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Corps Engages Stakeholders for P3 Project Pilot Program.

On February 1, the U.S. Army Corps of Engineers announced a Request for Information (RFI) about the conceptual delivery of a Corps Civil Works program via a public private partnership (P3). The RFI, published in the federal register, opened a 60-day submission period for proposed P3 projects. The program will choose 10 pilot projects to inform future program policy and direction on P3 project delivery. Proposals must be submitted to Corps Headquarters by April 2.

The Corps said the announcement supports the administration's initiative on building U.S. infrastructure. "The Corps is trying to develop additional tools that may be used to deliver infrastructure more efficiently and effectively," said Aaron Snyder, Corps Infrastructure Team, funding and financing, and P3 program development team lead. Congress authorized funding in the fiscal year 2018 appropriations to start the P3 pilot program.

"The Corps has worked on a P3 program for a number of years, and this is really a continuation of those efforts with more of a focus on gathering input from stakeholders and our non-federal sponsors," Snyder said.

The Corps said in its announcement, "The goal of the pilot program is to demonstrate the viability of new delivery methods that can significantly reduce the cost and time of project delivery."

On January 8, Assistant Secretary of the Army for Civil Works R.D. James signed the implementation guidance for the P3 pilot program, which was originally drafted in September 2018. The program is part of the "Revolutionize USACE Civil Works Initiative," which follows a February 2018 administration report on better legislative principles for infrastructure. The administration's framework for rebuilding called for a $2 billion federal investment to stimulate at least $1.5 trillion in new investment over the next decade, where P3s and local non-federal project sponsors take on bigger project roles and responsibilities.

Criteria and Selection

In the original September memorandum, a P3 is defined as: "a long-term contractual relationship between a public sector contracting authority and a private sector entity for the financing and delivery of public infrastructure and/or the provision of public services." The goal, the Corps said, is to transfer the risk associated with the delivery and performance of a project to the private partner.

Federally led P3s are: "P3 contracts directly between the Corps and a competitively selected non-federal entity for the design, construction, financing, operation and/or maintenance of the federally authorized project."

Locally led P3s are: "contractual relationships executed between a non-federal project sponsor and a private entity for the design, construction, financing, operation and/or maintenance of an infrastructure asset over a stipulated period of time, whereby the non-federal project sponsor has a separate project-partnership agreement (PPA), memorandum of agreement, and/or a memorandum of understanding with the Corps setting forth the rights and responsibilities of both the Corps and

non-federal entities with respect to the project."

The Corps Infrastructure Team will take the lead on implementation of the P3 pilot program. Snyder said the Infrastructure Team is made of individuals from across the Corps. "We have engineers, economists, planners and biologists, to name a few," Snyder said. "The team also represents all levels of the Corps from districts, divisions and headquarters."

During the initial screening process, the Corps Infrastructure Team will use the following criteria to evaluate P3 project proposals:

- Construction cost of more than $50 million;
- Non-federal sponsor support;
- Design, build, finance, operation and maintenance or some combination for federally authorized projects;
  Project delivery acceleration; and
- Ability to generate revenue or leverage non-federal funding sources.

The proposals must also be for projects with existing authorities that are sufficient to allow the P3 project to be completed. The project must also have an initial analysis demonstrating that a P3 contract structure will deliver the project faster and more cost effectively than traditional approaches to project delivery.

Snyder said the Corps does not have any formal requirements for the analysis. "We would like people to provide us with why they think this approach is better. Once a project has been identified as either a pilot or as a project that we need to further develop, we would collectively work on a Value for Money analysis," Snyder said.

Once projects qualify based on the initial criteria, they will be evaluated and selected based on the following:

- Budget – P3 proposals will be evaluated and ranked on the basis of Return on Federal Investment (ROFI).
- Replicability – P3s that are replicable, the structure or underlying concepts may be applied to other projects.
- Funding – P3s must identify reliable non-federal funding sources for the construction, operation and maintenance of projects.
- Risk Allocation – P3s must allocate delivery and performance risk to non-federal entities and minimize federal liabilities.

The Corps expects both internal and external applications. External applicants should complete a P3 project fact sheet. A copy of the fact sheet and other information on P3 projects and the program can be found here. For outside applicants, the Corps Infrastructure Team will evaluate the projects based on the initial set of criteria and complete the project screening matrix, used for evaluating projects.

Internal submittals from the Corps will include both project fact sheet and a completed matrix. Each Major Subordinate Command (MSC), which includes nine Corps divisions, will designate a P3 point of contact, who will make all submissions to the Infrastructure Team. Each MSC can evaluate and submit projects with no limits, but each will aim to identify at least two projects.

Funding and Long-term Budgets

The program will identify 10 P3 pilot projects, in addition to one the Corps already has in progress –

the Fargo Moorhead Diversion Project, which provides flood protection to the area.

Once projects are accepted into the pilot program, they will need to compete for funding. If the project requires a new start, the Corps will conduct an affordability analysis to ensure it can meet future budget requests. The Corps will also maintain a life-cycle budget, which covers all future budget requirements. The life-cycle budget recommendation will be prepared with the final list of projects and updated annually.

Snyder said the authorities for each of the selected projects will vary. “The Corps has a number of existing authorities that could be used to support the development and implementation of P3 projects. For instance, the Fargo-Moorhead project is using Section 221,” he said.

In general, the Corps said it will maintain oversight of the projects delivered under a P3 arrangement. Specific project management and controls will be project specific and clearly articulated in the PPA.

In early February, the Corps held two webinars for interested stakeholders. Snyder said the sessions were well attended with more than 100 participants. “The webinars were intended to focus on the RFI criteria, the known constraints from previous work, but most importantly to answer questions from stakeholders,” he said.

Information must be submitted to Corps Headquarters on or before April 2. Stakeholders may submit information by mail to: Headquarters U.S. Army Corps of Engineers, Directorate of Civil Works, Infrastructure Team, Attn: John Coho 3F65, 441 G Street NW, Washington, DC 20314; or by email to: CW.Infrastructure.Team@usace.army.mil.

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FEBRUARY 20, 2019

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