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Report: Keys to Successful Public-Private Partnerships.

Flexibility, public engagement and predictability help attract outside money for infrastructure, experts say.

If there is any agreement in Washington about transportation funding these days, it is that any new federal funding will be hard to come by. That's why Congress and transportation experts are exploring how best to attract and use private money to pay for infrastructure projects.

A task force of the Eno Center for Transportation released a report last month looking at the nuts and bolts of making public-private partnerships (P3) succeed. Joshua Schank, the group's president and CEO, notes that the arrangements are not well-understood, even though they have been growing in popularity in recent years. "Many states still prohibit [public-private partnerships] and most others have little conception of how to manage one effectively in order to create benefits for both sides," he wrote in the report.

Thirty-three states, plus the District of Columbia, have laws authorizing public-private partnerships, but only 15 have closed deals using them. Eight states account for 75 percent of all P3 investments in the United States. Globally, only 9 percent of P3 money went to the U.S. between 1985 and 2014.

But more mayors and state officials are taking a close look at private financing because they face so many budgetary pressures, says Patrick Sabol, a researcher with the Brookings Institution's Metropolitan Policy Program. Federal funds are up in the air, as Congress struggles to find money for roads and other infrastructure before designated transportation funds start running out this summer. Plus, many cities are hitting debt caps and struggling with pension obligations, Sabol notes.

The Eno task force, led by former U.S. transportation secretaries Norm Mineta and Mary Peters, says laws that allow the arrangements should not be limited to just one project, or one type of project. Rather, they should be broad enough to allow for a range of projects and could even accommodate unsolicited proposals from the private sector, as long as other competitors could make bids too.

The group also recommends that the enabling laws should not let projects be vetoed by the governor, legislature or the public after the financing and other planning processes had been completed. Investors are unlikely to spend millions of dollars preparing a bid if they think the project could get canceled on a "political whim," warns Pamela Bailey-Campbell, a panel member and vice president at Jacobs Engineering.

"It's very appealing when writing P3 legislation to say, we'll just bring it back to a public vote or the legislature or something at the end," she says. "But the fact of the matter is it's not in the public interest, because you're not going to get the competition, you're not going to get people at the table."

The Eno task force also suggests that state and local governments allow user fees — like tolls — to be collected to support the projects. P3 laws, they say, should allow the projects to be financed from a variety of sources, including federal, state and local funds, and private money.

Of course, Congress is also looking at how to encourage private investment as it considers a rewrite of its primary surface transportation law, which expires this fall. A U.S. House panel invited officials from states that handled the projects to share their insights at a hearing last month.

State and local leaders may look to the private sector for help because of their own strained budgets, but that may leave them in a weaker position when negotiating contracts. “Strong state finances often produce more balanced deals,” says Douglas Koelemay of Virginia, one of the states with the most P3 experiences.

Koelemay, who heads the state’s Office of Transportation Public-Private Partnerships, also stresses the need for an open process in developing the agreements. Public notice and comment periods are often “sterile” and yield little useful information. But more public involvement can help planners develop better projects, Koelemay says, because they can understand the public’s concerns as consumers of transportation services.

Other state officials tout the benefits of using one vendor to take on the tasks of designing, building and financing a project. “We’ve found when you take several different phases and bring it together in a large P3, that brings you economies of scale, that brings you efficiencies” that outweigh the cost of financing projects, says Leon Corbett of the Florida Department of Transportation. In those situations, the vendor takes on the risk for cost overruns or construction delays.

Even routine maintenance costs, like resurfacing a highway, can be volatile, Corbett says. But Florida often pays its private partners an “availability” payment — a set fee over a set number of years — so its costs are predictable. The vendor bears the risk of the up-and-down maintenance costs. Florida also sets performance standards in its contracts, which make sure the companies running the project meet those thresholds in order to get their availability payments.

The state ultimately owns the property, but during the contract “it’s the concessionaire’s project from start to finish,” Corbett says. “When they have that view, there are some benefits you get from a P3 that you wouldn’t get from a traditional procurement process.”

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