



NOTICE OF NEW POLICY & PROCEDURE

TO

POLICY AND PROCEDURE MEMORANDUM # 72

SUBJECT: Public-Private Partnerships (P3)

TO: Administrative Office and Staff authorized to pursue P3s

EFFECTIVE DATE: April 1, 2023

A handwritten signature in blue ink, appearing to be "BB", written over a horizontal line.

Assistant Secretary
Brandon Burris

This is a new PPM and the first version.

IMPORTANT

Insert this notice in PPM file preceding all other information on this subject to maintain a current document file.

POLICY AND PROCEDURE MEMORANDUM NO. 72

SUBJECT: Public-Private Partnerships Projects

TO: Administrative Office and Staff authorized to pursue P3s

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I. Purpose. To establish guidelines for the Office of State Parks (OSP) to process, plan, manage, and engage with a Public-Private Partnership (P3) process to ensure a competitive and transparent procurement process while providing quality recreational opportunities for visitors. All activities and expenditures will comply with the priorities of the Department of Culture Recreation and Tourism (DCRT) and all applicable provisions of the law. All contracts entered into by OSP must fulfill a governmental purpose, which the Agency has a legal authority to pursue; must meet the above minimum standards; and should be processed, managed, and monitored consistently as described herein.

II. Definitions. For purposes of PPM #72, the following terms and abbreviations are defined as follows:

- a. Concession – a special right given to a person or entity to provide a service or amenity.
- b. Concession Agreement – refers to a contract(s) between a private-sector company, individual or public body and DCRT giving rights to operate a specific business within the DCRT jurisdiction and may include the use of immovable property, subject to certain terms.
- c. Notice to Solicit Proposals – document utilized for soliciting concession proposals. This document shall be published in the local and/or official journals/newspapers and can be posted to DCRT website.
- d. P3 Projects – refers to projects such as services or amenities that will provide high quality recreational opportunities using a public-private partnership to provide the service or amenity.
- e. Potential Proposer – a private-sector company, individual or public body that may provide the certain services, amenities, or products to state parks and/or state historical sites.
- f. Proposer – a private-sector company, individual or public body that presents a proposal.
- g. Responsive Proposer – a private-sector company, individual or public body that submitted a proposal which conforms in all substantive respects to the Notice to Solicit Proposals.
- h. Selected Proposer – a private-sector company, individual or public body that has been selected to provide certain services, amenities, or products to state parks and/or state historical sites.

III. State Park & State Historical Site Ideation & Analysis.

A P3 Project may be initiated in the following methods but not limited to these methods:

1. OSP may evaluate each of the twenty-one (21) state parks and each of the eighteen (18) state historical sites for potential/possible P3 opportunities. This evaluation is based primarily upon the state parks' or state historical site's unique characteristics and the benefit of the enhancement derived from the amenity or service being considered for a P3 Project. Once a project and site are identified, OSP may search for Potential Proposers with an interest in submitting a proposal for identified P3 Project(s) that will add or provide services and amenities to the state park(s) or state historical site(s).
2. Potential Proposers may submit an unsolicited suggestion to the Office of State Parks to initiate an idea/concept for a type of P3 Project to be implemented in one or more of the state parks or state historical sites. OSP will analyze the idea/concept, evaluate the need, advantages and viability of the concept being presented.

IV. Process Guidelines.

1) Identify P3 Project:

- A. Perform due diligence by analyzing the potential P3 Project to determine if the project is feasible and beneficial to the park system. The following questions may be considered:
 - What is the goal of the project and is it consistent with OSP goals?
 - What need or benefit will the P3 Project address?
 - Which state park(s) or state historical site(s) would benefit from this P3 Project?
 - Is the proposed service/amenity compliant with OSP mission and applicable enabling legislation?
 - If public funding is unavailable for the project, could using a Concession Agreement concept deliver the project?
 - What is the state's exposure and expense?
 - Is the P3 Project coordinated with other projects or does it duplicate other projects?
 - Does the P3 Project expect to have a positive return on investment or have the benefit of saving the agency resources/funds?
 - Will the Proposer require an immovable property lease agreement to accommodate the service/amenity?
 - Will the P3 Project help free up other OSP funds or employee time?
 - What are best practices for this type of P3 Project?
 - Will this P3 Project meet the qualifications of Title 36 requiring a Cooperative Endeavor Agreement (CEA) and Concession Agreement to bind the agreement or will it need to follow regular state procurement or Request for Proposal (RFP)?
 - How viable is the P3 Project?
 - Does the P3 Project hurt or jeopardize local businesses?

- Should the P3 Project have the protection of an exclusivity? If so, justify why.
- Does this project concept require a policy amendment or legislation?
- OSP may consider stakeholder support for the project by contacting any or all of the following where applicable: state officials, local officials, tourism commissions, “Friends” groups, park/site managers, economic development leaders. This step may be omitted for small concession projects.
- When applicable, consider cost benefit analysis.

B. If the proposed P3 Project does not meet minimum standards, the project may not be worthy of being pursued.

- Provide guidance and distinction about when something is a P3 Project versus something else – contract, CEA, Request for Proposal, sponsorship, vendor agreement, a license agreement, or procurement service, etc.

2) Identify potential Proposers.

- A. A list of Potential Proposers may be generated by OSP by identifying and/or searching for Potential Proposers; or
- B. By a Potential Proposer presenting a project concept by initiating an unsolicited proposal or concession idea to OSP.

3) Identify the state park(s) or state historic site(s).

- A. State park(s) and/or state historical site(s) must be identified for the P3 Project. Is the state park or state historical site in need of or best served by this project?
- B. OSP Assistant Secretary approves the project concept verbally or written to proceed.

4) Draft white paper for approval of P3 Project concept by the Lt. Governor (LG).

- A. Prepare a white paper addressed to the LG for approval and permission to proceed with the P3 Project concept.
- B. The white paper may include the following:
 - a. A concept statement including details of the project;
 - b. A timeline for the project;
 - c. A cost-benefit analysis, including estimated value of the proposed project and/or revenue projections. An estimate of any costs to the Agency, staff time, other public resources required, to the extent such may be estimated;
 - d. Potential Proposers (external) and staff (within OSP) that would be involved in implementation, if applicable;
 - e. Details of how performance will be measured and how success will be determined, including anticipated and potential deliverables;
 - f. Implementation challenges and options;
 - g. Any foreseeable risks, rewards, benefits, and other relevant factors;

- h. Recommendations and suggestions for the potential project.
- C. The OSP Asst. Sec. or designee shall present the white paper with P3 Project concept to the LG. The LG may review the white paper and approve or reject advancement of the P3 Project.

5) Solicitation of a P3 Project.

The P3 solicitation process shall ensure public awareness, fair and open competition, and provide sufficient time for responsive proposals. If a Project requires a Request for Proposal, OSP will work with the Division of Administration, Office of State Procurement under the laws and guidelines required for Request for Proposals. If OSP is aware of a possible Proposer(s) or if a Potential Proposer has notified OSP and expressed interest, OSP may notify the Potential Proposer(s) regarding the publishing of the P3 Project criteria and proposal solicitation for a Concession Agreement.

- a. If the services or amenities will be delivered to ten or less parishes where the state park or state historical site is located, the project proposal requests will be publically solicited with an advertisement in the legal section of the official parish journal where services or amenities will be delivered.
- b. If the services or amenities are being delivered to eleven or more of the parishes throughout the state where the state parks or state historical sites are located, the project proposal requests will be publically solicited with an advertisement in the legal section of the State's official journals, The Advocate (Baton Rouge), Times Picayune (New Orleans), The Daily Advertiser (Lafayette), Alexandria Daily Town Talk (Alexandria), Bossier Press Tribune (Bossier City) and The Ouachita Citizen (West Monroe), if applicable.
- c. The Notice to Solicit Proposals will be published for a period not less than fifteen days and at least once a week during three consecutive weeks.
- d. Information in the Notice to Solicit Proposals may include but not limited to:
 - Address & deadline for proposal submittal
 - Date & time of proposal opening
 - Details of the service and/or amenity to be provided
 - Name of state park(s) or state historical site(s) where the service and/or amenity is to be provided
 - List of requested information in the proposal such as name of organization, years in operation and experience of owners, description of business model, inventory and amenity/service provided, revenue share schedule, proof of insurance requirements, good standing with LA Secretary of State, duration of lease, and any additional relevant information
 - Requirements of a Concession Agreement
 - Any other relevant terms or information
 - Dates of the advertisement & name of the official journal(s).

6) P3 Project Screening & Evaluation.

- A. Establish one (1) or more Potential Proposer(s);
- B. Vet all Potential Proposers- establish good standing with LA Sec. of State, review business plan/proposal, investigate social media, proposer website, etc.;
- C. Ensure investigation of Potential Proposer results meet OSP's needs and mission;
- D. Reject proposals that do not meet requirements;
- E. Evaluation of the P3 Project should have a balance of factors including but not limited to rent, return of revenue and benefits, financial stability of the Responsive Proposer, lease or sublease, right of use, realistic deliverables, comprehensive proposal, architectural design, uniqueness of operation, management of operational plan, value of transferring specific risks to the private sector, stimulating other economic activity and public benefits within the state.
- G. OSP may consider stakeholder support for the project by contacting any or all of the following where applicable: state officials, local officials, tourism commissions, "Friends" groups, park/site managers, economic development leaders. This step may be omitted for small concession projects.

7) Final Approval of Project and selection of Responsive Proposer.

Prepare a whitepaper addressed to the LG recommending the best Responsive Proposer. The whitepaper may include, but not limited to the following:

- 1) List of Responsive Proposers;
- 2) Recommendation of a Responsive Proposer;
- 3) The criteria considered when selecting a Responsive Proposer;
- 4) Justification in support of such recommendation and reasons selected Proposer is superior to other Responsive Proposers.

Award will be made with reasonable promptness by sending written notice by US Postal Service or email to selected participant.

8) Drafting the contract for the P3 Project.

- A. The OSP shall draft the project specific contract(s) contingent on the nature and requirements of P3 Project. The draft shall be reviewed by the DCRT General Counsel prior to providing it to the Selected Proposer.
- B. The OSP will provide a draft of the contract to the Selected Proposer for review, comments, discussion and acceptance of terms. Terms of the contract may be negotiated by OSP.
- C. The OSP shall prepare the final contract(s) upon acceptance of terms by the OSP and the Selected Proposer. The OSP Assistant Secretary, OSP Attorney, and the

DCRT General Counsel shall review the contract for final approval prior to forwarding to the Selected Proposer for signatures.

D. Depending on the final document, the required signatures and execution may be from the following signatories:

- 1) Selected Proposer;
- 2) Undersecretary/Secretary of DCRT;
- 3) Assistant Secretary of Office of State Parks;
- 4) Commissioner of the Department of Administration (Only if lease agreement).

E. Final documents can be emailed to Selected Proposer. After executing the documents, the Proposer will submit to DCRT for signatures. DCRT will submit the executed documents to DOA, if applicable, for review and approval then DOA returns executed documents to DCRT.

9) Distribution of the contract.

A. CEAs:

- (1) Copy to selected Proposer;
- (2) Original to Office of State Parks;
- (3) Copy to DOA-Office of State Lands if required as a signatory – This can be emailed to DOA in PDF format.

B. Concession Agreements: The original Concession Agreement must be filed by the selected Proposer with the conveyance division in the Parish Clerk of Court's office for the Parish in which the park/site is located.

- (1) Original to be filed with Clerk of Court;
- (2) File stamped copy to Office of State Parks;
- (3) Original to selected Proposer.

C. CEA and Concession Agreement shall be scanned and filed with OSP & Land Resource Division.

D. Request For Proposal- follow all applicable laws, regulations, and applicable codes.

10) Commencement of P3 Project.

Once all parties have signed the contract, the project may commence.

11) Remittance & Reporting of Revenue Sharing.

A. Selected Proposer must submit a report according to the terms of the contract to the contract monitor at OSP reporting gross revenue. This may include:

- (1) Sales by day, week, or month;

- (2) Calculation of sales and percentage of revenue sharing according to the terms of the contract;
 - (3) Payment remitted by check to OSP contract monitor with supporting documentation attached.
- B. Reporting requirement submission dates shall be included in the contract with late payment terms if applicable.
- C. Upon receipt of the reporting requirements from Selected Proposer, the OSP contract monitor will review the report and payment for accuracy, retain a copy of the report and check in the files, and forward the check to OSP business section for deposit.
- D. OSP staff delegated authority of P3 Project will monitor, track, and contact any Selected Proposers late for payment to ensure timely submittal of reports and payment pursuant to the terms of the contract.
- E. OSP staff delegated authority of P3 Projects will keep a spreadsheet detailing contract revenue share, payments submitted, reports submitted, contract start and end dates, and have available for OSP Asst. Secretary for review and reporting purposes.
- F. OSP staff delegated authority of P3 Projects will monitor contract end dates and report the P3 Project challenges, successes, and overall assessment to the OSP Asst. Secretary, and make a recommendation on whether to renew or end the P3 Project.