

## **PUBLIC-PRIVATE PARTNERSHIPS (P3S): AN ALTERNATIVE PROJECT DELIVERY METHOD**

ACEC New York recognizes that New York State has a growing backlog of unmet public infrastructure needs, with limited public funds to pay for them. Public-private partnerships (P3s) have the potential to provide new sources of financial support for the construction and maintenance of public infrastructure for New York State and local governments by combining the resources of the public and private sectors. While they are not appropriate for every project, ACEC New York believes that, given the fiscal constraints facing New York State and its local governments, P3s should be viewed as an alternative means of constructing and maintaining facilities and providing services.

ACEC New York acknowledges the value of public-private partnerships as an alternative project delivery system--an integrated approach that can provide the owner with design, construction, financing, operations, and maintenance services under one contract with a single source of project responsibility. Design professionals may engage in a variety of roles in P3 execution agreements: as the owner's engineer; as the lead entity, in a joint venture relationship with a contractor; as lead designer in a sub-contract role to a contractor; as a sub-consultant to the lead designer; as an independent check engineer; and as an equity partner.

The traditional method of financing and developing transportation infrastructure projects was created to protect the public interest by providing substantial public sector oversight of public funds. However, ACEC New York believes that, by providing access to alternative financing sources, public-private partnerships can facilitate the construction of projects that might otherwise have been delayed or not built at all. In addition, there is an inherent incentive to complete projects on time, often resulting in cost savings. . With revenues frequently tied to completion or putting a project into operation, the private operator wants to have the project online as soon as possible. The private sector is also known for innovation and efficiencies that result in fewer change orders, claims and less litigation.

P3 agreements are not without risks, however, and need to contain a certain "critical mass" to attract financing and justify the high procurement costs. Even well-structured public-private partnerships will not attract interest from the engineering industry when this procurement type does not align with their individual business and risk management strategies. ACEC New York supports the New York State Comptroller's statement: "the bottom line determination in any proposed public-private partnership procurement must be whether or not there is a compelling economic justification for the public to enter into the agreement."<sup>1</sup>

Public-private partnerships may exist in many areas: water, transit, roads and bridges, ports and airports. ACEC New York believes that in order to take advantage of using this alternative delivery method, the state should establish a process for their use, designate the types of projects for which public-private partnerships are best-suited, and set guidelines for a public entity to utilize during implementation.

The use of P3s in New York should not come without safeguards. Maintenance and operational

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<sup>1</sup> Controlling Risk Without Gimmicks: New York's Infrastructure Crisis and Public-Private Partnerships, Office of the State Comptroller, Thomas P. DiNapoli, January 2011

standards must be maintained so end users are provided with a safe and reliable service, whether it is a road, a water system or a building. The conditions of an asset should also be guaranteed at their time of return to the public owner. The state has a compelling interest in the on-going attribute of an asset.

In addition, when the P3 model is implemented on a project, ACEC New York strongly believes that a Qualifications-Based Selection (QBS) process be required for all contracted parties. State and federal laws mandating the use of QBS serve to protect the professional role of the engineer in the project delivery process. QBS also serves a larger public interest need, ensuring that critical engineering work conducted on projects used by the public is done by highly qualified firms. ACEC New York believes that the well-tested QBS practice for design firms be preserved and extended to all private entities in the public-private partnership procurement process to ensure that assets used by the public are properly designed, built, financed and maintained. ACEC New York further recommends that public agencies be very diligent in assessing the private sector team since the success of a project is highly dependent on the performance of the team. Additionally, in order to offset the cost of preparing detailed proposals, a financial stipend should be specified in the RFQ and paid by the owner to those shortlisted teams who are not selected for the project.

ACEC New York believes that P3s have the potential to provide significant new sources of financial support for the construction and maintenance of public infrastructure. While P3s may not be appropriate for every project, we believe the private sector has the experience and resources to help the State maintain and expand many of its public assets.

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*Founded in 1921, the **American Council of Engineering Companies of New York** (ACEC New York) is the state's premier organization for consulting engineering firms, representing 280 companies and over 20,000 employees in New York. The organization's mission is to further the business interests of its members through advocacy, networking, education and business services. For more information, visit [www.acecny.org](http://www.acecny.org).*

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