

Process for Public-Private Partnership (P3) Projects

1. Applicability. This document sets forth the detailed process applicable to the delivery of a P3 project as described in Section 9 of the TSUS Policies and Procedures for Planning & Construction (P&P).
2. Determination of appropriateness of the P3 delivery method. The determination that a project is appropriate for delivery as a P3 project shall be made by the VCCA with the concurrence of the Component President and the VCF. A preliminary determination shall be made at the time of inclusion of the project in the CIP, and shall be revisited at the time of project initiation. The determination shall be made in consideration of the following criteria:
 - Is the project sufficiently complex in terms of technical and/or financial requirements to leverage effectively private sector innovation and expertise?
 - If the required public funding is not currently available for the project, could using a P3 delivery method accelerate the delivery of the project?
 - Would the P3 delivery method help foster efficiencies through the appropriate transfer of risk over the project life-cycle? Is there an opportunity to bundle projects or create economies of scale?
 - Would the transfer of project risks and potential future responsibilities to the private sector on a long-term basis be of significant value to the System and the Component?
 - Does the project have the potential to generate revenue to partially offset the public funding requirement if necessary? Could the System pay for the project over time, such as through an Availability Payment, as opposed to paying the entire costs up front? An Availability Payment is a periodic payment conditioned on certain performance requirements.
 - To what extent would delivering the project as a P3 help free up funds or leverage existing sources of funds for other projects within the System?
3. Project Initiation. Inclusion of a project on the CIP, identification of a P3 as a source of funding for the project, and the determination described in Section 2 above, shall constitute preliminary authority for the project to proceed as a P3 solicited project. Unsolicited P3 projects (projects which are initially proposed by private sector entities without any solicitation by the System or a Component) will not be considered for initiation; ; however, upon written request of the Component President, the Chancellor may approve an exception to allow an unsolicited P3 project (whether on the CIP or not) to be considered for initiation on a project-by-project basis for good cause shown. Project initiation shall occur as provided in the P&P.
4. Project Screening. After a P3 project has been initiated in accordance with Section 3, the project shall again be evaluated in light of the criteria set forth in Section 2. This evaluation shall include the VCCA, the VCF, the Vice Chancellor and General Counsel, other System officers as appropriate, the Chief Financial Officer of the Component, and other Component officers as appropriate. In addition, the desirability and feasibility of delivering the project as a P3 shall be evaluated based on the following additional factors:
 - Effect on the public;
 - Probable market demand;
 - Stakeholder support;
 - Technical feasibility;

- Financial feasibility;
 - Proposed financial structure; and
 - Legal feasibility.
5. Prioritization. If there are concurrent, multiple P3 projects requiring resources from the System, the proposed P3 project shall be prioritized by the VCCA in light of existing resources, current level of project development, project necessity, System and Component missions and priorities, and public funding requirements. In light of this prioritization, it may be necessary to delay a P3 project or, if feasible, to allocate additional outside resources to the delivery of the project.
6. Project Development. After a project has completed the Project Screening and Prioritization phases and has been selected for the TSUS P3 program, the next step is development of an Outline Business Case (OBC). The development of the OBC is generally the responsibility of the Component, with assistance as needed from the System Office. Depending upon the complexity of the project, the Component may wish to engage the services of a third party consultant to assist in this process. The OBC will be an internal document and will not be released as a part of the procurement process. The OBC should provide evidence of the following:
- The project fits within the objectives and policies of the System and the mission of the Component;
 - The project provides the best value for the System and the Component;
 - The OBC should identify realistic and achievable options and quantify in monetary terms the costs and benefits of each option;
 - A sensitivity analysis shall be performed on the best value option to test its robustness;
 - The analysis shall result in a cost/benefit analysis (in net present value terms) and shall specify the risks inherent in the option; and
 - The VCCA may determine that a preliminary Value for Money analysis should be performed to compare the value to the System and the Component of the project as delivered through a P3 process with the value that would result from a conventional delivery method.
 - The project is attractive to the market, can be procured and is commercially viable;
 - The project is affordable, identifying the relevant funding sources and describing the impact on the Component's budget; and
 - The project is deliverable under the TSUS Policies and Procedures for Planning and Construction.
7. Approval to proceed to procurement. The VCCA, in consultation with the VCF and other System officers as appropriate, shall review the OBC for compliance with Section 6. When the OBC has been found to be acceptable, the project will proceed to the procurement stage.
8. Procurement. Generally, a P3 project will undergo a two-step procurement process; however, the VCCA may determine that the two steps may be merged if in the best interest of the project.
- 8.1 A Request for Qualifications is the first step to evaluate the qualifications of the respondents and determine a short list (typically three to five firms) to advance to the next step. The RFQ shall be prepared by the VCCA with assistance from the Component and issued by the System. The evaluation committee will be appointed

by the VCCA, and will include participants from both the System Office and the Component.

- 8.2 If there are no qualified respondents, the VCCA may decide to cancel the procurement or re-procure the project at a later date.
- 8.3 The VCCA shall inform the respondents in writing whether or not they have been short-listed to proceed to the RFP stage, and shall make any other required notifications to other agencies and stakeholders.
- 8.4 The VCCA shall, with assistance from the Component, prepare a draft Request for Proposal. The VCCA shall collaborate with the TSUS General Counsel's office in the preparation of a draft comprehensive agreement to accompany the RFP. The VCCA may choose to issue the documents in draft form to the short-listed respondents and/or hold proprietary one-on-one meetings to solicit feedback on the proposed RFP and the draft agreement. The VCCA will then issue the RFP in final form to the short-listed respondents.
- 8.5 The VCCA and other appropriate persons (with financial, technical and legal expertise) will evaluate responses to the RFP based on suitable criteria that have been established and documented prior to the opening of the proposals. The OBC will be updated with the information included in the bids received to develop a Full Business Case (FBC). The System shall reserve the right to conduct a Best and Final Offer (BAFO) process with some or all the short-listed proposers who meet certain criteria with respect to their initial bids.
- 8.6 Prior to recommending the selection of a preferred proposer to the Chancellor and the Board of Regents, the VCCA will cause to be performed a final Value for Money (VfM) analysis, taking into account all information that has been developed during the procurement process. The VfM analysis will be reviewed by the persons described in Section 8.5 to determine that the award of the P3 provides value-for-money to the System. This final VfM will be incorporated into the FBC for submission to the Board of Regents for approval.
- 8.7 The FBC shall be presented to the Chancellor for approval. Upon such approval, the FBC will be presented to the Board of Regents at a regular or called meeting for approval.
9. Conditional Award. Upon Board approval of the FBC, the VCCA makes a conditional award of the contract to the highest ranked proposer ("Preferred Proposer") and begins negotiations with the Preferred Proposer on a final contract. The VCCA will then inform the other proposers in writing regarding the conditional award, and will make other notifications as necessary.
10. Suspension or Termination of Negotiations or Procurement. If at any point in the contract finalization process, the VCCA determines that the Preferred Proposer will not provide the System with the best value, the VCCA may suspend or terminate the procurement or choose to terminate negotiations with the Preferred Proposer and begin the process of finalizing a contract with the next highest ranking proposer. This process may continue until a contract is finalized or the procurement is terminated.

11. Commercial and Financial Close. When a contract is finalized, the project shall proceed to Commercial Close. If Financial Close is not simultaneous with Commercial Close, the project shall proceed to Financial Close upon the signing of the comprehensive, final contract. The contract shall be administered by the VCCA, as Owner's Designated Representative, and a representative of the Component as Owner's Designated Site Representative.
12. VCCA Discretion to Tailor Process. This process is provided as a detailed outline of the expected process for TSUS P3 projects. The VCCA has the discretion to tailor the process to specific projects as may be necessary or desirable to achieve the goals of the System's facilities program. This may involve streamlining the process for less complex P3 projects or adding additional process requirements for unique or more complex P3 projects.
13. Cost. All direct costs associated with design, prioritization, selection, procurement, delivery and subsequent operation of a P3 project are the responsibility of the component requesting the project. Such costs include, but are not necessarily limited to the following steps outlined in the TSUS Process for Public-Private Partnership (P3) Projects:
 - determination of appropriateness
 - project initiation
 - project screening
 - prioritization
 - project development
 - approval to proceed
 - procurement
 - conditional award
 - suspension or termination of negotiations or procurement
 - commercial and financial close
 - litigation