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With Initial Support from NCPPP, FTA Issues Final Rule to Encourage Development of Transit P3s.

The Federal Transit Administration (FTA) recently announced the issuance of a final rule that describes new, experimental procedures to encourage increased project management flexibility, and new project revenue streams for public transportation capital projects. The rule, titled "Private Investment Project Procedures," is also designed to spur innovation in project funding, efficiency and timely project implementation.

Notably, FTA's primary goal behind in issuing this final rule, which takes effect June 29, is to address impediments to the increased use of public-private partnerships and private investment in public transportation capital projects. Particularly, FTA said, that it anticipates using the lessons learned from these experimental procedures to develop more effective approaches to including private participation and investment in project planning, project development, finance, design, construction, maintenance, and operations.

The new rule, allows public project sponsors to petition for modifications to some federal, non-statutory requirements that pose impediments to P3 development. NCPPP Executive Board Member John Smolen, partner at Nossaman LLP wrote in Nossaman's Infra Insight Blog that "FTA wants to encourage modifications to these federal requirements that will 'accelerate the project development process, attract private investment and lead to increased project management flexibility, more innovation, improved efficiency, and/or new revenue streams.'

"FTA is not trying to change the rules themselves," Smolen explained. "Rather, it is using a flexibility strategy that lends itself to project-specific sensitivity."

When FTA issued the proposed rule in July 31, 2017, the agency noted that it had sought to encourage the development of transit P3s by co-sponsoring with NCPPP to conduct "eight public workshops on P3s in transit and a one-day workshop for FTA employees. Each workshop attracted almost 100 participants and provided technical assistance to transit agencies, local officials, and consultants on legal and regulatory issues, financing, and contract matters related to P3s," FTA reported.

These workshops are just one example of the conferences, workshops, and other educational events NCPPP conducts each year to promote P3s as an efficient, cost effective procurement approach for many public projects. For more information about NCPPP's educational offerings, visit our website.

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