



TEN YEARS OF PARTNERING FOR THE
MARINE TRANSPORTATION SYSTEM

2005—2015

**COMPENDIUM OF FEDERAL PUBLIC-PRIVATE
PARTNERSHIP AUTHORITIES FOR
INFRASTRUCTURE INVESTMENTS**

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I. INTRODUCTION:

A. DEFINITION, STRUCTURE, CATEGORIES, LIMITS

Public-private partnerships are functional arrangements formed between public and private sector partners. These arrangements include a government agency contracting with a private partner to provide a public service. These public-private projects generally are designed to “renovate, construct, operate, maintain, and/or manage a facility or system.”¹ Public-private partnerships can also take on different meanings in different contexts – for example, in a surface transportation P3.

Under public-private partnerships, the agency maintains the discretion to retain ownership of the public facility or system. However, the private party typically invests its own capital to design and develop the properties. The partners generally share in the income generated from the partnership. Generally a contractual arrangement, public-private partnerships “differ from typical service contracting in that the private-sector partner usually makes a substantial cash, at-risk, equity investment in the project, and the public sector gains access to new revenue or service delivery capacity without having to pay the private-sector partner.”² However, there are also public-private –partnerships that involve the public-partner paying the private-partner for keeping the asset ready and available for use. Typically, the assumption is that the private partner is able to operate and maintain an asset more cost-effectively than the public partner generating a cost-savings that is then kept by the private partner.

The characteristics necessary to determine whether a public-private partnership exists are: “the intentions of the parties; some allocation between partners of profits and risks; and evidence that each alleged partner participated in the management of the business or had some right to control the function or conduct of the business.”³ The projects determined by the partnership are typically funded through memoranda of understanding or agreement, cooperative agreements, challenge assistance agreements or challenge cost-share agreements, and grants.⁴ However, alternative project financing methods are available including: State Infrastructure Banks, and Grant Anticipation Revenue Vehicles, Bonds.⁵ Furthermore, agencies’ involvement is limited by their respective statutory authority, funding mechanisms, policy, and any other predetermined contractual arrangement. However, these limitations are not very restrictive and allow agencies a reasonable amount of discretion in determining projects and selecting a private partner.

There are three general categories of public-private partnerships. These include lease, develop, operate; lease, purchase; and contract services. Although there are many more categories of public-private partnerships, including those that address design, construction, operation, and maintenance of transportation and utility projects.⁶

B. SOURCES

¹ LaSalle Partners v. United States, 48 Fed. Cl. 797, 810 (2001).

² Id.

³ Id. (quoting *Coca-Cola Bottling Co. of Elizabethtown, Inc. v. Coca-Cola Co.*, 696 F.Supp. 57, 74 (D.Del 1988)).

⁴ Department of the Interior, *Partnership Legal Primer*, 1, 5 (2004), Department of the Interior Office of the Solicitor, <http://www.doi.gov/partnerships/upload/partnershiplegalprimer1stedition.pdf>

⁵ Federal Highway Administration, *Conducting Procurement for Public-Private Partnerships (P3s)*, 1, 3 (2013), http://www.fhwa.dot.gov/ipd/pdfs/p3/factsheet_06_conductingprocurement.pdf

⁶ United States General Accounting Office, *Public-Private Partnerships: Terms Related to Building and Facility Partnerships*, 1, 3-9 (1999), <http://www.gao.gov/special.pubs/Gg99071.pdf>

In forming this document, a number of sources were reviewed, including statutory authority, agency and non-government public-private partnership guides, case law, and individuals at the Department of Transportation, specifically Paul Baumer from the Office of the Secretary, Hector Huezco from the Office of General Counsel, and Neal Stolleman from the United States Department of the Treasury.

II. STATUTORY AUTHORITY

One of the bases for public-private partnerships is the authority granted to an agency by Congress. Some examples of this authority are as follows:

- A. MARITIME ADMINISTRATION:** 49 U.S.C. § 109 is the implementing statute for the Maritime Administration. 50 App. U.S.C § 1744 grants the Maritime Administration the authority to maintain the National Defense Reserve Fleet. This broad authority, along with the authority granted by 46 U.S.C. § 50101 to maintain a merchant marine, **also allow for the Administration to enter into public-private partnerships.** 46 U.S.C. § 50307 is more specific in authorizing the Secretary of Transportation to:

[E]ngage in the environmental study, research, development, assessment, and deployment of emerging marine technologies and practices related to the marine transportation system through the use of public vessels under the control of the Maritime Administration or private vessels under the United States registry, and through partnerships and cooperative efforts with academic, public, private, and nongovernmental entities and facilities.

This provision directly references public-private partnerships, and specifies the Secretary's authority to utilize these connections to further the marine transportation system.

- a. **DEPARTMENT OF ENERGY:** The Department of Energy similarly enters into their agreements for public-private partnerships via their authorizing statute (42 U.S.C. § 7256) and 42 U.S.C. § 16154, which specifically authorizes the Secretary of Energy to “conduct a research and development program on technologies relating to . . . hydrogen energy, fuel cells, and related infrastructure.” These partnerships are with other Federal agencies and the private sector.”
- b. **DEPARTMENT OF INTERIOR:** 43 U.S.C. is the implementing statute for the Department of the Interior. 43 U.S.C. § 1701(a)(7) affirms that it is the policy of the United States that the Department of the Interior's purpose is to ensure that:

[T]he public lands be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values; that, where appropriate, will preserve and protect certain public lands in

their natural condition; that will provide food and habitat for fish and wildlife and domestic animals; and that will provide for outdoor recreation and human occupancy and use.

In order to achieve these goals, 43 U.S.C. § 1737 gives the Secretary of the Department of the Interior the discretion to enter into contracts and cooperative agreements involving the management, protection, development, and sale of public lands. An example of the statutory authority within the Department of the Interior permitting the implementation of public-private partnerships is Acceptance of Contributions to Prosecute Cooperative Projects.⁷ For a complete list *see* Department of the Interior, *Partnership Legal Primer*, *supra* note 4, at 24-26.

- c. **DEPARTMENT OF HOMELAND SECURITY:** 6 U.S.C. § 111 establishes the Department of Homeland Security with the primary mission of preventing terrorism against the United States. In order to achieve this purpose, 6 U.S.C. § 112(f) enables the Secretary of the Department of Homeland Security to appoint a Special Assistant. Through the use of public-private partnerships, the Special Assistant to the Secretary must utilize the private sector to aid research and development, help secure the best available information, and protect critical infrastructure from terrorist attacks.⁸

III. DISTINCTION BETWEEN SERVICE CONTRACTS AND PUBLIC-PRIVATE PARTNERSHIPS

C. SERVICE CONTRACTS

Service contracts are typically short term contracts (one to three years) where the public agency contracts with a private sector party to provide specified services for the project. The private sector party receives a service fee in exchange for providing the contractually determined service to the public agency. However, the public agency retains ownership and responsibility for all other aspects of the project. As a result, the public agency is generally liable for higher than expected construction or operation and maintenance costs.

D. MANAGEMENT CONTRACTS

Management contracts are best characterized as a transaction involving two separate developmental stages that are memorialized by a transfer in responsibility. This contractual structure is typically mid-range in length (**two-five years**). Here, “the public agency finances, designs and constructs the project, and enters into an agreement with a private party to operate, maintain and manage the project in exchange for a fee.”⁹ Management contracts allow for the

⁷ 43 U.S.C. § 1473a

⁸ 6 U.S.C. § 112(f)(5)-(9)

⁹ Practical Law Finance, *Public Private Partnerships: Issues and Considerations*, 1, 4 (2013), <http://us.practicallaw.com/3-504-9995>.

private party to assume some commercial risk while the public agency retains ownership of the project.

E. PUBLIC-PRIVATE PARTNERSHIPS

Public-private partnerships are longer-term contractual relationships between a public agency and a private sector party to provide a public service and potentially generate revenue. There are three structures that are widely used when forming this type of partnership. First, the public agency can leverage “the private sector party’s skills and assets to perform all or significant aspects of a project.”¹⁰ Secondly, the public agency and the private sector party can “share in some fashion ... the risks and rewards of the project.”¹¹ Finally, the public agency can structure the partnership in order to retain some measure of oversight and control over the project.

IV. COMPETITIVE BIDDING

As a matter of public policy, public contracts are generally subject to the competitive bidding process. However, public-private partnerships differ from standard public contracts in that they can utilize bidding processes such as competitive proposals or single-source procurement.¹² For example, the competitive proposal method does not mandate that the government award the lowest bidder the contract.¹³ Conversely, the government may award the contract to the private entity that proposes the most advantageous contract. The government maintains the discretion to evaluate factors including but not limited to price, design features, construction schedule, and environmental effects.¹⁴ This structure may expedite the process because only one contract needs to be executed for multiple phases of the project.¹⁵

V. RESEARCH AND DEVELOPMENT

In the context of public-private partnerships, research and development projects can be conducted in the form of **Cooperative Research and Development Agreements (CRADA)**.¹⁶ CRADAs are a result of the Stevenson-Wydler Technology Innovation Act of 1980 and were amended by the Federal Technology Transfer Act of 1986.¹⁷ This government-wide authority “allows the Federal government, through its laboratories, to provide personnel, services, facilities, equipment, intellectual property or other resources with or without reimbursement to non-Federal parties and the non-Federal parties to provide similar resources toward the conduct of specific research or development efforts consistent with the mission of the labs.”¹⁸ The individual department “publishes approved documents and PAMs” that are utilized by the private sector to facilitate the development of solutions

¹⁰ Id. at 1.

¹¹ Id.

¹² *See, e.g., Sloan v. Greenville County*, 590 S.E.2d 338, 343 (S.C. Ct. App. 2003).

¹³ *American Recycling Co. v. County of Manatee*, 963 F. Supp. 1572 (M.D. Fla. 1997).

¹⁴ Federal Highway Administration, *Conducting Procurement for Public-Private Partnerships (P3s)*, *supra* note 4, at 2.

¹⁵ Id.

¹⁶ 15 U.S.C. § 3710a

¹⁷ Department of the Interior, *Partnership Legal Primer*, *supra* note 4, at 26.

¹⁸ Id.

for the department.¹⁹ These initial partnerships are formalized through CRADAs that “describe in the detail the relationship, roles and responsibilities and deliverables for each party.”²⁰ The implementation of CRADAs results in a competitive bidding process and cooperative relationships between the public entity and the private sector.

VI. OMB SUPER CIRCULAR

The Office of Management and Budget developed the Super Circular in response to:

directives from President Obama regarding reducing unnecessary regulatory and administrative burdens, redirecting resources to services that are essential to achieving better outcomes at lower cost, and strengthening accountability by intensifying efforts to eliminate payment error, waste, fraud and abuse.²¹

The Super Circular focuses on reforming administrative requirements, cost principles, and audit requirements for federal awards.²² These reforms aim to strengthen internal compliance requirements to strengthen accountability while also providing administrative flexibility for non-Federal entities. In essence, the Super Circular is intended to streamline administrative guidance for major policy reforms for public-private partnerships.

VII. BUILD AMERICA TRANSPORTATION INVESTMENT CENTER

On July 17, 2014, the President released a memorandum directing federal agencies to expand public-private collaboration on infrastructure development and financing.²³ The result of directive is the Build America Transportation Investment Center (BATIC).²⁴ BATIC helps to connect government agencies and private industries and assist companies across the country to navigate the process involved in designing, financing, building, and permitting large-scale transportation improvement projects.²⁵ The goal is to be a one-stop shop for state and local governments, public and private developers and investors seeking to utilize innovative financing strategies for transportation infrastructure projects.

VIII. HOUSING AND URBAN DEVELOPMENT FORMAT FOR PUBLIC-PRIVATE PARTNERSHIPS

¹⁹ Department of Homeland Security, *Innovative Public-Private Partnerships: Pathway to Effectively Solving Problems*, 1, 21(2010), Thomas A. Cellucci, http://www.dhs.gov/xlibrary/assets/st_innovative_public_private_partnerships_0710_version_2.pdf

²⁰ Id.

²¹ CAPLAWupdate, *Navigating the OMB Super Circular Changes*, 2 (2014), Eleanor A. Evans, http://www.caplaw.org/resources/PublicationDocuments/updatenewsletter/2014/CAPLAW_NavigatingtheOMBSuperCircularChanges_SpecialEdition2014.pdf

²² Office of Management and Budget, *Federal Register Super Circular*, 78590 (2013), <http://www.gpo.gov/fdsys/pkg/FR-2013-12-26/pdf/2013-30465.pdf>

²³ Presidential Memorandum – Expanding Public-Private Collaboration on Infrastructure Development and Financing, <http://www.whitehouse.gov/the-press-office/2014/07/17/presidential-memorandum-expanding-public-private-collaboration-infrastru>

²⁴ Will Public Private Partnerships Build the Future? *Forbes*, 8/27/2014, available at <http://www.forbes.com/sites/brighamccown/2014/08/27/building-partnerships-for-the-future/>

²⁵ Id.

The mission of the Department of Housing and Urban Development (HUD) is “to increase homeownership, eliminating chronic homelessness, support community development and increase access to affordable housing free from discrimination.”²⁶ HUD frequently fulfills their mission statement by utilizing public-private partnerships to facilitate innovative projects and streamline the bureaucratic process. HUD administers more public-private partnerships than any other agency.²⁷ Generally HUD enables a large amount of projects through employing the public-private partnership method because they provide funding and work directly with state and local housing development agencies. As a result, the more localized agencies take the reins on many of the projects because they can better provide insight into the unique necessities of their own location.

HUD’s Public-private partnerships typically are categorized in one of four ways: 1) affordable housing task forces, 2) operating support collaborative, 3) program-based partnerships, and 4) public sector partnerships. When developing these public-private partnerships, HUD characterizes the projects based on four factors: 1) purpose, 2) types of assistance, 3) mediating agents, and 4) identifying target populations.²⁸

As of 1989, HUD facilitated the creation of over 200 public-private partnerships through local governments and private entities with the aim of substantially rehabilitating low-income urban areas.²⁹ HUD’s three most successful and most widely implemented programs include: Community Development Block Grants (CDBG), Brownfield Economic Development Initiative (BEDI), and Rural Housing and Economic Development (RHED).³⁰

CDBGs consist of block grant programs that provided a large amount of federal funding to state and local government with few strings attached. Once HUD supplies the funding to the local governing body, the entity can then employ private contractors to complete the project. This not only produces more localized projects but also facilitates potential employment for residents who are potentially affected by the project. CDBG projects include: entitlement communities, state administered CDBG, section 108 loan guarantees, disaster recovery assistance, and renewal communities.³¹

Brownfields are decaying industrial or commercial sites that are unable to redevelop because of perceived or actual environmental contamination. BEDIs provide competitive grants as a catalyst for the redevelopment of these sites.³² In order for local entities and private companies to receive HUD funding, the redevelopment plan must meet one of three national objectives: 1) benefit low and moderate income persons; 2) prevent or eliminate slums or blight; or 3) address imminent threats and urgent community needs.³³

²⁶Council of Development Finance Agencies, available at <http://www.cdfa.net/cdfa/cdfaweb.nsf/0/EC87B01156D937F1882579360063DF27>; quoting The Department of Housing and Urban Development, available at <http://www.hud.gov/library/bookshelf/2/hudmission.cfm>.

²⁷ United States General Accounting Office, *Partnership Projects: Federal Support for Public-Private Housing and Development Efforts*, 1, 48 (1989), available at <http://www.gao.gov/assets/90/88508.pdf>

²⁸ Id.

²⁹ Id. at 49-50.

³⁰ *Supra* note 1.

³¹ The Department of Housing and Urban Development, available at http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/communitydevelopment/programs/.

³² *Supra* note 1.

³³ The Department of Housing and Urban Development, available at <https://www.hudexchange.info/bedi/>.

RHED programs provide grants to meet the economic development needs of rural communities. In order to be awarded HUD funding, the private entity must demonstrate that it satisfies a number of rating factors. These rating factors include: capacity of applicant and relative organizational experience, need and extent of the problem, soundness of approach, leveraging resources, and achieving program results and evaluation.³⁴

IX. MARITIME RELATED PUBLIC-PRIVATE PARTNERSHIPS

The Port of Baltimore is currently subject to a public-private partnership between the Maryland Port Administration (MPA) and Ports America Chesapeake, LLC (PAC). The aim of this 50-year/\$1.3 billion dollar agreement is the “improvement, operations, and maintenance of the Seagrit Marine terminal.”³⁵ This project includes “dredging a channel to 50-foot depth to enable the Port of Baltimore to serve Post-Panamax cargo ships.”³⁶ Throughout this 50-year partnership, PAC must provide “\$378 million fixed annual payments and \$600 million in variable payments to MPA.”³⁷ In conjunction with the Port of Baltimore, the Maryland Transportation Authority received a payment of \$140 million to improve neighboring highways and bridges.³⁸

A. WATER RESOURCES AND DEVELOPMENT ACT (PUBLIC LAW 113-121): The Water Resources Reform and Development Act (WRRDA) was enacted as a catalyst for the establishment of public-private partnerships in the maritime sector. The primary goal of WRRDA is the encouragement of private sector participation in water resources projects that are beneficial to the general public.³⁹ One of the results of WRRDA included the creation of the Water Infrastructure Public Private Partnership Program (WIPPP). WIPPP facilitates the “establishment of innovative financing mechanism to carry out and manage the design and construction of [Army] Corps projects by involving the private sector.”⁴⁰ Furthermore, the WRRDA created a Water Infrastructure Finance Innovations Authority (WIFIA) “to provide credit assistance for drinking water, waste water, and water resources infrastructure projects. This project employs the model of the Transportation Infrastructure Finance and Innovation Act (TIFIA) program for surface transportation.”⁴¹ WIFIA is a five-year program that “leverages federal funds by attracting substantial private or other non-federal investments to promote infrastructure development.”⁴²

³⁴ The Department of Housing and Urban Development, available at http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/economicdevelopment/programs/rhed.

³⁵ United States House of Representatives: Committee on Transportation and Infrastructure, *Roundtable Policy Discussion on “Public Private Partnerships for America’s Waterways and Ports”*, 1, 6 (2014), Committee on Transportation and Infrastructure, available at http://transportation.house.gov/uploadedfiles/2014-07-10-p3_panel_ssm.pdf.

³⁶ Id.

³⁷ Id.

³⁸ Id.

³⁹ Id. at 6-7.

⁴⁰ Id.

⁴¹ Id. at 7.

⁴² Id.

- B. THE PORT OF MIAMI TUNNEL: The Port of Miami Tunnel (PMOT) is a “public-private partnership designed to transfer the responsibility to design-build-finance-operate-and-maintain (DBFOM) the project to the private sector.”⁴³ Under the agreement, the Florida Department of Transportation (FDOT) makes payments to the concessionaire during the construction when contractually determined milestones are achieved. When construction is completed, FDOT will make payments to the concessionaire that are contingent upon “actual lane availability and service quality.”⁴⁴ The state of Florida has contracted to cover 50% of the \$668.5 million project. The state of Florida’s payments are meant to cover capital costs, operations, and maintenance. The PMOT will be returned to FDOT in “first-class condition at the end of the contract in October 2044.”⁴⁵
- C. HYDROPOWER DEVELOPMENT: As promulgated in the Energy Policy Act of 2005, the Army Corps and the Department of Energy (DOE) have conducted a review of potential hydropower development. This review has identified 58 sites that maintain the “physical and economic conditions sufficient to warrant further exploration for power development.”⁴⁶ This review determined that public-private partnerships are increasingly necessary for the expansion of private hydropower at currently non-powered Army Corps dams.⁴⁷

X. IN-KIND PUBLIC-PRIVATE PARTNERSHIPS

Government contributions to a public-private partnership may also be provided in-kind. In-kind contributions to a public-private partnership encompass the nonmonetary equal transfer of existing assets to a party. These functional arrangements are similar to transactions between two business entities under normal market conditions, with two key exceptions: 1) in some cases, industry provides goods and services to public-private partnerships at cheaper rates than it would charge other private entities; and 2) industry can make outright in-kind contributions for which it expects no monetary contribution. For industry “the motivation may include a sense of corporate social responsibility and a willingness to act in the interest of the ‘public good.’”⁴⁸ For the government, the general motivation is to aid a private entity in their project that benefits the general public while maintaining little to no monetary liability for project failures.

To facilitate the success of an in-kind contribution to a public-private partnership, the agreement must be done in a manner as to ensure that the private sector bears a substantial portion of the risk. The in-kind contribution is a potentially cost efficient method because the government can design the public-private partnership in which it provides public assets to a private partner for a specified time. As a result, the private partner operates the public

⁴³ Port of Miami Tunnel, *Project Overview*, Florida Department of Transportation, available at <http://www.portofmiamitunnel.com/project-overview/project-overview-1/>.

⁴⁴ Id.

⁴⁵ Id.

⁴⁶ *Supra* note 1, at 7.

⁴⁷ Id.

⁴⁸ Initiative on Public-Private Partnerships for Health, *Valuing Industry Contributions to Public-Private Partnerships for Health Product Development*, Hannah Kettler et al. 1, 2 (2003), available at http://announcementsfiles.cohred.org/gfhr_pub/assoc/s14843e/s14843e.pdf.

infrastructure and service to recover its investment, and then returns the public asset back to the government at the end of the contract period.

- A. **EXAMPLE OF AN IN-KIND PARTNERSHIP: ENHANCED USE LEASING OR UNDERUTILIZED ASSET:** An EUL is an asset management program in the Department of Veterans Affairs (VA) that can include a variety of different leasing arrangements (e.g. lease/develop/operate, build/develop/operate). EULs enable the VA to long-term lease VA-controlled property to the private sector or other public entities for non-VA uses in return for receiving fair consideration (monetary or in-kind) that enhances VA's mission or programs.⁴⁹

XI. EXAMPLES OF PUBLIC-PRIVATE PARTNERSHIPS

BAYONNE WATER/WASTEWATER PUBLIC-PRIVATE PARTNERSHIP: This public-private partnership involves a 40 year concession of water and wastewater systems from Bayonne Municipal Utilities Authority (Bayonne) to United Water and KKR. As is typical with beginnings of many public-private partnerships, this agreement manifested itself out of public necessity. Prior to the formation of the partnership, Bayonne was experiencing consistent declines in water usage due in part to the loss of a substantial industrial customer. Furthermore, public debt and staffing needs required Bayonne to utilize the public-private partnership arrangement to reverse the decline of their water and wastewater systems (quality of?). The aim of the public-private partnership was to provide a fundamental public service while generating modest long-term revenue that would aid Bayonne in eliminating the newfound \$125 million debt.⁵⁰ After a brief competitive bidding period, Bayonne contracted with United Water and KKR. During negotiations, it was determined that the Revenue Path Model (RPM) would best serve as the structural basis for the formation of the public-private partnership.⁵¹ Essentially, the RPM assures Bayonne that United Water and KKR will adhere to ceiling on their financial returns from the operation of the water and wastewater services. This allows Bayonne to consistently pay off their debt while ensuring that customers are not subjected to unfair rates due to privatization of a public service.

INDIANA TOLL ROAD PROJECT: This public-private partnership involves the operation and maintenance of the Indiana Toll Road (ITR) by the Indiana Toll Road Concession Company (ITRCC). In order to avoid the high costs of making improvements to the IRT, the Indiana Finance Authority made a 75-year lease concession with ITRCC. In exchange for \$3.8 billion, ITRCC would make the necessary improvements to the IRT while continuing to maintain and operate it during the term of the lease. Subsequently, ITRCC would retain the "right to collect tolls on cars and trucks" while accepting the "traffic demand risk."⁵² Since its inception in 2006, the economic recession and increased toll rates manifested a decrease in toll traffic by 11%. By

⁴⁹ The National Council for Public-Private Partnerships, *Types of Partnerships*, available at <http://www.ncppp.org/ppp-basics/types-of-partnerships/>.

⁵⁰ NW Financial Group, LLC, *Why the Bayonne Water/Wastewater Public-Private Partnership Succeeded*, 2, 3 (2013), <http://nwfinancial.com/why-the-bayonne-waterwastewater-public-private-partnership-succeeded/>.

⁵¹ For a more detailed explanation of the RPM *see Id.* at 4.

⁵² William J. Mallett, *Indiana Toll Road Bankruptcy Chills Climate for Public-Private Partnerships*, 1 (2014), <http://www.ncppp.org/wp-content/uploads/2013/02/CRS-Insights-Indiana-Toll-Road-Bankruptcy-Chills-Climate-for-P3s.pdf>.

2013, ITRCC “paid \$193 million to service its debt while revenue was only \$158 million.”⁵³ As a result, ITRCC filed for bankruptcy in 2014.

XII. CONCLUSION

The statutory authority and public-private partnerships of other departments demonstrates that there is a wide berth of discretion regarding the projects the government wants to develop. The public-private partnership framework provides the catalyst for advantageous project development that can avoid the pitfalls of typical government contracting procedures. The end result is a valuable public service that maintains the potential to provide a continued revenue stream for the selected private entity. Please see the guides below for further information about other agencies’ use of public-private partnerships.

XIII. GUIDES TO PUBLIC-PRIVATE PARTNERSHIPS

- a. Department of Transportation
 - i. Department of Transportation, *Report to Congress on the Costs, Benefits, and Efficiencies of Public-Private Partnerships for Fixed Guideway Capital Project* (2007), http://www.fta.dot.gov/documents/Costs_Benefits_Efficiencies_of_Public-Private_Partnerships.pdf.
- b. Federal Highway Administration
 - i. Federal Highway Administration, *Model Public-Private Partnerships Toll Concessions Contract Guide* (2014), http://www.fhwa.dot.gov/ipd/pdfs/p3/model_p3_core_toll_concessions.pdf.
- c. Department of Homeland Security
 - i. Department of Homeland Security, *Innovative Public-Private Partnerships: Pathway to Effectively Solving Problems* (2010), Thomas A. Cellucci, http://www.dhs.gov/xlibrary/assets/st_innovative_public_private_partnerships_0710_version_2.pdf.
- d. Department of the Interior
 - i. Department of the Interior, *Partnership Legal Primer*, *supra* note 4.
- e. National Conference of State Legislatures
 - i. National Conference of State Legislatures, *Public-Private Partnerships for Transportation: A Toolkit for Legislators* (2010), William T. Pound, <http://www.ncsl.org/documents/transportation/PPPTOOLKIT.pdf>.
- f. AIG
 - i. AIG, *The United States: The World’s Largest Emerging P3 Market*, (2012), Dan McNichol, <http://www.danmcnichol.com/wp-content/uploads/2014/03/FINAL-P3-AIG-Whitepaper.pdf>.
- g. The Hamilton Project

⁵³ Id.

- i. The Hamilton Project, *Public-Private Partnerships to Revamp U.S. Infrastructure*, (2011), Eduardo Engel, Ronald Fischer, and Alexander Galetovic,
http://www.hamiltonproject.org/files/downloads_and_links/Final_ENGEL_DiscussPap_Feb2011.pdf.



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