Thinking About Undertaking a P3/P4 Project?

KUTAK ROCK LLP

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Session Agenda

1. What is a P3/P4 Project?

2. Key P3/P4 Issues and Best Practices from Different Perspectives

3. Open Discussion – Please share:

    A. P3/P4 Success Stories

    B. P3/P4 Obstacles

4. Questions and Answers

What is a P3 or P4 Project?

- P3 = public entity + private entity

- P4 = public entity + public entity + private entity

- Examples of P3/P4 projects:

Land redevelopment	Governmental buildings	Education
Energy	Airports	Housing
Parking facilities	Roads	Health care
Prisons	Utilities	Ports

Why Would a Government Consider a P3/P4 Project?

- Opportunity to satisfy a need

- Leverage expertise and abilities of private sector

- Transfer of risk

- Different method of paying for project

- Potential efficiencies and speed in project delivery

Common Steps for a P3/P4 Project

- Need identification

- Evaluation for appropriateness as a P3/P4 project

- Proposing the idea

- Governmental authority and procurement

- Further due diligence

- Negotiation of agreement(s)

- Closing

- Implementation

Key Issues from a Legal Perspective

- Scope of statutory authority / regulations

- Procurement processes
  - Clarity in expectations and requirements from both public and private parties
  - Key questions that enable parties to evaluate likelihood of project success
  - Use procurement process as an opportunity to advance negotiations and ensure picking a like-minded partner

Key Issues from a Legal Perspective (Cont.)

- Negotiation of agreements
  - Identification of a mutually beneficial transaction structure
  - Clear roles and responsibilities for all parties
  - Definitive performance milestones and explicit reasons why such milestones could be delayed
  - Allocation of risks, revenues, and rewards
  - Goals and requirements of other key parties that are not signatories (i.e. investors, community)
  - Termination rights and processes

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Key Issues from a Legal Perspective (Cont.)

- Implementation
  - System for monitoring milestones and responsibilities
  - Approvals for future work / decisions / contingencies
  - Reporting / status meetings / audits
  - Dispute resolution processes
  - Amendment or termination when necessary

Questions?

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