

Ordinance to Adopt Guidelines for Public-Private Partnerships



Budget and Fiscal Affairs Committee

June 10, 2014

What is a Public-Private Partnership ("P3")?

Generally speaking, a P3 is an agreement between a public entity and the private sector by which the private sector makes physical assets or services available to the public entity for an extended term (20+ years) in exchange for fixed payments.

When should COH choose P3 over traditional procurement methods?

When the attributes of a P3 fit the City's needs. In a P3, a private-sector entity is responsible for operation and maintenance of the facility throughout the life of the agreement. If the facility is not "available" for public use during the term, or if the facility does not meet pre-determined specifications at the end of the term, the private-sector entity will suffer significant financial loss. This "skin in the game" for 25 or 30 years provides strong incentives for the private entity to design, construct, and maintain a facility that will meet the public's needs for decades.

Why must we adopt Guidelines before entering into a P3 agreement?

Because the Texas Legislature said so. "Before requesting or considering a proposal for a qualifying project, a responsible governmental entity must adopt ... guidelines that ... comply with this chapter." TEX. GOV'T CODE § 2267.052(a).

Have other Texas cities adopted 2267 Guidelines?

Yes. El Paso, San Antonio, and Edinburg. The RCA for the ordinance will include links to Guidelines adopted by El Paso and San Antonio.

If Council adopts the Guidelines as proposed, will Houston's Guidelines resemble those adopted by other Texas cities?

Yes. At least 80% of the Guidelines are prescribed by the Texas Government Code. Houston's Guidelines are unlikely to vary significantly from El Paso's or San Antonio's except in matters of procedure, information required in unsolicited proposals, and local concerns such as MWSBE.

(Very) generally speaking, how will Houston's 2267 Guidelines work?

The City may *solicit* a P3 Proposal using the RFQ / RFP process, with certain additional requirements prescribed by the Government Code. Or, a private entity may submit an *unsolicited* "Pre-Proposal Letter" for a P3 Project. If the idea appears to have merit, the City will request a "P3 Plan." Approval of the P3 Plan essentially will convert an *unsolicited* P3 Proposal into a *solicited* P3 Proposal. By statute, however, even an unsolicited proposal must be subject to competition. 3
TEX. GOV'T CODE § 2267.053(a-1).

Who makes the decisions in a P3 Procurement?

- ▶ The **P3 Representative** (the City's Chief Procurement Officer) evaluates each unsolicited "Pre-Proposal Letter" and decides whether to invite the Proposer to submit a "P3 Plan."
- ▶ The **P3 Oversight Committee** evaluates each P3 Plan and decides whether the City should issue an RFQ or RFP based on a promising P3 Plan.
- ▶ The **P3 Oversight Committee** evaluates all responses to RFQs and RFPs for P3 Projects.
- ▶ If the **P3 Oversight Committee** approves a response to an RFP for a P3 Project, the P3 Representative "shall designate one or more professionals employed or retained by the City" to negotiate the terms of an "Interim" or a "Comprehensive" P3 Agreement between the City and the private entity.
- ▶ **City Council** must convene a **public hearing** on any proposed Interim or Comprehensive P3 Agreement.
- ▶ **City Council** must approve every Interim or Comprehensive P3 Agreement.

Who serves on the P3 Oversight Committee?

Position 1 (Chair): The P3 Representative.

Position 2: A representative designated by the Director of GSD.

Position 3: A representative designated by the Director of PWE.

Position 4: A representative designated by the Director of Finance.

Position 5: An attorney designated by the City Attorney.

Position 6: A representative designated by the Director of P&D.

Position 7: A representative of the Office of the Mayor.