

More Autonomy, More Data,
More Legal Issues

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Florida 3P Law Opens Door to Innovation

- New ideas, new approaches, fresh faces....
- Strong basis in public need and benefit....
- Moving from the back burner (or no burner) to reality.

Florida Public Private Partnership Act Fla. Stat. 255.065

- “Qualifying project” means: 1. A facility or project that serves a public purpose, including, but not limited to, any ferry or mass transit facility, vehicle parking facility, airport or seaport facility, rail facility or project, fuel supply facility, oil or gas pipeline, medical or nursing care facility, recreational facility, sporting or cultural facility, or educational facility or other building or facility that is used or will be used by a public educational institution, or any other public facility or infrastructure that is used or will be used by the public at large or in support of an accepted public purpose or activity;

Florida Public Private Partnership Act Fla. Stat. 255.065

- (2) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds that there is a public need for the construction or upgrade of facilities that are used predominantly for public purposes and that it is in the public's interest to provide for the construction or upgrade of such facilities.
- 1. *There is a public need for timely and cost-effective acquisition, design, construction, improvement, renovation, expansion, equipping, maintenance, operation, implementation, or installation of projects serving a public purpose including...transportation facilities,.... technology infrastructure, roads, highways, bridges, and other public infrastructure and government facilities within the state which serve a public need and purpose, and that such public need may not be wholly satisfied by existing procurement methods.*

Florida Public Private Partnership Act Fla. Stat. 255.065

- (PROCUREMENT PROCEDURES.—A responsible public entity may receive unsolicited proposals or may solicit proposals for a qualifying project and may thereafter enter into a comprehensive agreement with a private entity, or a consortium of private entities, for the building, upgrading, operating, ownership, or financing of facilities.
- The responsible public entity may request a proposal from private entities for a qualifying project or, if the responsible public entity receives an unsolicited proposal for a qualifying project and the responsible public entity intends to enter into a comprehensive agreement for the project described in the unsolicited proposal, the responsible public entity shall publish notice in the Florida Administrative Register and a newspaper of general circulation at least once a week for 2 weeks stating that the responsible public entity has received a proposal and will accept other proposals for the same project.

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- PROJECT APPROVAL REQUIREMENTS.—An unsolicited proposal from a private entity for approval of a qualifying project must be accompanied by the following material and information, unless waived by the responsible public entity:
 - (a) A description of the qualifying project, including the conceptual design of the facilities or a conceptual plan for the provision of services, and a schedule for the initiation and completion of the qualifying project.
 - (b) A description of the method by which the private entity proposes to secure the necessary property interests that are required for the qualifying project.
 - (c) A description of the private entity's general plans for financing the qualifying project, including the sources of the private entity's funds and the identity of any dedicated revenue source or proposed debt or equity investment on behalf of the private entity.
 - (d) The name and address of a person who may be contacted for additional information concerning the proposal.
 - (e) The proposed user fees, lease payments, or other service payments over the term of a comprehensive agreement, and the methodology for and circumstances that would allow changes to the user fees, lease payments, and other service payments over time.
 - (f) Additional material or information that the responsible public entity reasonably requests.

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- Provides for entering into an Interim Agreement.
- Proceeding thereafter to enter into a Comprehensive Agreement.
- 15) PUBLIC RECORDS AND PUBLIC MEETINGS EXEMPTIONS.—(a) As used in this subsection, the term “competitive solicitation” has the same meaning as provided in s. 119.071(1).
- (b)1. An unsolicited proposal received by a responsible public entity is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until such time as the responsible public entity provides notice of an intended decision for a qualifying project, or for 180 days after receipt or if it decides to issue a new RFP, until that RFP process is completed.

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