

**GOVERNMENT OF YUKON
GENERAL ADMINISTRATION MANUAL
VOLUME 1: CORPORATE POLICIES – GENERAL
TITLE: PUBLIC-PRIVATE PARTNERSHIP
EFFECTIVE: June 21, 2006**

**Policy
1.19**

1.0 SCOPE

1.1 Authority

- 1.1.1 This policy is issued under the authority of Cabinet meeting # 06-12 dated June 21, 2006.

1.2 Application

- 1.2.1 This policy applies to all government departments as defined in the *Financial Administration Act*, R.S.Y. 2002, c. 87 and to all government corporations as defined in the *Corporate Governance Act*, R.S.Y. 2002, c.45. For purposes of this Policy, a reference to government or government departments includes government corporations and all employees of those departments and corporations. This policy also applies to consultants contracted to work on behalf of the Government of Yukon with the specific duty of identifying, assessing and administering public-private partnerships.

1.3 Purpose

- 1.3.1 The purpose of this policy is to establish a clear process for the Government of Yukon to use in identifying, evaluating, selecting and entering into public-private partnership projects (P3).
- 1.3.2 Furthermore, the purpose of this policy is to:
- Facilitate the government's ability to leverage scarce resources to finance projects that are necessary to meet the infrastructure and service needs of Yukoners;
 - Maximize the economic and social returns from government investment by ensuring that government services are delivered in the most economical, effective and efficient manner;
 - Create opportunities for private sector growth and contribute to overall economic development by harnessing resources in both the public and private sectors;
 - Provide options for the delivery of increased services for Yukon residents; and

- Provide flexibility to the government in the timing of large scale capital projects.

1.4 Background

- 1.4.1 Over the past two decades, as the public sector has faced rising demands for new infrastructure and increasing pressures on existing budgets, public-private partnerships have emerged as an additional method for governments to deliver client services.
- 1.4.2 Traditional procurement – government purchasing and operating capital assets and infrastructure with taxpayers’ money – is not always the only or most suitable option. Consequently, governments are developing innovative practices to facilitate internal operations and client service delivery.
- 1.4.3 A public-private partnership project typically involves the construction and operation of new assets. P3 agreements, often referred to as concession or project agreements, are often long-term and define an ongoing business relationship between the government and private sector partners. The private sector will assume responsibility for some or all of the following project components: design, build, finance, operate, maintain, own, transfer, lease and develop. A key feature is the transfer of project risks from government to the private sector.
- 1.4.4 Unlike privatization, government involvement is maintained to oversee the public’s interest for quality, safety and certainty. Performance is measured and can be legally enforced through provisions of the P3 contract.
- 1.4.5 The Public-Private Partnership Policy provides a structure and process for the government to ensure fiscal responsibility with maximum benefits to Yukon citizens by including the public-private partnership option in procurement.

2.0 PRINCIPLES

- 2.1 The government is committed to protecting the public interest. The public-private partnership option will be pursued only where it has emerged as the best method of delivering the project, as demonstrated through a sound business case that considers alternative methods.
- 2.2 To ensure effectiveness in meeting the government’s objectives, accountability and transparency, and continued access to the service by the general public, all public-private partnerships will be based on the following principles:
- **Value for money:** A value for money assessment, which includes a life cycle cost analysis and a comparison with the costs of traditional procurement methods, is completed. This assessment considers the financial and social aspects of the project, and shows that the project demonstrates a clear economic advantage to Yukon.

- **Clear project definition:** The project's required outcomes and related outputs must be defined with sufficient clarity to provide opportunities for the private sector to demonstrate its initiative, innovation and expertise in providing best value for Yukoners.
- **Shared rewards:** The public receives greater value for money from the initiative, while the private sector expects a reasonably fair return on its investment.
- **Optimum risk transfer:** A public-private partnership has a demonstrated transfer of risk from government to the private sector; risk is allocated to the partner best able to carry it.
- **Transparent procurement process:** The process is fair, transparent and subject to due diligence.
- **Signed contract:** A signed contract between partners maintains accountability, establishes long-term relationships and fosters trust.
- **Ongoing communications:** Public-private partnerships include proactive, ongoing and transparent communications strategies designed to keep partners and other stakeholders informed throughout the project.

2.3 Performance standards will be developed to ensure that the quality and timeliness of the services delivered meet the needs of the community, and that the outcomes of the project are transparent.

2.4 All public-private partnership projects will comply with applicable legislative requirements regarding contracting, financing, building codes and environmental regulations, and other relevant regulatory and policy requirements.

2.5 Potential public-private partnership projects vary widely in scale and scope. As a result, flexibility to respond to differing circumstances is a key component of this policy.

2.6 Public-private partnerships are one of several procurement options considered on a case by case basis. Other procurement options may offer a more suitable means of delivering infrastructure and services to Yukon residents in a timely and efficient manner.

2.7 The government will continue to build a body of knowledge and experience in this area.

3.0 ROLES AND RESPONSIBILITIES

3.1 Cabinet

3.1.1 As the decision-making body of the Government of Yukon, Cabinet is responsible for providing overall direction for the management and operations of the government.

3.1.2 Cabinet will:

- Set the government's public-private partnership priorities; and

- Communicate these priorities to Management Board and the P3 Project Advisory Committee.

3.2 Management Board

3.2.1 As a committee of Cabinet legislated to handle all matters with financial or human resource implications, Management Board's specific duties may include but not be limited to:

- Establishing the P3 Project Advisory Committee (PPAC);
- Approving the PPAC's request to initiate the Request for Qualifications and Request for Proposals stages of the public-private partnership process;
- Approving the acceptance of a public-private partnership proposal; and
- Approving the final version of a Concession Agreement with the successful private sector partner.

3.3 Department of Economic Development

3.3.1 As the department with policy accountability and oversight responsibilities the Department of Economic Development will:

- Chair the P3 Project Advisory Committee;
- Provide P3 project knowledge and advice to the Government of Yukon and stakeholders;
- Report annually to Cabinet on the status of public-private partnerships in Yukon;
- Review the P3 policy according to the schedule outlined in Section 7.

3.4 P3 Project Advisory Committee (PPAC)

3.4.1 The PPAC will be made up of:

- The Deputy Minister of the Department of Economic Development, or designate;
- The Deputy Minister of the Department of Highways and Public Works, or designate;
- The Deputy Minister of the Department of Community Services; or designate; and
- The Deputy Minister of the Department of Finance, or designate.

3.4.2 The PPAC will:

- Advise Cabinet on public-private partnership priorities;
- Perform a preliminary screen on government projects for consideration as public-private partnerships;

- Make recommendations to Management Board;
- Establish and appoint members to public-private partnership working committees or other, appropriate implementation structures; and
- Oversee the government's activities in the public-private partnership process.

3.5 Departments

- 3.5.1 Departments will have differing roles at various stages of the public-private partnership project process. These roles may include, but will not be limited to:
- As sponsoring departments, advancing projects for consideration as P3s;
 - Assisting to manage relationships with private sector partners;
 - Assisting to monitor and report on the status and results of a specific project; and
 - Taking a lead in providing expertise and advice in their program areas.

4.0 PROCESS

- 4.1 The public-private partnership process can be broken down into six stages:

1. Preliminary Screening of Potential Projects;
2. Detailed Assessment of Suitable Projects;
3. Tendering;
4. Development and Signing of Concession Agreement;
5. Construction and Commissioning; and
6. Monitoring and Evaluation.

- 4.2 Since each project will differ in scale and scope the processes within each stage will be unique.

- 4.3 The Department of Economic Development will develop and update guidance documents to ensure that public-private partnership activities follow best practices.

5.0 RELATIONSHIP CONTRACTS

- 5.1 Public-private partnership projects will be undertaken through a contractual arrangement with participating parties.
- 5.2 Existing, applicable Government of Yukon contracting procedures will be followed.
- 5.3 Before the project is offered to the private sector its required outputs, or project definition, will be clearly specified by the sponsoring department.

- 5.4** The contract between the government and private sector partner will clearly outline these outputs for the term of the project, along with performance measures and remedies should performance targets not be met.

6.0 TRANSPARENCY AND DISCLOSURE

- 6.1** The government is committed to openness and transparency in procurement. The goal is to disclose as much as possible in the public interest without jeopardizing the ability of the government to generate the best value agreement for taxpayers.
- 6.2** The following table outlines the recommended disclosure at all stages of the public-private partnership process. Not all stages outlined are applicable to all public-private partnership processes.

Document
Request for Expressions of Interest (EOI)
Name and number of respondents to EOI
Name of parties who are short listed at EOI stage.
Request for Qualifications document (RFQ)
Name of respondents to RFQ
Name of parties short listed at RFQ stage and who receive Request for Proposals
Value for Money and Fairness Audit Reports following execution of the concession agreement

7.0 REVIEW OF POLICY

- 7.1** Recognizing that learning will come from experience and that best practices will continue to evolve in other jurisdictions, the Yukon government will evaluate and review this policy at the earliest of three years or after the completion of a major public-private partnership project.

8.0 DEFINITIONS

8.1 The following definitions apply in this directive.

- 8.1.1 **Concession Agreement:** The public-private partnership contract between the government and the private sector partner.
- 8.1.2 **Life Cycle Costing:** Identification of the capital costs of building and constructing an asset, ongoing operations and maintenance, major upgrades and rehabilitation over time, and decommissioning or disposing of the asset at the end of its natural life.
- 8.1.3 **Private sector:** Businesses, non-governmental organizations and non profit organizations.
- 8.1.4 **Public-private partnerships:** Collaborative relationships between government and the private sector where joint responsibility for decision-making and provision of resources exist, and where goals and risks are shared. Public-private partnerships may also be known as Substantive Partnerships.

Public-private partnerships may include any or all of the following functions: Design, Build, Finance, Operate, Maintain, Own, Transfer, Lease, Develop and Buy.
- 8.1.5 **Public Sector Comparator:** The document that is prepared to benchmark the life cycle costs of project as a hypothetical, risk-adjusted, traditional method of procurement.
- 8.1.6 **Sponsoring department:** A Government of Yukon department with a capital project in its capital plan that is being considered as a public-private partnership.
- 8.1.7 **Value for Money:** Comparison of the preferred proponent's proposal with costs using traditional procurement methods, to determine which method is anticipated to provide the most effective use of government resources. Value for money should also consider socioeconomic aims and benefits.