2015- P3 20 questions

1) How many states restrict P3 authority to state agencies? Put another way: how many states' enabling legislation authorizes P3s by entities other than state agencies, e.g. institutions, local governments or instrumentalities of state or local governments? In such cases, are there any parameters or criteria specific to institutions, local governments or their instrumentalities?

2) How many states require legislative approval or oversight? In states that require legislative approval, is there a trigger mechanism for minimum value of a project that warrants legislative approval?

3) How many states' P3 authority is limited to, or focused on, transportation projects?

4) Are there any cases where approval by the governing body of the public partner is tied to whether the project financing is backed by public dollars? (where essentially, the governing body is legislating away their appropriating authority)

5) How many states established a specific P3 board? How many of those states grant the authority to approve or deny P3s to that board? What are the range of options for board membership, and how is expertise on P3s fostered at the board level?

6) How many states' P3 laws require a cost-benefit or value-for-money (VfM) analysis of any proposed P3? What are some examples of the description of the analyses required?

7) How many states restricted the number or magnitude of P3 projects? Specifically, how many states have restrictions on the cost of individual projects, or the total cost or number of projects authorized each year? How many states authorize only a certain number of pilot or demonstration projects?

8) How many states included a sunset provision in their enabling legislation?

9) How many states' enabling legislation ban or restrict the inclusion of non-compete clauses in P3 contracts?

10) How many states ban or restrict unsolicited proposals?

11) How many states restrict P3s to those that are already contained in a capital plan? We want to encourage innovation, so I think we'd like to see an exception for smaller projects that the board determines are worthy, and aren't backed by public dollars… But any existing language in other states' statutes would be helpful

12) Do any states explicitly require environmental review for P3s, especially those backed by public debt? How do other states ensure that P3s comply with environmental rules specifically designed to apply to public projects?

13) How have other states handled the issue of bankruptcy in cases where the public has backed the private partner's loan, etc.? Has any other state imposed bond requirements based on the size of the project?

14) How many states allow financing based on future gross receipts taxes, property taxes, income taxes, and other general fund revenue streams?

15) How do other states' P3 laws address procurement codes in terms of amendments or exemptions?

16) Have bond rating agencies taken a position with respect to future depletion of or claims on general operating budgets of states or other governmental entities who commit even partial future revenue streams to P3 bonds or other financing vehicles?

17) Do any states bar displacement of public sector workers, and if so are bans applicable only to current positions or do they also extend to future positions that are traditionally held by public sector workers?

18) Do other states limit P3s to specific kinds of activity?

19) Elsewhere, are there dollar limits for public entities that can be put at risk?

20) Local entities often don't have the capacity to accomplish evaluations/analyses of complex financing structures. So, in cases in which states require an analysis, who is responsible for conducting and reviewing it?