

Policy Title: Assessing and Procuring Public-Private Partnerships (P3)
Report Number: ALT2020-0316
Adopted by: Administrative Leadership Team
Effective Date: 2020 / 04 / 14
Last Amended: N/A
Policy Owner(s): Finance

1. PURPOSE

- 1.1 The purpose of this policy is to guide the internal governance, roles, responsibilities, and processes of assessing, procuring, implementing, and managing Public-Private Partnerships (P3) Projects in a manner consistent with the Council Policy on P3s.

2. POLICY STATEMENT

- 2.1 The City of Calgary shall use a consistent governance model and selection criteria when assessing, procuring, implementing, and managing P3s as an alternative financing and procurement approach for infrastructure or services, or both.

2.2 *P3 Project Identification Process*

- 2.2.1 Business Units shall review their proposed capital plan to identify potential P3 Projects. Consideration should be given to the Corporate Project Management Framework and the standard Capital Budget approval process before proceeding through the P3 Project Assessment Process.

- 2.2.2 A Project shall be identified as a potential P3 if it meets at least one of the following criteria:

- a. Cost exceeds \$100 million on a Net Present Value (NPV) basis, either as a capital project, a bundled capital project as part of a capital program, or an annual investment that includes the delivery of various components within a given geographic area;
- b. There is a requirement through a funding grant from either the Government of Alberta or the Government of Canada that requires an assessment of the Project for its potential to be delivered as a P3; or
- c. The Director of the Sponsoring Business Unit (SBU) has considered the Project to be a potential P3; however, the resources needed to perform the P3 Project Assessment Process discussed in section 2.3 must be considered by the SBU relative to the benefit prior to beginning the assessment process.

- 2.2.3 The City will not consider unsolicited proposals for P3s.

2.2.4 Projects identified as potential P3s shall be subject to the P3 Project Assessment Process.

2.3 *P3 Project Assessment Process*

2.3.1 The P3 Project Assessment Process has three components, which together form the P3 Business Case:

- a. Initial Project Screen;
- b. Strategic Assessment; and
- c. Value-for-Money Assessment (VFM Assessment).

2.3.2 Each component of the P3 Project Assessment Process will be carried out consecutively with the results used to determine whether the Project is viable up to that point, and whether proceeding to the next assessment step is recommended.

2.3.3 If any component of the P3 Project Assessment Process does not receive the required approvals, the P3 Project Assessment Process will be discontinued, and the Project will not proceed using a P3 delivery model.

2.4 *P3 Project Approval*

2.4.1 The P3 Business Case will be forwarded to the ALT for approval. Once the ALT has approved the P3 Business Case, it will be presented to Council communicated through the standard process for Council approval under the terms of the P3 Council Policy.

2.4.2 Administration will disclose, provide advice and seek Council approval for budget impacts of the P3 Project, including the following information:

- a. The capital, operating, lifecycle and financing costs during the term of the Project Agreement especially when the P3 Model includes lifecycle and operating costs; and
- b. Borrowing bylaw(s) for all debt related to the P3 Project in accordance with the MGA.

2.4.3 Administration will disclose, and provide advice regarding funding and budget impacts of the P3 Project, including the following information:

- a. Estimated impacts to The City's debt and financial capacity limits; and
- b. The estimated dollar value of lifecycle and operating costs of the Project, where the P3 Model does not include these elements.

2.4.4 Council will approve P3 delivery for Projects and the P3 Model.

2.5 *Procurement Process*

- 2.5.1 Procurement of a P3 Project must be managed in accordance with The City's Procurement Policy and include the following:
- a. A communications plan, consistent with The City's Customer Service and Communications Engage! Policy and Engage Framework, that ensures appropriate stakeholder involvement will be developed and adhered to;
 - b. An independent fairness professional to be hired by The City to ensure that the selection process adheres to the high standards of openness, fairness, and transparency;
 - c. The prequalification of a shortlist of private entities that meet all the technical and financial requirements to deliver the Project. Shortlisted proponents from the prequalification process will be invited to submit bids;
 - d. An Evaluation Committee, which is established by the Steering Committee. The Evaluation Committee will contain City internal technical, financial and commercial experts and may be supplemented by external advisors, where deemed necessary. The Evaluation Committee will be independent from the Steering Committee meaning it will be free from influence in the evaluation process; and
 - e. The Evaluation Committee shall confirm that the proponents possess the technical, commercial and financial capability to execute their proposals.
- 2.5.2 The Evaluation Committee must confirm that the proponents are not in dispute with, or debarred by, The City, and that proposals are compliant and complete.
- 2.5.3 The selection of the successful proponent by the Evaluation Committee will be based on a multi-stage process whereby the shortlisted proponents will submit technical proposals and financial proposals. The selection of the successful proposal will be based on an evaluation of technical and financial criteria (including price) which may include qualitative criteria or other value-added criteria (or both) as set out in the procurement documents.
- 2.5.4 The recommended proponent will be presented to the Steering Committee by the Evaluation Committee for information only. Execution of the Project Agreement will then proceed. Any exception to the above will require approval of the Director of Supply Management and Chief Financial Officer (or City Manager).

2.6 *P3 Project Management*

- 2.6.1 Reporting requirements, aligned with the Project Agreement, will be established for each P3. At a minimum, these will include a clearly defined implementation and monitoring schedule, consistent with existing asset management policies and processes, to ensure that the performance objectives and other terms of the contract are being met.

- 2.6.2 The performance of the P3 partner will be monitored by the SBU during the construction period and throughout the life of the Project Agreement.
- 2.6.3 For P3s with terms that extend beyond the initial capital construction of the Project, handback procedures will be established in the Project Agreement to ensure that The City receives the asset in the prescribed condition at the end of the Project Agreement term.

3. **DEFINITIONS**

3.1 In this Administration Policy:

- a. **Administrative Leadership Team (ALT)** means the most senior group of administrative officials in The City;
- b. **Finance P3 Workgroup** means the Corporate and Innovative Finance team in the Finance business unit that reports to The City Treasurer and CFO;
- c. **Net Present Value (NPV)** means the value of a Project found by adding the present value of expected future cash flows and the cost of the initial investment;
- d. **P3 Model** means the integration of multiple Project elements into one performance-based contract and may include Design, Build, Finance, Operate, Maintain, or a combination thereof;
- e. **Project** means a capital investment that falls under one of these categories: capital project that is a planned, delivered and evaluated on its own merit and has a well-defined scope, cost and schedule resulting in a new or substantially improved assets; capital program that is a grouping of capital projects that are related and benefit from being planned and managed together; or annual investment program that is a recurring capital program focused on maintaining or upgrading current, in-service assets or for ongoing purchases of similar assets;
- f. **Project Agreement (PA)** means the contractual arrangement between The City and the P3 partner;
- g. **Public-Private Partnership (P3)** means a contractual agreement between a public authority and a private entity for the provision of infrastructure or services, or both in which the private sector participant assumes the responsibility for financing part or all the Project, The City seeks to transfer risks that it would normally assume, based on the private sector participant's ability to better manage those risks, the arrangement extends beyond the initial capital construction of the Project, and all or any combination of the above;
- h. **Public-Sector Comparator** means the risk-adjusted cost estimate of a Project assuming the most efficient form of traditional government delivery. It includes the best estimate of full lifecycle costs, benefits and risks over the contract term;
- i. **Shadow Bid** means the risk adjusted cost estimate to The City if the Project is delivered under a P3 Model(s). This is done through cash flow modeling of the

private entity's financial approach and may consider expected private sector efficiencies in capital, lifecycle, and operating costs, as well as the cost of private financing. It includes the best estimate of full lifecycle costs, benefits and risks over the contract term;

- j. **Sponsoring Business Unit (SBU)** means the City business unit or most senior Project representative which is responsible for the Project;
- k. **Value-for-Money (VFM)** means the difference between the Public-Sector Comparator and the Shadow Bid. There is positive Value-for-Money using a P3 when the cost to deliver the P3 is less than the Public-Sector Comparator.

4. APPLICABILITY

4.1 This policy applies to all City of Calgary departments, business units, and service lines.

5. LEGISLATIVE AND ADMINISTRATIVE AUTHORITY

- 5.1 Council has authority to approve all projects that are to progress as P3 Projects, specifically the P3 Business Case, in accordance with the Council P3 Policy.
- 5.2 The authority to execute a Project Agreement or other contract entered into during a P3 Project may be delegated by Council in accordance with the Municipal Government Act (Alberta), RSA 2000 Chapter M26 (the "MGA") or by the City Manager under the authority delegated to him or her by Council in accordance with the MGA.
- 5.3 Procurement practices and activities at The City are governed as described in the Procurement Policy.
- 5.4 The alignment of this Administration policy with Infrastructure Calgary will be considered when determining capital investment priority.

6. ROLES AND RESPONSIBILITIES

6.1 *Sponsoring Business Unit (SBU) is responsible for the following:*

- a. Leading the P3 Project Assessment Process including:
 - Coordination and scheduling;
 - Document management and control;
 - The provision of all technical and cost input;
 - The establishment of the Steering Committee;
 - Ensuring all approvals are obtained as outlined in Section 6.3 in the P3 Council Policy;
 - The management and coordination of any technical consultants, including their procurement in accordance with The City's Procurement Policy, and

- Funding all costs of the P3 Project Assessment Process, including the costs of retaining any external consultants and professional service providers;
- b. Coordinating the drafting of the procurement documents for the Project, working with Law, the Finance P3 Workgroup, Supply Management, and others in the Project working group;
- c. Hiring, in conjunction with Supply, a fairness professional during the Procurement Phase;
- d. Developing any communication plans, in conjunction with the Customer Service & Communications business unit; and
- e. Facilitating the P3 Project management phase, including the construction period and throughout the life of the Project Agreement, specifically including:
 - Establishing Project reporting requirements;
 - Monitoring the performance of the P3 partner to ensure that it is compliant with the Project Agreement and initiating allowable remedies provided for in the Project Agreement should this not be the case; and
 - Ensuring handback procedures, where established, are followed.

6.2 Finance P3 Workgroup is responsible for the following:

- a. Providing support and financial advisory services to the SBU and will assist with other relevant analysis and information that the Finance Business Unit or the SBU may recommend;
- b. Providing support to the SBU for preparing the P3 Business Case for potential P3 Projects and is responsible for ensuring that the assessment process of P3 suitability is consistently followed;
- c. Providing support and advice along with other enabling services during the Procurement Phase, including assisting in the selection of qualified bidders, the financial assessment process, commercial and financial close; and
- d. Hiring and coordination of external financial advisor(s) including capital markets advisor(s), as required.

6.3 Law is responsible for the following:

- a. Hiring and coordination of an external legal advisor in accordance with the City Solicitor's Bylaw.

6.4 Supply is responsible for the following:

- a. Providing recommendations, in consultation with the SBU, for hiring of an external procurement advisor, as required.

6.5 *Infrastructure Calgary*

- a. Participating in the P3 Project Assessment Process, in consultation with the SBU and Finance P3 Workgroup, as required.

6.6 *Steering Committee*

- a. Performing oversight throughout the assessment, procurement and decision-making process, particularly in terms of the strategic and policy implications of the P3 Project, consistent with best practices;
- b. Consists of senior staff members from the following business units; however, an alternate governance structure may be established with ALT approval:
 - SBU – Chair (Director or General Manager of the department under which the SBU falls);
 - Finance;
 - Law;
 - Supply Management; and
 - Others, as deemed necessary by the Steering Committee.
- c. Determining whether a proposal submission fee will be provided to compliant unsuccessful bidders on a case by case basis, based on current market standards and the complexity and resources involved in submitting a proposal.; and
- d. Determining whether a break fee will be provided to proponents if The City terminates a P3 procurement prior to proposals being submitted, on a case-by-case basis.

7. **CONSEQUENCES OF NON-COMPLIANCE**

7.1 The City will take appropriate action in response to any non-compliance or transgression of this Administration Policy. Procurement misconduct will be reported, reviewed and may result in disciplinary action being taken against the employee, up to and including dismissal from employment, seeking restitution, commencement of civil action, criminal prosecution, instructing the employee to divest themselves of the outside interest, transferring the employee to another position or any combination thereof.

8. **PROCEDURES**

8.1 *P3 Project Assessment Process*

8.1.1 Initial Project Screen

- 8.1.1.1 Identified potential P3 Projects are assessed against an Initial Project Screen, which is a series of questions used to determine whether delivery using a P3 Model may be advantageous.

- 8.1.1.2 Projects will be assessed using a questionnaire and against criteria identified by the Finance P3 Workgroup as outlined in the P3 Guiding Principles and Framework.
- 8.1.1.3 The Finance P3 Workgroup may, at its discretion, supplement the identified criteria on a case-by-case basis.
- 8.1.1.4 With documented supporting rationale and at the discretion of the Director of the SBU, the Initial Project Screen may be waived and all further consideration of the Project as a P3 discontinued.
- 8.1.1.5 The Project will proceed to Strategic Assessment and a Steering Committee will be formed upon fulfilment of both of the following criteria:
 - a. The Director of the SBU determines that the Initial Project Screen has established that P3 delivery for this Project is potentially viable; and
 - b. A potential funding source and proposed capital investment budget for the Project has been identified.
- 8.1.2 Strategic Assessment
 - 8.1.2.1 The Strategic Assessment considers a series of strategic criteria assigned by the Finance P3 Workgroup and outlined in the P3 Guiding Principles and Framework.
 - 8.1.2.2 At a minimum, the following components are to be included:
 - a. Project Description;
 - b. Description of Costs;
 - c. A preliminary list of P3 Models to be considered for the project;
 - d. A review of any project-specific objectives or constraints;
 - e. A qualitative risk assessment;
 - f. A review of the market for service providers;
 - g. A review of any relevant precedent projects or similar projects; and
 - h. A determination of the preferred P3 delivery model(s).
 - 8.1.2.3 The results of the Strategic Assessment will be presented to the Director of the SBU, the Director of Finance, and the Steering Committee. All three must approve the results to proceed to the next step, as follows:

- a. If the Strategic Assessment supports the use of P3 delivery for the Project, the P3 Project Assessment Process will continue to the VFM Assessment; and
- b. On an exception basis, depending on the characteristics of the Project and the findings of the Strategic Assessment, it may be very clear which delivery model (i.e. traditional, or a specific P3 model) is most suitable for the Project. Under these circumstances, the VFM Assessment may be deemed unnecessary and waived subject to approval of the Director of the SBU, Director of Finance, and the Steering Committee. A P3 Business Case will then be presented without a VFM Assessment for approval to the Administrative Leadership Team (ALT) under section 2.4.

8.1.3 Value-for-Money Assessment (VFM Assessment)

- 8.1.3.1 The VFM Assessment considers a series of strategic and value-for-money criteria assigned by the Finance P3 Workgroup and outlined in the P3 Guiding Principles and Framework.
- 8.1.3.2 The VFM Assessment shall include the following components:
 - a. Estimation of the Public-Sector Comparator;
 - b. Estimation of the Shadow Bid; and
 - c. Comparison of the Public-Sector Comparator to the Shadow Bid to determine the potential VFM, if any, offered by the Shadow Bid.
- 8.1.3.3 If the procurement process results in new information that impacts the assessment of the Project, the VFM Assessment will be revised to include the new information and the resulting recommendation will be revised accordingly.
- 8.1.3.4 Should the Project proceed as a P3, based on Council approval under the terms of the P3 Council Policy, the results of the final VFM Assessment will be documented and made available to the public no later than 90 days after Financial Close.
- 8.1.3.5 The results of the VFM Assessment, including the recommendations of the SBU and the Finance P3 Workgroup, will be presented to the Director of the SBU, the Director of Finance, and the Steering Committee. Approval of all three is required to recommend ALT direction to seek Council approval to advance the Project as a P3.

8 **HISTORY**

Date	Report Number	Description
2010/01/15	N/A	New Policy (Council)
2020/04/14	ALT2020-0316	Policy updated, approved by ALT and moved to Administration