



Public-Private Partnerships

Doing Business In Canada

Public-Private Partnerships

Governments in both developed and emerging markets are seeking viable alternatives to direct public service delivery in their efforts to expand, rehabilitate or replace existing public infrastructure. One such alternative is a public-private partnership (“P3”) whereby a public sector entity contracts with a private sector entity to provide specific assets and, in relation to those assets, to deliver specific services over many years. P3 projects are generally tendered under procurement rules. They require a bid for the facility and services against a long term use or lease agreement providing a financeable revenue stream. The required uses are specified often with use payment against a specified return for the developer/operator.

The P3 model ensures that the infrastructure remains publicly accessible and ultimately owned while obligating the private sector to assume responsibilities and risks in designing, building, financing, and operating (or maintaining) that infrastructure (i.e., schedule delays or cost over-runs) against negotiated revenue. Risks and control associated with, for example, uninsurable events and industry-specific changes in the law typically are retained by the public sector. P3 procured public infrastructure projects potentially offer cost savings, service delivery efficiencies, and enhanced design and construction quality. Common P3 projects include hospitals, highways, bridges, sports facilities, airports and schools.

P3s in Canada

The Canadian P3 market is among the most stable, sophisticated and robust public-private partnership

procurement markets in the world. Governments at all levels across the country are using the P3 model to close the current infrastructure gap and efficiently deliver public infrastructure. A number of large-scale capital projects involving long-term privately financed concessions have been procured in some of the provinces. All of the provinces are expanding the sectors in which the P3 model is being employed. Significant infrastructure projects in the resource development sector (i.e., the Alberta oil sands and highway 407 in Toronto) have attracted global participants including foreign construction companies, operators, lenders and equity providers who commonly partner with major Canadian P3 participants.

The infrastructure bidding process does not generally include Canadian content as a requirement or as a bidding score point. Foreign resident developers and operators may be involved in the infrastructure build and operation phases.

The federal government and several of the provincial governments across Canada have been addressing the country’s growing infrastructure deficit through dedicated, specialized agencies that promote the P3 model. Particularly where federal funding is available (see discussion below), there has been significant interest in P3s at the municipal level.

The federal government is enhancing its participation in the infrastructure sector with the 2016 announcement of a government backed infrastructure bank. As of May 2017, the extent and nature of the P3 involvement of this funding source is unsettled but is expected to provide very significant additional funding for projects sponsored at all government levels.



PPP Canada

PPP Canada (or “**P3 Canada**”) is a federal Crown corporation that was created to facilitate the development of Canada’s P3 market. The agency encourages P3 projects across a number of eligible categories as led by provincial, territorial, municipal and First Nations governments. Recently, P3 Canada has shown particular interest in providing financial support and expertise for large capital projects at the municipal level. P3 Canada’s participation in the P3 market ensures that due diligence takes place at all stages of the project development lifecycle and that best practices are followed to ensure transparency, fairness and competitiveness. In achieving its mandate, this federal Crown corporation provides expertise and advice on various aspects of public-private partnerships; assesses and advises on the execution of federal P3 opportunities; and evaluates the suitability of P3 projects from other levels of government seeking federal infrastructure funding.

P3 projects are generally accessed through a competitive bidding process with price, objective satisfaction and specifications featuring prominently in the selection. Non-Canadian developers and service providers are generally permitted to openly and competitively bid.

P3 Canada Fund

P3 Canada strategically administers the P3 Canada Fund. The Fund helps finance infrastructure projects launched by other levels of government across the country. A merit-based program, the Fund was established to encourage inexperienced jurisdictions to consider P3s in their public infrastructure procurements and to spur innovation in P3s. It was the first infrastructure funding program in Canada directly targeting P3 projects. To be considered by the Fund, projects must foster economic growth, support a cleaner environment, or promote stronger communities. Eligible projects potentially receive up to 25% of the direct cost of construction through non-repayable (or repayable) contributions, loans or loan guarantees.

The initial, five-year, \$1.2 billion P3 Canada Fund supported projects across Canada with combined capital costs of more than \$6 billion. P3 Canada has committed an additional \$1.25 billion under the Fund through 2018, funding more jurisdictions and sectors than ever before. Priority will be given to public infrastructure projects

that maximize private sector involvement and that target the transportation, water/wastewater and solid waste disposal sectors.

Provincial P3 Projects

Infrastructure Ontario

While there is significant similarity in the public infrastructure procurement process and documentation across Canada, each province has its own legislative and regulatory requirements for P3 projects. Ontario and British Columbia have led the way at the provincial level in using P3 financing to procure their infrastructure requirements. The Ontario Infrastructure and Land Corporation (now “Infrastructure Ontario”) was established in 2005/2006 to manage the implementation of major infrastructure projects (other than power supply projects for which there is already a dedicated provincial agency) in the province. The corporation’s focus has shifted away from hospitals and public buildings (i.e., colleges and courthouses) to transit and power. With an extensive and continuing deal flow, Ontario remains Canada’s largest P3 market.

Partnerships BC

Like Infrastructure Ontario, Partnerships BC is the lead agency in that province for projects using a long-term concession structure. Established in 2002 by the BC provincial government, the agency was an early adopter of (and has been a leader in) the P3 market in Canada. Owned by the Province, Partnerships BC brings together ministries, agencies and the private sector to develop public infrastructure projects. The provincial agency facilitates (and occasionally manages) partnerships on behalf of public sector agencies. Actively involved in project selection and development, the Crown corporation has shifted its focus away from transportation projects (i.e., highways and bridges) to more social accommodation projects such as hospitals, jails, courthouses and energy and water/wastewater projects.

Alberta, Saskatchewan and Manitoba

Alberta has a dedicated P3 (Alternative Capital Financing) office within the Alberta Treasury Board. The province uses a simplified standard project agreement and a relatively simple selection and completion process. The province’s



focus has been on education and transportation; but in recent years water/wastewater and rapid transit projects have been announced. SaskBuilds is bringing together public and private sector parties for major infrastructure projects such as roads, schools and correctional facilities in the province of Saskatchewan. Manitoba does not have a dedicated public infrastructure agency.

Infrastructure Québec

Infrastructure Québec was established in 2005 to advise the provincial government on the implementation and structure of P3 projects. The provincial infrastructure organization has to date procured social infrastructure such as hospitals, highways, jails and courthouses in the province.

Maritime Provinces

In the Maritimes, provincial organizations such as Partnerships New Brunswick have procured social infrastructure including schools and highways. The Nova Scotia Ministry of Infrastructure and Transportation is responsible for the procurement of that province's major infrastructure projects, undertaking creative approaches such as bundling school buildings into a single P3 project.



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