is a significant amount of P3 activity in the United States.³ Yet, frustration remains among developers and practitioners over a lack of activity relative to the potential size of the market. What gives?

³ Two great sources for U.S. P3 project information are Public Works Financing (www.pwfinance.net) and the Reason Foundation Annual Privatization Report (www.reason.org/publications/annualprivatizationreport/).

The Not So Good News

If ten years ago you asked a public official why they do not pursue more P3s, they would likely respond by asking you what a P3 is. Today, while they are aware of P3s, they may not understand them. Public officials will likely ask you why they should seek private capital that demands a higher return than lower-interest rate tax-exempt debt. They may also mention labor and/or stakeholder issues, but tax-exempt debt remains the crux of the issue.

If you ask a private developer what they believe is holding back the U.S. P3 market, they too will cite a public sector addiction to tax-exempt municipal bonds. They (particularly foreign firms) may also allude to confusing procurement procedures, laws, and regulations spread out over 50 states, plus the District of Columbia, plus territories, plus the more than 3,000 counties and nearly 20,000 municipal governments. With a couple exceptions, e.g., the Puerto Rico Public-Private Partnership Authority, and the Virginia Department of Transportation, there really is nowhere to go for one-stop P3 shopping. The result: a lack of standardized documentation, lack of project pipeline, and lack of agency coordination.

You can measure the volume of tax-exempt bonds and enumerate jurisdictions with laws facilitating P3s. More difficult to measure, but a common complaint among developers is a lack of political will. Realistically, P3 transactions remain fairly novel in the U.S. and thus attract a lot of media attention. In fact, some of the P3 projects undertaken in the U.S. have attracted bad press and have been public relations failures either because of poor project design, or because of misconceptions about the potential benefits of P3 projects. There is a need for P3 expectations to be realistic and that P3 projects are more carefully selected. It is fair to say, based on prior experience, that more stakeholder education both inside and outside of the public sector is needed to create an environment more conducive to the growth of the P3 market in the U.S.

Even with political champions in place, there is still a need for the technical expertise within government to successfully analyze, procure, and close a P3. Training and institutional capacity building remain critical to successful P3 outcomes; and successful outcomes are critical to building the momentum necessary to encourage governments to consider P3s as an alternative delivery method. Fortunately, professional training, policy, and transaction advisors (such as IP3), which have been instrumental in the success of many of the foreign P3 initiatives, are now primed and ready to apply their expertise to the U.S. market.⁴

Bad News, Good News

In its 2013 report card, the American Society of Civil Engineers (ASCE) “awarded” the U.S. a grade point average (GPA) of D+ for the condition of its infrastructure, with only one sector receiving a grade higher than a C+ (solid waste earned a B-). This is not good. To raise the GPA to a B, which is considered “good,” the ASCE estimated in 2010 that there is a need to invest another \$1.6 trillion over and above what is currently budgeted by 2020 to close the funding gap.⁵

This bad news is potentially good news for the P3 market. Many state and local governments are at the fiscal breaking point. They are bumping up against their financial and political capacity to issue more public debt, and perhaps more importantly, running into opposition to increasing taxes, which would

⁴ www.ip3.org

⁵ www.infrastructurereportcard.org

eventually service that debt. That provides an opening for engaging the private sector to finance, develop, and operate infrastructure. While not a panacea for the U.S. infrastructure funding gap, objectively considered and prudently applied,⁶ P3s can certainly stretch public capital allowing more projects to be funded.

As stated earlier, I remain optimistic that reliance on private sector funding in the U.S. will continue to grow. More elected officials, implementers, financiers, and others that play a role in delivering infrastructure and government services understand the benefits of private sector funding, project delivery, and operation. Politically, governors and mayors are pursuing P3s from both ends of the ideological spectrum. P3s are not a partisan matter, but one of good governance and common sense. To bring that home, there is now a Congressional Public-Private Partnership Caucus that is co-chaired by a Republican and a Democrat.

We have the happy misery of increased P3 activity that is not well organized on a programmatic basis. The challenge now is to harness the success of this entropic energy, and convert it into a sustainable pipeline of P3s that deliver value for money.

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The Institute for Public-Private Partnerships (IP3) is the leading global research, advisory, and capacity building firm with close to 20 years of experience in providing specialized, effective services in **the areas of PPPs, finance, economics, law, regulation and management**. As part of our outreach on contemporary issues on *Public-Private Partnerships*, we will issue occasional White Papers on topics of importance for today's decision makers.

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⁶ This emphasizes the need for P3 capacity building and training.



John Buttarazzi is a public-private partnership professional with more than 20 years of experience in infrastructure, real estate and economic development. He has managed more than \$2 billion in such projects, including the first commercial airport privatization in the United States and the redevelopment of the New York Metropolitan Transportation Authority-owned Coliseum into 2.2 million square feet that includes the Time-AOL headquarters. As an Institute for Public-Private Partnerships (IP3) instructor, Mr. Buttarazzi has led discussions on Value for Money, establishing a P3 unit, and P3 structures, among other topics.

Mr. Buttarazzi recently served as the Chief of Staff for a Member of the U.S. Congress and has held senior executive positions in the real estate industry. He also served as Senior Vice President of the Empire State Development Corporation, New York State's economic development arm, where he simultaneously managed the Privatization, Business Development, and International divisions.

Mr. Buttarazzi received his Bachelor of Science from Washington & Lee University and his Master of Science from the Columbia University Graduate School of Architecture, Planning and Preservation and is a former David Rockefeller Fellow. He has published a number of articles and has made presentations around the world on the subject of PPPs and has instructed foreign officials on setting up a public-private partnership framework.