Innovation in Construction Procurement:
Exploring a Successful Public Private Partnership (P3)
Case Study of the Miami-Dade County Civil and Probate Courthouse

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Learner Objectives

Understanding P3
- What is it?
- How has it been used?
- What agencies can I look at for examples?

If you are ready to introduce P3 or want to be ready to discuss P3 if raised at your organization:

Appreciate Procurement Role
- What is different/innovative about P3?
- What does the procurement process look like?
- What are some best practices and expectations?
STORY. THEME. VALUE.

An organization’s LEAP OF FAITH in PROCUREMENT STAFF to create and implement a new P3 process
Agenda

1. Introduce Courthouse Project
2. Discuss P3 Option
3. Overview of Procurement Process
4. Questions
Section 1

Miami-Dade County Civil and Probate Courthouse Project
Who We Are / Where We Live

Miami-Dade County
2,800,000 residents
(7th largest county in the nation by population)

$8,900,000,000 budget
(larger than some states)

Court Responsibilities
*** Florida Constitution requires the County to provide adequate court facilities ***
What and Why

Existing Courthouse

• 90 years old
• Despite refurbishment / retrofitting efforts, remains functionally obsolete
• Does not reflect the optimal security coverage
• Does not accommodate ongoing judicial demand (approximately 142,000 case filings per year in the Circuit Civil, Circuit Probate and County Civil courts combined)
$128 million repair existing (1928)

Repair existing or construct new?

$267 million construct new (2024)
Section 1 - Courthouse Project

Project Development Timeline

2014 – **Ballot Question**  
  – issuing bonds for courthouse was defeated

2015 – **Court Capital Infrastructure Task Force**  
  – assess needs, financing options

2016 – **2nd Court Capital Infrastructure Task Force**  
  – more detailed, in-depth analysis, address capital needs

2017 – **Courts Master Plan**  
  – architectural firm with a court planner to assess need,  
    prepare space standards and design guidelines

2017 – **Expressions of Interest**  
  – market research, interest in various properties and delivery  
    methods
Section 1 - Courthouse Project

Legislation

2016 – Florida State Statute 255.065
   – public private partnerships framework in-depth analysis,
     to address capital needs

2017 – County Ordinance
   – public private partnership framework for process
Section 2

Public Private Partnership (P3) Option
Traditional Delivery Method

**DBB**  Design - Bid - Build
   – two contracts, designer and contractor

**DB**  Design - Build
   – one contract, designer and contractor work together from start
P3 Delivery Method

DBF  Design - Build - Finance

DBFOM  Design - Build - Finance - Operate - Maintain

- All phases solicited at once
- One developer
- Private sector assumes a major share of the risks of planning, constructing, financing, operating and long-term maintenance
Delivery Method Comparison

Value for Money (VfM)

- Prepared by Financial Advisor
- Comparison of DB (traditional delivery) to DBFOM (P3 delivery)
- Combination of whole-of-life costs and quality taking into consideration risk
- VfM indicated savings for Courthouse as P3

$25.3M savings
# Potential Benefits of DBFOM

<table>
<thead>
<tr>
<th>Component</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Speed</strong></td>
<td>Save time – design and construction integrated, developer controls delivery schedule</td>
</tr>
<tr>
<td><strong>Cost</strong></td>
<td>Save money – developer has performance risk, public owner gets predictable O&amp;M and life-cycle cost</td>
</tr>
<tr>
<td><strong>Innovation</strong></td>
<td>Promotes – developer competition promotes design alternatives, problem solving</td>
</tr>
<tr>
<td><strong>Risk</strong></td>
<td>Shared – developer takes some risk off of public owner</td>
</tr>
<tr>
<td><strong>Maintenance</strong></td>
<td>Guaranteed – developer must meet performance standards</td>
</tr>
</tbody>
</table>
P3 Does NOT Make Sense If

- Using P3 as a funding source
  - you will pay for project in some way
- Analysis does not support it
  - your financial / non-financial benefits are not documented
- Lack of political support
  - your legislative body doesn’t understand or desire
- Legal Department does not support
  - your attorneys advise there is a lack of legislative authority
Section 2 – P3 Option

2018
Procurement Mandate

Create new P3 process

Be on time

Within budget
Leap of Faith

1st - Miami-Dade County - social infrastructure project as P3 under new ordinance

1st - Florida - social infrastructure project of its kind

3rd - U.S. - successful courthouse project using P3, performance based model

(At the start there was only one awarded courthouse)
## Awarded P3 Courthouse Projects

<table>
<thead>
<tr>
<th>Award</th>
<th>Project</th>
<th>State</th>
<th>Sq. Ft.</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010</td>
<td>Long Beach Courthouse</td>
<td>California</td>
<td>531,000</td>
</tr>
<tr>
<td>2019</td>
<td>Howard County Courthouse</td>
<td>Maryland</td>
<td>238,000</td>
</tr>
<tr>
<td>2020</td>
<td>Miami-Dade County Courthouse</td>
<td>Florida</td>
<td>640,000</td>
</tr>
</tbody>
</table>
Example Project Types

Schools and Universities
- campus and housing

Transit and Mobility
- roads, bridges and tunnels

Civic and Justice
- courthouses and general government facilities

Technology
- telecom, fiber and street lighting

Airports
- retail, hotels and terminals

nigp.org/forum
Payment Terms

Revenue Generating – toll road
university housing
airport hotel

Availability Payment – tunnels (without tolls)
university campus
courthouse
Section 2 – P3 Option

Schools and Universities

- **New Jersey**
  Montclair State University (housing facilities)

- **Maryland**
  University of Maryland (NextGen Energy Program)

- **California**
  UC Merced Campus Facilities (classrooms, dining, athletic)
Transit and Mobility

• Pennsylvania
  Rapid Bridge Replacement (bundled 558 projects)

• New Hampshire
  Portsmouth Bus Terminals
  • Texas
    DART
    • Colorado
      I-70
Civic and Justice

- **Indiana**
  Purdue University/City of West Lafayette
  (State Street urban hub)

- **Kansas**
  Lansing Correctional Facility
  (reconstruction)

- **California**
  Long Beach Civic Center
Technology

- Arizona
  Arizona State University (mobility)

- Kentucky
  KentuckyWired (statewide fiber network)

- Ohio
  Ohio State University (energy system)

- Missouri
  Kansas City Smart City

- Michigan
  Street Lighting
Airports

- **Georgia**
  Hartsfield-Jackson Atlanta International
  (hotel and mixed-use retail and commercial)

- **Tennessee**
  Nashville International
  (hotel)

- **New York**
  LaGuardia Airport
  (redevelop and operate Terminal B)
Developers want to focus on successful projects that likely will achieve financial close. The following attributes make a project more attractive to the market:

1. **VALUE** – $100 million is industry threshold (but projects can be grouped to reach this amount)

2. **PROCESS** – want an efficient, fair process established by public owner and endorsed by governing body

3. **RISKS** – want risks addressed, each goes to entity that can better handle it or by area of expertise
Some not so Successful

Indianapolis Criminal Justice Facility – CANCELED by city council

_IndyStar._

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**NEWS**

**City owes $11.2 million on scrapped justice center plan**

**John Tuohy** john.tuohy@indystar.com

Published 6:48 p.m. ET Nov. 6, 2015 | Updated 6:39 p.m. ET Nov. 8, 2015

Plans for a new Marion County criminal justice center might be dead, but the city still owes $11.2 million to consultants and contractors, part of $16.5 million spent in planning before the project was scrapped.
Denver airport fires Great Hall construction partners

Decision comes amid public tussle over rising costs and delays

After months of tussling over costs and delays, Denver International Airport took a dramatic step Tuesday, revealing it fired the private partners responsible for renovating the terminal and overseeing new concessions for the next three decades.
1. Savings – Value for Money (VfM) analysis indicated savings

VfM savings increased to $48.9M by contract award

2. Performance Based – risk on developer to complete construction timely, incentivizes developer to resolve issues

3. Maintenance – deters developer from deferring routine and preventative maintenance
Attractive to Public Owner

Risk and Deductions on Developer

• **Design and Build Phase – 4 Years**
  Developer oversees construction contractor with *cost overruns* or *delays on developer*

• **O&M Phase – 30 years**
  Developer oversees facilities management contractor and is responsible for *performance deductions*
Developers Schedule Risk

SCHEDULED
Substantial Completion
(30 year O&M term begins)

MISSING PAYMENTS

ACTUAL
Substantial Completion
(payment begins)
Availability Payment

### AP = Capital + Facility Management – Deductions

- **Capital Charge** - Monthly payment for capital charge (proposed construction cost with financing)

- **Facility Management Charge** - Monthly payment for O&M (proposed fee with yearly index linked increase)

- **Deductions** - Monthly reduction for performance failures
O&M Performance Monitoring Roles

• **Developer**
  - provides performance monitoring system with Help Desk
  - enter events into system and close events when rectified
  - provide monthly reports on performance

• **Tenants**
  - enter events or requests for service in system
  - complete survey

• **Public Owner**
  - review and accept monthly reports
  - apply deductions to invoice

*** Requires diligent owner oversight ***
O&M Performance Measured

- Event Response Time or Rectification Period
- Failure Frequency
- Scheduled Maintenance
- Tenant Survey

**Examples:**
- elevators not working and not resolved by time specified
- failure to complete scheduled maintenance on life safety system
- failure of the Help Desk to acknowledge request within 15 minutes
Deduction Amounts

Elevators not working

- Help Desk responded 10 minutes = no deduction
- Rectified 2.5 hours = $1,250 deduction

### Deduction Per Completed Rectification Period

<table>
<thead>
<tr>
<th>Performance Failure Priority Classification</th>
<th>Required Response Time (Minutes)</th>
<th>Required Rectification Period (Hours)</th>
<th>Deduction Per Completed Rectification Period</th>
</tr>
</thead>
<tbody>
<tr>
<td>High</td>
<td>15</td>
<td>2</td>
<td>$1,250</td>
</tr>
<tr>
<td>Medium</td>
<td>45</td>
<td>36</td>
<td>$550</td>
</tr>
<tr>
<td>Low</td>
<td>120</td>
<td>60</td>
<td>$250</td>
</tr>
</tbody>
</table>
Deduction Amounts

Tenant Survey

- Failure to meet customer service goals

<table>
<thead>
<tr>
<th>Survey Type</th>
<th>Deduction (Index-Linked)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Annual Survey</td>
<td>$1,600 per tenth of a point below 3.0, to be deducted annually</td>
</tr>
<tr>
<td>(Item 18 of Table 1 of Attachment 11B)</td>
<td></td>
</tr>
</tbody>
</table>
Section 3

Procurement Process
<table>
<thead>
<tr>
<th>Services</th>
<th>Scope</th>
</tr>
</thead>
<tbody>
<tr>
<td>P3 and Financial</td>
<td>• Value for Money (VfM) Analysis</td>
</tr>
<tr>
<td></td>
<td>• assist with RFP documents</td>
</tr>
<tr>
<td></td>
<td>• analysis of financial proposal</td>
</tr>
<tr>
<td></td>
<td>• assist with financial structure negotiations</td>
</tr>
<tr>
<td>Legal</td>
<td>• proposed contract terms</td>
</tr>
<tr>
<td></td>
<td>• risk transfer</td>
</tr>
<tr>
<td>Insurance</td>
<td>• recommended types and levels of coverage for both developer and public owner</td>
</tr>
<tr>
<td>Design Criteria Professional</td>
<td>• draft technical specifications</td>
</tr>
<tr>
<td></td>
<td>• draft performance standards</td>
</tr>
</tbody>
</table>
Create new P3 process

Be on time

CONTROL

Within budget

JUDGMENT
My Experience

**INTRICATE**

**Process** – most freedom to develop process using my experience, yet most input from internal team, attorneys, management, consultants, governing board, lobbyists, stakeholders

**CONTROL**

**Timing** – demanding project timeline, required planning ahead and placing demands on others, raise delays to director

**JUDGMENT**

**Budget** – everything has a cost, use consultants, consider carefully
My Job

1. Design Process
   – use experience to design a fair procurement process
     *(combined new legislation and concepts with established documents and policies)*

2. Confident Execution
   – shepherd process and stay on path for a clean process
     *(no protest or waiver)*

3. Find Balance
   – stakeholder input with County needs
     *(client, consultants, lawyers, judges, elected officials, adjacent tenants, market)*
## Two Step Procurement

<table>
<thead>
<tr>
<th>Step</th>
<th>Solicitation</th>
<th>Activity</th>
<th>Result</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>RFQ</td>
<td>Statement of Qualifications (Proposers with their team)</td>
<td>Short List of Proposers (up to 3)</td>
</tr>
<tr>
<td>In between</td>
<td>Draft RFP</td>
<td>Individual negotiations with short listed Proposers</td>
<td>Final RFP with technical specifications and agreement</td>
</tr>
<tr>
<td>2</td>
<td>RFP</td>
<td>Proposal (design, financial model, price)</td>
<td>Award Proposer (1)</td>
</tr>
</tbody>
</table>
In Between Step

• Activity
  – one-on-one meetings with short listed Proposers
  – 1 meeting with each Proposer per month, for 4 months
  – issued drafts of RFP for comments
  – worked through design concepts and requests for changes to documents (*innovation comes through*)

• Results
  – issued final RFP, technical specifications and agreement
  – all proposed on the same deal, no exceptions
  – allowed for price to be a major factor
  – minimal negotiations to finalize contract
Section 3 – Procurement Process

Proposals
Best Practices We Adopted

• Dedicated Team
  – centralizes expertise and responsibility
  – led by procurement and project manager, with high commitment level from technical design staff and attorney

• Communication Strategy
  – build political and popular support
  – Political Champion helps educate, push project forward

• Legislative body participation and approval
  – you will eventually be in front of someone for award

• Standardized Procedures
  – execute fair and equitable process
Section 3 – Procurement Process

Validation

“…the OIG finds that the procurement process was open, fair, equitable and transparent.”
Struggles

1. Merging procurement processes
   – new P3 legislation, resolution from legislative body, standard procurement procedures

2. Managing expectations
   – new unknown process, anticipated timeline

3. Managing stakeholders
   – everyone wants to know, participate

4. Navigating public records
   – protecting proposal and innovation
Section 3 – Procurement Process

Expect

• Added Attention
  – P3 publications, local news, public records, Inspector General

• Education
  – misconception of privatizing public responsibilities and/or that there is no cost to public owner

• Stakeholders
  – involve occupants, adjacent tenant
## Pros and Cons

<table>
<thead>
<tr>
<th>Pro</th>
<th>But</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less upfront investment by public owner as you pay at occupancy</td>
<td>But some investment in consultants</td>
</tr>
<tr>
<td>No bonds issued by public owner for full construction amount</td>
<td>But need to secure yearly appropriations</td>
</tr>
<tr>
<td>One developer under contract, cost and schedule efficiencies</td>
<td>But long term commitment of 30-35 years</td>
</tr>
<tr>
<td>Less owner design and construction monitoring</td>
<td>But more monitoring of O&amp;M for deductions</td>
</tr>
</tbody>
</table>
Important Differences Recap

- **Merged Procurement Processes**
  - Architectural/Engineering, Construction, Goods and Services all at once

- **Contracting**
  - Risk sharing, significant penalty for delay

- **Payment**
  - Begins at occupancy

- **Performance Based**
  - Deductions for O&M performance

- **Owner Role**
  - Set design standards, minimal oversight of construction
Section 3 – Procurement Process

Do Over

• Construction Project Manager
  – appoint early
  – get him/her involved during procurement process before developer selection
  – consider experience on P3

• Scope Consensus Early
  – get stakeholders to agree (size, location, significant features)
  – especially if you have tenants
Groundbreaking
Latest Miami-Dade P3 Solicitations

• Miami International Airport Hotel
  (planning to issue July 2020)

• Mass Transit Rapid Solution Miami Beach
  (proposals due March 2020)

• Mass Transit Rapid Solution North
  (qualifications due September 2020)
Is your organization NEXT?

Are YOU ready to lead procurement innovation?
Questions