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Texas Law on P3 Selection Process Takes Effect.

A Texas law establishing a center to help government agencies select projects to be developed through public-private partnerships took effect Sept. 1.

HB 2475, signed into law by Gov. Greg Abbott on June 19, established the Center for Alternative Finance and Procurement within the Texas Facilities Commission, which will consult with government agencies regarding best practices for procuring and financing qualifying projects. The center also will assist agencies “in the receipt of proposals, negotiation of interim and comprehensive agreements and management of qualifying projects.”

The law could spur municipalities and public agencies with tight budgets to look to the private sector for financing and management services and state and local governments could use it to help address infrastructure needs, such as vital water projects, noted law firm Vinson & Elkins LLP in a blog post.

“With Texas’ demand for water on the rise, coupled with projected population and economic growth, the bill is an important step toward meeting emerging challenges to the state’s water security,” the law firm wrote.

The center will be required to arrange for an architect, professional engineer or registered municipal advisor to advise agencies about a P3’s costs and benefits. For construction or renovation projects with an estimated cost of less than \$5 million, these advisory services can be provided by qualified agency employees. More costly projects must be evaluated by an independent expert.

The law also allows the agency procuring the project to charge a “reasonable” fee to cover the costs of the center’s project review and consultation services.

HB 2475 places a notable exception on the types of P3s that developers can pursue by eliminating an agency’s option to consider unsolicited proposals, Christopher Lloyd of McGuireWoods Consulting LLC pointed out during a session at NCPPP’s 2015 P3 Connect conference.

The new law adds to the level of P3 oversight some agencies already exert. Both the state’s facilities commission and its department of transportation have adopted guidelines on project application requirements, review criteria and evaluation processes. El Paso, San Antonio, Dallas and Houston have established similar guidance,

These requirements, while adding steps to those that agencies already follow to pursue P3s, also signal the state’s willingness to a growing variety of such projects, Vinson & Elkins argues.

“By enacting House bill 2475, the Texas Legislature sent a strong signal that it is open to private involvement in infrastructure financing and delivery across a wide range of sectors,” the firm wrote.

NCCPP

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