



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
441 G STREET, NW
WASHINGTON, DC 20314-1000

JAN 08 2019

CECW-ZB

MEMORANDUM FOR MAJOR SUBORDINATE COMMANDS AND DISTRICTS

SUBJECT: Implementation Guidance for the Civil Works Public-Private Partnership (P3) Pilot Program and Call for Submittals

1. The 13 September 2018 memo from the Assistant Secretary of the Army (Civil Works) directed the U.S. Army Corps of Engineers (Corps) to establish a P3 pilot program with the goals of demonstrating the viability of new delivery methods that can significantly reduce the cost and/or time of project delivery. The memo directs the Corps to identify up to 10 additional P3 pilot projects. It provides guidance on the amount of Corps budget to be allocated to P3 projects, and identifies that the Corps Infrastructure Team will take the lead on implementation of this policy and the P3 pilot program (Enclosure 1).

2. To develop the pilot program and identify potential P3 pilot projects, information will need to be submitted based on the initial screening and selection criteria. The Corps will use a matrix to evaluate the project information (Enclosure 2). The criteria are as follows:

a. Initial screening criteria:

(1) The P3 proposal:

- (a) has a construction cost in excess of \$50 million;
- (b) has non-Federal sponsor support;
- (c) includes design, build, finance, operation and maintenance (DBFOM) or some combination thereof for Federally authorized projects;
- (d) accelerates project delivery; and
- (e) has the ability to generate revenue or leverage non-Federal funding sources.

(2) Existing authorities are sufficient to allow the P3 project to be completed.

(3) A qualitative assessment demonstrating that the P3 will deliver the project faster and/or more cost effectively than traditional delivery.

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b. Selection criteria:

(1) Return on Federal Investment

(a) P3 project proposals will be evaluated and ranked on the basis of Return on Federal Investment (ROFI). ROFI will be calculated by annualizing the total project benefits and Federal costs utilizing the current discount rate and applying the formula: $(\text{Benefits} - \text{Federal Costs}) / (\text{Federal Costs})$.

(b) For any P3 project where it has been determined that a reduction in the non-Federal share is warranted with authority provided in 33 USC 2213, the ROFI calculation will be adjusted to account for those modifications and address concerns pertaining to equity.

(2) Replicability: Project proposals that are replicable, meaning the proposed P3 structure or underlying concepts may be applied to other prospective projects.

(3) Reliable Funding Sources: Reliable non-Federal funding sources for the design, construction, operation and maintenance of Federally authorized water resource projects are identified.

(4) Risk Allocation: Project effectively allocates delivery and performance risk to non-Federal entities and minimizes Federal direct and contingent liabilities associated with the project.

3. Corps has established a website for the Infrastructure Team located at: <https://www.usace.army.mil/Missions/Civil-Works/Infrastructure/>. This website will provide general information about P3, the criteria, and timelines for the submittal process. The request for information on conceptual P3 delivery of specific U.S. Army Corps of Engineers Civil Works projects will occur simultaneously internal and external to the Corps. USACE will publish a notice in the Federal Register with instructions for submitting project information external to the Corps. The notice will request that all information be submitted within 60 days of the notice's publication date. This deadline will also serve as the deadline for internal submittals and is anticipated to be on or around 1 March 2019.

a. Internal submittals - Each MSC has designated a P3 point of contact (POC). This POC will be responsible for submittal of all proposals to the Infrastructure Team. Proposals must include a completed matrix (Enclosure 2) and a P3 project fact sheet (Enclosure 3). Proposals must be submitted to the Infrastructure Team via email at: CW.Infrastructure.Team@usace.army.mil.

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b. External submittals - External submittals will require submittal of a P3 project fact sheet (Enclosure 3). The Corps Infrastructure Team will complete the matrix for external submittals (Enclosure 2) and detailed instructions will be provided in the Federal Register notice. Proposals must be submitted to the Infrastructure Team via email at: CW.Infrastructure.Team@usace.army.mil or regular mail to: USACE Infrastructure Team, Attn: John Coho 3F65, 441 G. Street NW Washington, DC, 20314-1000. All submittals by regular mail must be postmarked no later than the last day of the 60 day project proposal submittal period.

(1) All information provided in the proposal is public information. Therefore, information that is confidential business information, information that should not be disclosed because of statutory restrictions, or other information that a non-Federal interest would not want to appear publicly should not be included in the submittal.

4. The Infrastructure Team will be responsible for pilot project evaluation and selection in coordination with other technical experts as appropriate. The Infrastructure Team will recommend no more than 10 additional pilot projects based on the identified criteria. These are in addition to the one ongoing pilot project in Fargo-Moorhead.

5. There are no limits on how many eligible projects a MSC can evaluate and submit, however, each MSC will strive to identify at least 2 eligible projects.

6. The Corps will provide a list of selected projects along with supporting documentation to the ASA(CW). These selected projects will make up the P3 pilot program.

7. For each selected pilot project, the Infrastructure Team will work directly with the project delivery team on the appropriate steps for development and implementation consistent with existing authorities and industry best practices.

8. Annually as part of the Budget development process, each MSC will have the opportunity to submit additional projects for consideration. Instructions will be provided in the annual budget development guidance.

9. The Corps intends to seek additional external submittals on an annual basis, that will be similar to the initial call for proposals.

10. The Corps is aware of existing challenges facing the implementation of P3 and significant research and analysis has been completed to date. Reports documenting some of this information can be found at: https://www.usace.army.mil/Missions/Civil-Works/Infrastructure/Infra_P3_program/ and should be considered when developing P3 proposals. The report from the Harvard Kennedy School, citation below, can be used as a resource for information.

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Ash Center for Democratic Governance and Innovation. (2017). *Tapping Private Financing and Delivery to Modernize America's Federal Water Resources*. Cambridge, MA: Harvard Kennedy School.

Key known challenges are; 1) inability to collect, retain and reinvest fees; 2) inability to make commitments on future appropriations; and 3) enabling framework and authorities to implement P3 projects. The Corps has explored options for utilization of P3 on Federally owned assets to include the navigation system and hydropower, both of which have existing challenges pertaining to authorities and budget scoring. These challenges should be considered and understood when providing a response to this request.

11. Questions regarding this implementation guidance may be directed to the Infrastructure Team at CW.Infrastructure.Team@usace.army.mil.



JAMES C. DALTON, P.E.
Director of Civil Works

3 Encls

1. Policy for Civil Works
P3 Pilot Program
2. USACE P3 Screening
Matrix
3. P3 Fact Sheet
Template



DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
CIVIL WORKS
108 ARMY PENTAGON
WASHINGTON DC 20310-0108

SEP 13 2018

MEMORANDUM FOR COMMANDING GENERAL, U.S. ARMY CORPS OF ENGINEERS

SUBJECT: Policy for Developing the Civil Works Public-Private Partnership (P3) Pilot Program

1. To be responsive to the President's initiative on building U.S. infrastructure and the direction provided in the FY18 Appropriations Act Conference Report, this policy is provided to address how proposals for public-private partnerships (P3) will be considered by the Corps and how these partnerships will be incorporated into budget policy. The Corps needs to develop and utilize P3 approaches to deliver resilient, reliable and sustainable water resources infrastructure, with the goal of sustaining performance, extending service life, buying down risk, accelerating delivery, reducing life cycle costs, achieving earlier accrual of project benefits to the nation, increasing the Federal return on investment, and extracting value from employed capital and existing infrastructure assets to offset costs and promote cost recovery. P3 is a tool that will be used, in addition to traditional delivery approaches, to meet these goals and improve the implementation of national infrastructure.
2. For the purposes of this policy, the following Definitions will be utilized.
 - a. A Public-Private Partnership (P3) generally refers to a long-term contractual relationship between a public sector contracting authority and a private sector entity for the financing and delivery of public infrastructure and/or the provision of public services. This can be done as any combination of design, build, finance, operate and/or maintain (DBFOM, DBFM, etc). P3s differ from more traditional delivery structures in that the goal is to transfer risk associated with the delivery and performance of the project to the private partner.
 - b. Federally-led P3s are P3 contracts directly between the Corps and a competitively selected non-Federal entity for the design, construction, financing, operation and/or maintenance of the Federally authorized project.
 - c. Locally-led P3s refer to contractual relationships executed between a non-Federal project sponsor and a private entity for the design, construction, financing, operation and/or maintenance of an infrastructure asset over a stipulated period of time, whereby the non-Federal project sponsor has a separate project-partnership agreement (PPA), memorandum of agreement, and/or a memorandum of understanding with the Corps setting forth the rights and responsibilities of both the Corps and non-Federal entities with respect to the project.
3. Policy: The Corps will use the criteria below to select projects for a pilot program with the goal of demonstrating the viability of new delivery methods that can significantly reduce the cost and time of project delivery. Pilot projects should be nationally or regionally

SUBJECT: Policy for Developing the Civil Works Public-Private Partnership (P3) Pilot Program

significant with respect to generation of economic and public benefits.

a. During the pilot phase of the Corps P3 initiative, the Corps will develop a matrix to evaluate project proposals based on the following initial screening criteria:

(1) The P3 proposal:

- (a) has a construction cost in excess of \$50 million;
- (b) has non-Federal sponsor support;
- (c) includes design, build, finance, operation and maintenance (DBFOM) or some combination thereof for Federally authorized projects;
- (d) accelerates project delivery; and
- (e) has the ability to generate revenue or leverage non-Federal funding sources.

(2) Existing authorities are sufficient to allow the P3 project to be completed.

(3) An initial Value for Money analysis demonstrating that a P3 contract structure will deliver the project faster and more cost effectively than traditional approaches to project delivery.

b. P3 proposals that meet the initial screening criteria noted above will be evaluated and selected on the basis of the following criteria:

(1) Budget Criteria: Return on Federal Investment

(a) P3 Project Proposals will be evaluated and ranked on the basis of Return on Federal Investment (ROFI). ROFI will be calculated by annualizing the total project benefits and Federal costs utilizing the current discount rate, and applying the formula: $(\text{Benefits} - \text{Federal Costs}) / (\text{Federal Cost})$.

(b) For any P3 project where it has been determined that a reduction in the non-Federal share is warranted with authority provided in 33 USC 2213, the ROFI calculation will be adjusted to account for those modifications and address concerns pertaining to equity.

(2) Replicability: Project proposals that are replicable, meaning the proposed P3 structure or underlying concepts may be applied to other prospective projects.

(3) Reliable Funding Sources: Reliable non-Federal funding sources for the construction, operation and maintenance of Federally authorized water resource projects are identified.

SUBJECT: Policy for Developing the Civil Works Public-Private Partnership (P3) Pilot Program

(4) Risk Allocation: Project effectively allocates delivery and performance risk to non-Federal entities and minimizes Federal direct and contingent liabilities associated with the project.

c. The Corps will identify up to 10 additional P3 pilot projects, based on the criteria above, with the goal of demonstrating the viability of new delivery methods that can significantly reduce the cost and time of project delivery. The pilots will be used to inform future policy and direction of the program. The 10 pilot projects will be in addition to the one identified project already selected as a new start in fiscal year 2016. The Corps shall continue to include requirements in the annual budget process, requesting that each Major Subordinate Command develop at least one P3 demonstration project proposal to include any of the business lines at any stage of the project process. Considering that the Corps has been gathering P3 project input for no less than 3 budget cycles, the Corps will finalize a list of the selected pilot projects no later than 180 days from the date of this memorandum.

d. For the purposes of the P3 pilot program, the amount of the Corps budget allocated to P3 projects will be based on the capabilities determined by the Corps for the selected pilot projects. If the identified projects require a new start designation the Corps shall include an affordability analysis to ensure that future budget requests can be supported at capability levels. The Corps will maintain a life-cycle budget for pilot projects that covers all years of anticipated budget requests to ensure that there is a clear understanding of the future budget requirements to support these pilots. The life-cycle budget recommendation will be prepared concurrently with the final list of selected pilot projects and updated annually as part of the budget process.

e. The Corps will continue to exercise governance and oversight of projects delivered under a P3 arrangement. Specific management controls will be based on complexity and other factors for each specific project and clearly articulated in the PPA, when applicable, and other supporting documents.

4. Given the importance of this policy and the overall initiative, the Corps Infrastructure Team will take the lead on implementation of this policy and the P3 Pilot initiative in accordance with the terms established herein. It is imperative that the Corps continue to make progress on use of P3 and other alternative resourcing and delivery tools to improve delivery of water resources infrastructure for the nation.



R.D. James
Assistant Secretary of the Army
(Civil Works)

Enclosure 2: USACE P3 Screening Matrix

Project Name	
Non-Federal Sponsor	
Division/District	
USACE PM	
Date	

Objective: The Objective of this tool is to identify viable P3 candidate demonstration projects for additional concept development. Successfully screened projects will be coordinated with the Infrastructure team for development of the Value for Money analysis.

Project Evaluation

NO.	CRITERIA	EXPLANATION	SCORE	RESPONSE INDICATORS		
				3	2	1
1	Investment Size: What is the estimated capital cost of the proposed investment?	In general, larger investments are better suited to the P3 delivery model.		Capital costs will be \$100M or more.	Capital costs will be \$50M or more, but less than \$100M.	Capital costs will be less than \$50M.
	<i>Comments:</i>					
2	Sponsor: Do the non-federal sponsors support and have the capability (e.g., internal/contracted) to successfully implement a P3?	P3s are complex procurements that require specialized expertise and financial resources. At this stage, it is important to evaluate the capability of the non-federal sponsor to execute the project.		Ample financial resources and required expertise (internal or contracted) to execute	Adequate financial resources but limited expertise	Limited financial resources and no expertise (internal or contracted) to execute project
	<i>Comments:</i>					
3	Potential for Contract Integration: Which elements of the potential P3 (i.e., design, build, finance, maintain, operate) can be integrated into one contract?	One of the mechanism by which P3s generate value is the integration of various elements of the potential P3 (i.e., design, build, finance, operate/maintain). The greater the potential for integration, the more likely a P3 will be viable.		All elements of a potential P3 (i.e. design-build-finance-maintain-operate) could be integrated into one contract.	Design-build-finance and/or some maintain-operate could be integrated into one contract	Only integrating design-build-finance into one contract
	<i>Comments:</i>					
4	Accelerate Delivery: Does proposed approach accelerate delivery of the project?	One of the main objectives of the program is to accelerate delivery of proposed projects.		Delivery schedule accelerated more than 25%	Delivery schedule accelerated 5-25%	Delivery schedule accelerated less than 5%
	<i>Comments:</i>					
5	Cost Effectiveness: Does proposed approach improve cost effectiveness relative to traditional delivery?	One of the main objectives of the program is to improve cost effectiveness of proposed projects.		Proposed approach provides 25% improvement in cost effectiveness	Proposed approach provides 5-25% improvement in cost effectiveness	Proposed approach provides less than 5% improvement in cost effectiveness
	<i>Comments:</i>					
6	Authority: Does the project have the necessary authority, is there a reasonable expectation that the project will be able to obtain necessary authorities?	P3 is relatively new to USACE and it is recognized that authorities may be needed to accomplish implementation of P3s. See authority white paper for example authorities, to be posted on the Infrastructure Sharepoint site.		All necessary authority.	No current authority, possibility of getting authority.	No current authority and limited likelihood of getting authority.
	<i>Comments:</i>					

TOTAL SCORE	0	(out of 18 possible)
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Notes:

All Criteria in Project Evaluation are currently equally weighted.

Project Name	
Non-Federal Sponsor	
Division/District	
USACE PM	
Date	

Objective: The Objective of this Screening tool is to determine which demonstration projects should be selected for Funding.

Eligibility Questions

NO.	CRITERIA	EXPLANATION	RESPONSE
1	Non-Federal Sponsor: Do the non-federal sponsors support and have the capability (e.g., internal/contracted) to successfully implement a P3?	The Project must have the full support of the project's non-federal sponsor and/or local governments. The USACE District should be fully engaged and there should be support from District leadership.	
2	Likelihood of Obtaining Necessary Authorities: Do we have a reasonable expectation that the project will be able to obtain necessary authorities?	Projects that require congressional authorities that will be difficult to obtain in a timely manner should not be given initial priority in the P3 demonstration program.	
3	Program Goal: Does the demonstration project meet the program goals?	Does the P3 proposal significantly reduce the cost and time of project delivery, as demonstrated by an initial Value for Money Analysis.	

If the answer to ALL of the above questions is YES, then proceed to questions below.

Project Evaluation

NO.	CRITERIA	EXPLANATION	SCORE	RESPONSE INDICATORS				
				5	4	3	2	1
1	Return on Federal Investment: What is the estimated Return on Federal Investment (ROFI)	ROFI will be calculated by annualizing the total project benefits and Federal costs utilizing the current discount rate, and applying the formula: (Benefits – Federal Costs) / (Federal Cost).		750% or more	600%	450%	300%	150%
	<i>Comments -</i>							
2	Replicability: To what extent will the output-based performance contracts specify deliverables?	Project proposals that are replicable, meaning the proposed P3 structure or underlying concepts may be applied to other prospective projects.		The approach is very adaptable to other projects and can be easily replicated.		The approach may be used on other projects, but is specific to the project.		The approach is likely of one time use.
	<i>Comments -</i>							
3	Reliable Funding Sources: Does the planned investment have reliable funding sources?	Reliable non-Federal funding sources for the construction, operation and maintenance of Federally authorized water resource projects are critical for any projects success. (examples could be assessment districts, dedicated taxes, municipal or state funding, etc)		Commitments have been made for entirety of the non-Federal funding.		There is a plan for non-Federal funding and formal commitments have been made for part of the necessary funds.		There is a plan for non-Federal funding but no formal commitment has been made by the government or taxpayers
	<i>Comments -</i>							
4	Risk Allocation: Are the risks to the project known and understood? How well will the project allocate risk to non-Federal entities?	Project effectively allocates delivery and performance risk to non-Federal entities and minimizes Federal direct and contingent liabilities associated with the project. Risk can be - appropriation, construction, design, performance, cost, schedule, budget, etc.		Risk is fully transferred to the non-Federal entity.	Majority risk transfer Federal government exposed to less risk than the non-Federal entities	Moderate risk transfer, Federal government and non-Federal entities share risk	Minimal risk transfer, Federal government maintains most of the risk.	Limited to no risk transfer from Federal government to non-Federal entities
	<i>Comments -</i>							
5	Performance Specifications and Indicators: Are operations- and maintenance-related performance specifications and indicators available?	Establishing and monitoring performance in relation to key performance indicators (KPIs) is an important element of performance based contracts, a foundational element of P3s.		Performance outputs and indicators for O&M activities are available.		Performance outputs and indicators are likely to be available (some KPIs for comparable assets exist)		Performance outputs and indicators will have to be developed from scratch.
	<i>Comments -</i>							

NO.	CRITERIA	EXPLANATION	SCORE	RESPONSE INDICATORS				
				5	4	3	2	1
6	Life-Cycle Costs & Data: Can most of the full life-cycle costs of the asset, be quantified upfront with reasonable assumptions and/or availability of historic data?	Life cycle costs are very important factors in success of a P3. The public authority will pay for maintenance and/or operation through the P3 agreement and expects the asset to be well-maintained and efficiently operated at the lowest cost possible. Private sector investors will require timely and accurate information from the Corps in order to evaluate the project and develop their offers.		The total asset life-cycle costs are well understood and have reason to believe they are accurate.	The total asset life-cycle costs are understood but estimates, while accurate, are incomplete to some extent.	The total asset life-cycle costs are well understood, and can somewhat be accurately estimated	There is limited understanding of life-cycle costs but costs cannot be accurately estimated.	The total asset life-cycle costs are not well understood and cannot be estimated.
	Comments -							
7	Accelerate Delivery: Does proposed approach accelerate delivery of the project?	One of the main objectives of the program is to accelerate delivery of proposed projects.		Delivery schedule accelerated by more than 25%	Delivery schedule accelerated 15-25%	Delivery schedule accelerated 10-15%	Delivery schedule accelerated 5-10%	Delivery schedule accelerated less than 5%
	Comments -							
8	Revenue Generation: Does the planned investment have inherent scope to generate any revenue?	Where an asset could potentially generate revenue and reduce the burden on public funds, the P3 model is ideally suited to leveraging that potential. See Revenue Generation and Ring-fencing white paper to be posted on SharePoint. Revenue generation could include special assessments, user fees, etc.		>25% of total project costs are expected to be covered by new revenue streams.	15-25% of total project costs are expected to be covered by new revenue streams.	10-15% of total project costs are expected to be covered by new revenue streams.	5-10% of total project costs are expected to be covered by new revenue streams.	0-5% of total project costs are expected to be covered by new revenue streams.
	Comments -							
9	Use of output based performance contracts: To what extent will the output-based performance contracts specify deliverables?	To be successful, it is important for the focus to be on the outputs of a project vs. the inputs. Innovation is inversely related to being prescriptive.		Output specifications for all phases of the investment life-cycle.	Few areas for prescriptive/use input-based specifications.	The planned investment requirements will be a mix of input-based and output-based req's.	Mostly based on input specifications.	Defined specific input requirements for the majority of the asset.
	Comments -							

SCORE of Criteria 1-4	0	(out of 20 possible)
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TOTAL SCORE	0	(out of 45 possible)
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Notes:
Criteria 1-4 will be giving the most weight in this analysis, however, all criteria are important and will be equally compared for discussion and decision making

Enclosure 3: P3 Fact Sheet Template

1. **Project Name.**
2. **Project Location.**
3. **Name of the project sponsor.**
4. **Statement of support** from non-Federal sponsor, or likely non-Federal sponsor.
5. **The type of project** (i.e Flood Risk Management, Ecosystem Restoration, Navigation, etc).
6. **The authority that authorized the project.**
7. **Clearly identify if existing authorities are sufficient to allow the P3 to be completed** (State and Federal).
8. **Identification of additional authorities** necessary to carry out the project as a P3.
9. **The investment size** of the project (i.e. \$70,000,000)
10. **Anticipated activities** included in the proposed P3 (i.e. design, build, finance, operate and maintain)
11. **Anticipated revenue** sources for funding the P3 component of the project.
12. **Ability to leverage** non-Federal funding sources.
13. **Expected impact** on the project delivery schedule and costs.
14. A **qualitative assessment** demonstrating that the P3 will deliver the project faster and/or more cost effectively than traditional delivery.
15. **Anticipated Return on Federal Investment (ROFI).** ROFI will be calculated by annualizing the total project benefits and Federal costs utilizing the current discount rate, and applying the formula: $(\text{Benefits} - \text{Federal Costs}) / (\text{Federal Costs})$.
16. **Statement on replicability** and how this approach may be applied to other prospective projects.
17. **Statement on risk allocation** and how this approach will effectively allocate delivery and performance risk to non-Federal entities and minimize Federal direct and contingent liabilities associated with the project.
18. **Socioeconomic information** to address concerns of equity which include: Population Benefited, Number of existing jobs in benefited area, Median Family Income, Unemployment Rate, and trends on population growth.