

Key Elements of State PPP Enabling Legislation for Highway Projects
Last Updated December 2007

No.:	Issue:	States with Provision:
1.	Does the relevant law allow solicited and unsolicited proposals for PPP Projects?	Arizona, California, Colorado, Delaware, Florida, Georgia, Louisiana, Maryland, Minnesota, Mississippi, Missouri, Nevada, North Carolina, Oregon, Texas, Utah, Virginia, Washington
2.	Does the relevant law permit local/state/federal funds to be combined with private sector funds on a PPP project?	Alaska, Colorado, Delaware, Florida, Georgia, Indiana, Louisiana, Mississippi, Nevada, North Carolina, Oregon, Tennessee, Texas, Utah, Virginia, Washington
3.	Who has rate-setting authority to impose user fees and under what circumstances may they be changed or otherwise reviewed?	Alabama, Arkansas, Arizona, California, Colorado, Delaware, Florida, Georgia, Indiana, Louisiana, Maryland, Minnesota, Mississippi, Missouri, Nevada, North Carolina, Oregon, South Carolina, Tennessee, Texas, Utah, Virginia, Washington
4.	Does the relevant law permit TIFIA loans to be used on PPP projects?	Alaska, Delaware, Florida, Georgia, Indiana, Louisiana, North Carolina, Oregon, Texas, Utah, Virginia, Washington
5.	Is the number of PPP projects limited to only a few "pilot" or "demonstration" projects?	Alaska, Arizona, California, Indiana, Missouri, North Carolina, Tennessee
6.	Are there restrictions concerning the geographic location of PPP projects?	Alaska, California, Florida, Indiana, Mississippi, Missouri, North Carolina, Tennessee, Texas
7.	Are there restrictions concerning the particular mode of transportation eligible to be developed as a PPP project (e.g., truck, passenger auto, freight rail, passenger rail)?	Alabama, Arizona, California, Colorado, Indiana, Louisiana, Minnesota, Mississippi, Missouri, Nevada, North Carolina, South Carolina, Tennessee
8.	Is there a legal requirement to remove tolls after the repayment of project debt?	North Carolina, Tennessee
9.	Does the relevant law permit the conversion of existing or partially constructed highways into toll roads?	California, Georgia, Indiana, Louisiana, Maryland, Minnesota, North Carolina, Texas, Utah, Virginia, Washington
10.	Is there a restriction that prevents the revenues from PPP projects from being diverted to the state's general fund or for other unrelated uses?	Arizona, California, Colorado, Delaware, Florida, Indiana, Mississippi, North Carolina, Oregon, Texas, Utah, Washington

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11.	Is prior legislative approval required when an individual PPP proposal is received?	Alaska, California, Delaware, Florida, Indiana, Louisiana, Tennessee, Washington
12.	Are there any similar requirements that subject the PPP proposal or the negotiated PPP agreement to a local veto?	Arizona, Delaware, Minnesota
13.	Does the relevant law permit all kinds of procurements for PPP project delivery? These might include, for example, calls for projects, competitive RFQ and RFPs, qualifications review followed by an evaluation of proposer concepts, use of design build, procurements based on financial terms such as return on equity rather than on price, long-term asset leases for some period of up to 60 years or longer from the time operations commence?	California, Colorado, Delaware, Florida, Georgia, Indiana, Louisiana, Maryland, Mississippi, Missouri, North Carolina, Oregon, Tennessee, Texas, Utah, Virginia, Washington
14.	Are there explicit exemptions/supplemental procurement authority from the application of the state's general procurement laws?	Colorado, Delaware, Florida, Georgia, Indiana, Mississippi, Missouri, North Carolina, Oregon, Texas, Virginia, Washington
15.	Does the relevant law authorize the public sector to grant long-term leases/franchises for the construction, operation and maintenance of toll facilities?	Alabama, Alaska, Arizona, California, Colorado, Delaware, Florida, Georgia, Indiana, Louisiana, Maryland, Minnesota, Mississippi, Missouri, Nevada, North Carolina, Oregon, Texas, Utah, Virginia, Washington
16.	Does the public sector have the authority to issue toll revenue bonds or notes?	Alaska, Colorado, Florida, Indiana, Louisiana, Minnesota, Mississippi, Missouri, North Carolina, Oregon, South Carolina, Tennessee, Texas, Utah, Washington
17.	Does the public sector have the authority to form nonprofits and let them issue debt on behalf of a public agency?	Colorado, Georgia, Oregon, South Carolina, Virginia
18.	Does the relevant public agency have the authority to hire its own technical and legal consultants?	Alaska, Colorado, Florida, Georgia, Indiana, Maryland, Mississippi, North Carolina, Oregon, Texas, Utah, Virginia, Washington
19.	Does the relevant law permit the	Delaware, Indiana, Texas

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	public sector to make payments to unsuccessful bidders for work product contained in their proposals?	
20.	Can the agency charge application fees to offset its proposal review costs?	Delaware, Florida, Georgia, Louisiana, Maryland, Missouri, Nevada, Oregon, Texas, Virginia, Washington
21.	Does the relevant law allow adequate time for the preparation, submission and evaluation of competitive proposals? Note that the agency should have the authority to establish these deadlines on a case-by-case basis depending on the complexity and scope of the initial proposal or other factors that might promote competition (e.g., more review time during holiday periods).	Arizona, California, Colorado, Georgia, Indiana, Louisiana, Maryland, Mississippi, Missouri, Oregon, Texas, Virginia, Washington
22.	Is the public sector required to maintain comparable non-toll routes when it establishes new toll roads?	Arizona, North Carolina
23.	Are there any non-compete clause prohibitions?	Alabama, Florida, Mississippi, North Carolina, Texas
24.	Is the authority to enter into PPPs restricted to the state DOT or state turnpike authority or may regional or local entities also do so?	Alabama, Alaska, California, Colorado, Delaware, Florida, Georgia, Indiana, Louisiana, Maryland, Missouri, North Carolina, Oregon, South Carolina, Tennessee, Utah, Washington (States listed restrict authority to state DOT or state turnpike authority.)
25.	Does the relevant law specify evaluation criteria for PPP proposals received under a given procurement approach?	Colorado, Delaware, Florida, Georgia, Indiana, Louisiana, Maryland, Nevada, Virginia
26.	Does the relevant law specify the structure and participants for the review process involving PPP proposals?	California, Delaware, Georgia, Indiana, Louisiana, Maryland, Mississippi, Oregon, Tennessee, Texas, Utah, Washington
27.	Does the relevant law protect the confidentiality of PPP proposals and any related negotiations in the period prior to execution of the PPP agreement?	Delaware, Georgia, Indiana, Louisiana, Maryland, Missouri, Oregon, Texas, Virginia, Washington
28.	Does the relevant law provide for the ability of the public sector to outsource long-term operations and	Alabama, Alaska, Arizona, Colorado, Delaware, Florida, Georgia, Indiana, Louisiana, Maryland, Minnesota,

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	maintenance and other asset management duties to the private sector?	Missouri, Nevada, North Carolina, Oregon, South Carolina, Tennessee, Texas, Utah, Virginia, Washington