



Florida is Well-Positioned to Compete for Federal and Private Infrastructure Financing

Dr. Joe Saviak

ASSOCIATE PROFESSOR IN THE PUBLIC ADMINISTRATION
PROGRAM AT FLAGLER COLLEGE

Lawrence Martin

PROFESSOR IN THE DOCTORAL PROGRAM IN PUBLIC AFFAIRS
AT THE UNIVERSITY OF CENTRAL FLORIDA

The American Society of Civil Engineers (2017) grades our nation's infrastructure at a D+ and estimates that some \$4.5 trillion is needed to bring it up to minimally-acceptable levels (Delaney, 2017). All types of infrastructure are at risk

and in need. Some \$170 billion annually is needed to address transportation (e.g., roads, bridges, transit, etc.) infrastructure needs, while some \$400 billion is required over the next 20 years to insure the nation's drinking water (USDOT, 2010; USEPA,

2013). The failure to address the nation's infrastructure needs could cost 2.5 million jobs and a loss of \$4 trillion in GDP (Schoen, 2018). The question is where will the money come from? The possible sources are the Trump Administration's "White House Infrastructure Plan," private investment in the form of public private partnerships (P3s), or some combination of the two. Regardless of the source, Florida is well-positioned to benefit.

The White House Infrastructure Plan

Restoring the quality and capacity of the nation's infrastructure was a major message in President Trump's 2016 campaign. The "White House Infrastructure Plan" (White House, 2018) addresses that campaign pledge. The plan is notable for both what it says as well as what it does not say. For example, the plan states that, "States and localities are best equipped to understand the infrastructure investments needs of their communities" (p. 3). What is implied, but not stated, is that the nation's infrastructure needs are the problem of state and local governments. The federal government will help, but there will be no revival of the Eisenhower Administration's interstate highway program of the 1950s or anything similar. Instead, over the next ten years the plan proposes to use \$200 billion in federal funds as "carrots" to leverage \$1.5 trillion in new non-federal infrastructure spending. Under the plan, the historic federal/state 80/20 funding ratio for infrastructure reverses to 20/80 (Carter, 2018). The purpose of federal funding according to the plan is to achieve a net increase in overall infrastructure spending and not simply to supplant existing state and local

funds (Feigenbaum, 2018). Incentivizing innovative approaches and aiding rural communities are also key components of the plan.

A diverse range of infrastructure projects including transportation (e.g., roads, bridges, tunnels, transit), environmental (e.g., water/wastewater, sanitation) and social (health care facilities, schools, parks, libraries, sport complexes) are potential candidates under the plan. Some \$100 billion is set aside for competitive grants to state and local governments. An additional \$50 billion in the form of both block grants and competitive grants target rural areas (Feigenbaum, 2018). The remaining \$50 billion is targeted to finance four other federal programs including an innovation fund for "transformative projects." The plan also envisions increasing federal credit assistance programs such as the Transportation Infrastructure Finance and Innovation Act (TIFIA), the Water Infrastructure Financing & Innovation Act (WIFIA) and the Railroad Rehabilitation & Improvement Financing Act (RRIF) that will expand access to loans for state and local governments (Chapman et al., 2018).

To entice private investment in infrastructure, the plan proposes greater access to tax-exempt private activity bonds (PABs), thus lowering the costs to private-sector partners in borrowing, financing, and constructing infrastructure (Goldsmith, 2018). Due to the tax-exempt status of municipal bonds (e.g. lenders are not taxed on income earned from these bonds), government entities have always been able to borrow at a lower cost. The plan proposes further equalizing this tax advantage between municipal bonds and

PABs through expanded access to PABs (Scribner, 2018).

Lastly, the plan stresses the need for state and local governments to attract private financing to win the competitive infrastructure grants (Bliss, 2018).

Public-Private Partnerships (P3s)

The White House Infrastructure Plan mentions public-private partnerships (P3s) once, and then only in the context of eliminating constraints on their use for transit (p. 24). Nevertheless, many experts (e.g., Castenada, 2018; Campbell, 2018; Carey, 2018) believe that P3s represent an important source of the private financing that state and local governments will need to compete for the plan's grants. An important question then is, how competitive is Florida in terms of attracting private financing using P3s?

Florida's P3s competitiveness compared to other states can be measured in four ways. (1) the existence of state enabling legislation authorizing the use of P3s, (2) the type of P3 state enabling legislation, (3) the inclusion of local governments in state P3 enabling legislation and (4) prior state and local government experience with P3 projects.

State P3 Enabling Legislation

State P3 enabling legislation is essential because it establishes the legal authority for their use by state agencies and local governments (GFOA, 2015). State P3 enabling legislation is considered necessary to: establish the policy and regulatory framework for P3s, protect the interests of governments and citizens and promote private-sector interest and participation (World Bank, 2017; Hodge & Greve, 2016;

Geddes & Wagner, 2013).

According to the National Conference of State Legislatures (NCSL, 2016), 33 states had some form of P3 enabling legislation in place by the end of 2015. Since the NCSL study, two additional states, Kentucky and New Hampshire, have passed P3 enabling legislation to bring the total to 35 (USDOT, 2017). Table 1 identifies the 35 states with P3 enabling legislation. Florida obviously has an advantage over the 15 states that lack P3 enabling legislation.

Type of State P3 Enabling Legislation

State P3 enabling legislation is either broad or restrictive. Restrictive means that a state's P3 enabling legislation applies only to transportation-related projects. Other P3 types (environmental and social) are not covered.

As Table 1 illustrates, 27 of the 35 states (77 percent) with P3 enabling legislation restrict their use to transportation (e.g., roads, highways, bridges, tunnels, transit) projects only. Only eight states have P3 enabling legislation covering all three P3 types: transportation, environmental and social. Florida's P3 enabling legislation is broad, giving it an advantage over the 27 states with restrictive state legislation

State P3 Enabling Legislation Covers Local Governments

Some state P3 enabling legislation includes local governments. As Table 1 points out, the P3 enabling legislation of 18 states includes local governments. Florida is among this group of 18 states. Thus, Florida has an advantage over the 17 states that do not include their local governments in their P3 enabling legislation.

Table 1: States with P3 Enabling Legislation

State	State P3 Legislation Restricted to Transportation Projects Only	State P3 Legislation Includes Local Governments
Alabama	YES	NO
Alaska	YES	NO
Arizona	YES	YES
Arkansas	YES	YES
California	NO	YES
Colorado	YES	YES
Connecticut	NO	NO
Delaware	YES	NO
Florida	NO	YES
Georgia	NO	YES
Illinois	YES	YES
Indiana	NO	YES
Kentucky	NO	YES
Louisiana	YES	YES
Maine	YES	NO
Maryland	NO	NO
Massachusetts	YES	NO
Minnesota	YES	YES
Mississippi	YES	YES
Missouri	YES	YES
Nevada	YES	YES
N. Carolina	YES	YES
N. Dakota	NO	YES
N. Hampshire	YES	NO
Ohio	YES	NO
Oregon	YES	NO
Pennsylvania	YES	NO
S. Carolina	YES	NO
Tennessee	YES	NO
Texas	YES	YES
Utah	YES	NO
Virginia	YES	YES
Washington	YES	NO
W. Virginia	YES	NO
Wisconsin	YES	NO
TOTALS	27	18

Sources: NSCL, 2016; USDOT, 2017

State & Local Government P3 Experience

Using the P3 taxonomy developed by the Institute for Public Procurement (NIGP, 2016) and data on state and local government P3 closures from Public Works Financing (PWF, 2017), Florida's P3 experience can be compared to other states. The PWF database covers the years 1996 to 2016 and is arguably the most comprehensive listing of P3 projects in the U.S. Included in the PWF database are P3s achieving closure (implemented) by state departments and agencies as well as regional and local governments. "Project closure" means that a P3 project was started but may not be completed. The count of P3s achieving closure between 1996 and 2016 is 221 (Table 2).

In reviewing the data in Table 2, several features stand out. State and local governments in 12 states (Alaska, Arkansas, Connecticut, Kentucky, Louisiana, Maine, Mississippi, New Hampshire, Nevada, North Dakota, Tennessee and Wisconsin) have no P3 experience. Kentucky and New Hampshire, having only recently passed P3 enabling legislation, also have no P3 experience. Thus, 14 states have never implemented a P3 project.

Only 35 of the 50 states have P3 enabling legislation. A total of 12 of these have never implemented a single P3. Combining these two observations, state and local governments in 27 of 50 states (54 percent) have no P3 experience. Just four states: California, Florida, Texas and Virginia account for 137 (62 percent) of all P3 project closures over the last 20 years.

In summary, Florida is well-positioned to compete for private investment in infrastructure using P3s. Florida has P3

enabling legislation. Florida's P3 legislation is broad and includes local governments. Florida is one of only four states with significant P3 experience.

Questions and Controversy

As with any major new and complex public policy proposal altering a traditional federal role, there are hosts of questions and criticisms from different policy stakeholders.

Some P3 projects may have proceeded regardless of new plan incentives such as a change in the tax status of private activity bonds or receipt of new grant dollars (Leibenluft, 2018; JECUSC, 2018). Projects attractive to investors as P3s might not meet all the nation's infrastructure needs (Leibenluft, 2018; Bivens & Blair, 2016; Widmann, 2017; JECUSC, 2018). The plan may incentivize new projects while neglecting operations and maintenance needs of existing infrastructure (DeGood, 2016; Scribner, 2018).

States and localities may lack the fiscal ability to cost share on new infrastructure projects (Kettl, 2017). They may also be tempted to substitute federal funds, thus undermining the policy goal of increasing net infrastructure investment (Bivens & Blair, 2016; Crain, 2018; Penn Wharton, 2018). The lack of a major net increase in infrastructure spending would make positive economic effects negligible (Penn Wharton, 2018).

State and local officials may not take advantage of it for reasons involving politics, financing, or inexperience and lack of expertise with P3s (Van Slyke, 2017; Eckhouse, Albright, Braun, & Niquette, 2017). Critics point to failed P3

Table 2: P3 Project Closures

State	P3 Project Closures
Alabama	2
Alaska	0
Arizona	4
Arkansas	0
California	56
Colorado	9
Connecticut	0
Delaware	1
Florida	28
Georgia	4
Illinois	3
Indiana	6
Kentucky	0
Louisiana	0
Maine	0
Maryland	2
Massachusetts	3
Minnesota	7
Mississippi	0
Missouri	2
N. Hampshire	0
Nevada	0
N. Carolina	12
N. Dakota	0
Ohio	6
Oregon	4
Pennsylvania	1
S. Carolina	6
Tennessee	0
Texas	33
Utah	5
Virginia	20
Washington	5
West Virginia	2
Wisconsin	0
TOTAL	221

Sources: NCSL, 2016; NIGP, 2016; PWF, 2017.

infrastructure projects here and abroad to question the plan’s reliance on this policy tool (Rodd, 2016). Voters may be resistant to paying new tolls (JECUSC, 2018). Expanded use of P3s at the state and local level will require institutional capacity and the ability to convince citizens of the merits of new projects (Martin and Saviak, 2014).

Given the fiscal reality of a federal government already beset by a \$21 trillion national debt and massive unfunded liabilities associated with entitlement programs and the lack of a dedicated funding source for this plan, the obvious question as to the source of \$200 billion in new federal spending arises (Adelmann, 2018; Galston, 2018; Collins & Cohen, 2018; Scribner, 2018). The uncertainty of congressional support for all elements of this plan always remains a variable.

Florida Can Go Forward Either Way

What happens if the White House Infrastructure Plan fails to materialize? What is Florida’s Plan B? It may well be that Florida is so well-positioned to attract private investment compared to most other states that the failure of the White House plan to launch may be of little consequence. Florida has multiple advantages such as the scope of P3 enabling legislation, significant experience and success with P3s, the recent retreat of two major state competitors, the confidence of capital markets, and attractive and needed projects to pitch in the fast growing 3rd-largest state in the country.

The private sector prefers states with the right statutory setting, and experienced governments are more likely to embark on new P3 projects. Florida is one of the 35 of 50 states who have enabling legislation. Florida is one of only eight states where state and local governmental entities have broad legislative authority for a diverse range of potential P3 projects. A total of 27 states have zero experience with P3s while Florida is one of four states responsible for 62 percent of the P3s in the country (NSCL, 2016; USDOT, 2017; LegiScan, 2017; NCSL, 2016; NIGP, 2016, and Public Works Financing, 2017.)

Recent P3 events in other states are making Florida even more attractive to private infrastructure investment. Two of the four states which account for 62 percent of the nation's P3s are reducing their reliance on P3s. In California and Texas, recent legislative actions have curtailed the use of P3s. In California, statutory authority for the use of P3s by the California Department of Transportation (CALTRANS) has lapsed. In Texas, the House of Representatives recently declined to approve a package of 18 P3s (CALTRANS, 2017; Niquette, 2017).

While the White House Infrastructure Plan is dependent upon private financing, private financing is not dependent upon the White House Infrastructure Plan. Private equity firms as well as pension systems

are showing increasing interest in direct infrastructure investments at the state and local government levels. The number of U.S. pension funds investing in infrastructure totaled 164 in 2016. The California Public Employee Retirement System (CalPERS) has invested over \$3 billion in U.S. infrastructure (Daniels, 2016). Capital markets have consistently demonstrated an appetite for Florida P3 projects. Florida state and local general and special-purpose governments will continue to have attractive projects to offer to interested investors. Whether this new proposed national plan passes or not, Florida will likely maintain its role and position as a national leader in the use of P3s.

References

- Adelmann, B. (2018). Public-Private Partnerships the Key to Trump's Infrastructure Plan. *The New American*. Retrieved from: <https://www.thenewamerican.com/economy/economics/item/28264-public-private-partnerships-the-key-to-trumps-infrastructure-plan>
- American Society of Civil Engineers (2017). 2017 Infrastructure Report Card. Retrieved from: <https://www.infrastructure-reportcard.org/>
- Bivens, J. & Blair, H. (2016). Trump's Infrastructure Plan is not a Simple Public-Private Partnership Plan, and Won't Lead to Much Investment. Retrieved from: <https://www.epi.org/blog/trumps-infrastructure-plan-is-not-a-simple-public-private-partnership-plan-and-wont-lead-to-much-new-investment/>
- Bliss, L. (2018). The White House's Leaked Infrastructure Plan Is a Road Map With Few Details. *CityLab*. Retrieved from: <https://www.citylab.com/transportation/2018/01/the-leaked-infrastructure-plan-is-a-road-map-with-few-details/551204/>
- Campbell, A. (2018). Lessons from Utilities for Trump's Infrastructure Plan. *Energy Institute at Hass*. Retrieved from: <https://energyathaas.wordpress.com/2018/03/05/lessons-from-utilities-for-trumps-infrastructure-plan/>
- Carey, L. (2018). All Options on the Table for Infrastructure Funding, Transportation Secretary tells House committee. *Transportation Today News*. Retrieved from: <https://transportationtodaynews.com/news/8513-options-table-infrastructure-funding-transportation-secretary-tells-house-committee/>
- Carter, J. (2018). Explainer: What You Should Know About Trump's Infrastructure Plan. *Acton Institute*. Retrieved from: <http://blog.acton.org/archives/100153-explainer-what-you-should-know-about-trumps-infrastructure-plan.html>
- Castenada, R. (2018). Why the Trump Administration Is Relying on Public-Private Partnerships to Fund Infrastructure. *Reason Foundation*. Retrieved from: <https://reason.org/commentary/why-the-trump-administration-is-relying-on-public-private-partnerships-to-fund-infrastructure/>
- Chapman, T., Selting, A., Prunty, R., Gray, S., D-Olier-Lees T., & Forsgren, K. (2018). President Trump's Infrastructure Plan: a Substantive Shift to Private-Sector Funding. *SPGlobal*. Retrieved from: <https://www.spglobal.com/our-insights/President-Trump's-Infrastructure-Plan-a-Substantive-Shift-to-Private-Sector-Funding.html>
- Collins, K. & Cohen, P. (2018). How \$200 Billion For Infrastructure Becomes \$1.5 Trillion. *The New York Times*. Retrieved from: <https://www.nytimes.com/interactive/2018/02/12/business/infrastructure-spending.html?mtrref=www.google.com&gwh=C126A0556852AD-1C3D98D62F71AD0FA0&gwt=pay>
- Daniels, J. (2016). Why a California Pension Fund is Betting on the Indiana Toll Road. *CNBC News* <https://www.cbc.com/2016/05/13/why-calpers-is-betting-on-an-indiana-toll-road.html>
- DeGood, K. (2016). How Donald Trump's Infrastructure Plan Fails America. *Center for American Progress*. Retrieved

- from: <https://www.americanprogress.org/issues/economy/reports/2016/12/01/293948/how-donald-trumps-infrastructure-plan-fails-america/>
- Delaney, J. (2017). An Insufficient Infrastructure Plan. U.S. News & World Report. Retrieved from: <https://www.usnews.com/opinion/debate-club/articles/2017-06-09/trumps-infrastructure-plan-for-public-private-partnerships-is-insufficient>
- Eckhouse, B., Albright, A., Braun, M., & Niquette, M. (2017). Raising Private Money For Public Projects. Bloomberg Businessweek. Retrieved from: <https://www.scribd.com/article/340754486/Raising-Private-Money-For-Public-Projects>
- Feigenbaum, B. (2018). Trump's Infrastructure Plan Has Several Good Elements. Reason Foundation. Retrieved from: <https://reason.org/commentary/trumps-infrastructure-plan-has-several-good-elements/>
- Galston, W. (2018). Trump's Infrastructure Plan: The Good, the Bad, and the Biblical. Brookings Institute. Retrieved from: <http://sites.nicholas.duke.edu/statsreview/env-212-environmental-policy-blog-2017/trumps-infrastructure-plan-a-gift-to-the-private-sector/>
- Geddes, R. & Wagner, B (2013). Why do U.S. States Adopt Public-Private Partnerships Enabling Legislation? Journal of Urban Economics 78, 30-41.
- Goldsmith, S. (2018). What The Trump Plan Gets Right. Governing Magazine. Retrieved from: <http://www.governing.com/commentary/col-trump-infrastructure-plan-innovative-financing-regulatory-process.html>
- Government Finance Officers Association (GFOA). (2015.). ADVISORY: Public-Private Partnerships (P3s). Available at: <http://www.gfoa.org/public-private-partnerships-p3>
- Hodge, G. & Greve, C. (2010). Public-Private Partnerships: Governance Scheme or Language Game? Australian Journal of Public Administration 69(S1):s8-s22.
- Institute for Public Procurement (NIGP). (2016). Public-Private Partnership (P3): Facilities & Infrastructure. Retrieved from: <http://engage.nigp.org/acton/attachment/24793/f-00a2/1/-/-/-/PublicPrivate%20Partnership%20%28P3%29%20Facilities%20and%20Infrastructure.pdf>
- Joint Economic Committee United States Congress (JEUSC). (2018). Risks of Relying on Private Sector to Address America's Infrastructure Needs. Retrieved from: https://www.jec.senate.gov/public/_cache/files/fdd44e41-6071-4e67-b551-034f1966d74f/risks-of-relying-on-private-sector-to-meet-nation-s-infrastructure-needs.pdf
- Kettl, D. (2017). Infrastructure Lessons From One of the Nation's First P3s. Governing Magazine. Retrieved from: <http://www.governing.com/columns/potomac-chronicle/gov-infrastructure-trump-public-private-partnerships.html>
- Liebenluft, J. (2018). Three Key Questions About the Trump Infrastructure Plan. Center on Budget and Policy Priorities. Retrieved from: <https://www.cbpp.org/research/federal-budget/three-key-questions-about-the-trump-infrastructure-plan>
- Martin L. & Saviak, J. (2014). Contracting & Public-Private Partnerships: A Guide for State & Local Government Officials & Administrators (e-book). Retrieved from: <http://purchasing.colliergov.net/Vendors/Shared%20Documents/State%20of%20Florida%20Guide%20for%20Contracting%20and%20Public%20-%20Private%20Partnerships.pdf>
- National Conference of State Legislatures (2016). Public-Private Partnerships for Transportation: Categorization and Analysis of State Statutes. Downloaded from: <http://www.ncsl.org/research/transportation/public-private-partnerships-for-transportation-categorization-and-analysis-of-state-statutes-january-2016.aspx>
- Penn Wharton Budget Model. (2018). The White House FY 2019 Infrastructure Plan. Retrieved from: <http://budgetmodel.wharton.upenn.edu/issues/2018/2/19/the-white-house-infrastructure-plan>
- Public Works Financing (PWF) (2017). PPP database. Available by subscription at: <http://pwfinance.net/projects-database/>
- Rodd, S. (2016). Infrastructure Strategy Touted by Trump Has Produced Uneven Results. The Pew Charitable Trusts Stateline. Retrieved from: <http://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2016/12/14/infrastructure-strategy-touted-by-trump-has-produced-uneven-results>
- Schoen, J. (2018). Trump Infrastructure Plan Comes Up \$1 Trillion Short of Its Funding Goal, Analysis Finds. CNBC News. Retrieved from: <https://www.cnbc.com/2018/02/23/trump-infrastructure-plan-comes-up-1-trillion-short-analysis.html>
- Scribner, M. (2018). Trump's Infrastructure Plan: The Good, The Bad, and the Ugly. Retrieved from: <https://cei.org/blog/trumps-infrastructure-plan-good-bad-and-ugly>
- U. S. Department of Transportation (USDOT, 2017). Federal Highway Administration. Center for Innovative Financing (2017). State P3 Legislation. Downloaded from: <https://www.fhwa.dot.gov/ipd/p3/legislation/>.
- U. S. Department of Transportation (USDOT, 2010), Federal Highway Administration, 2010 Status of the Nation's Highways, Bridges and Transit: Conditions & Performance. Washington, DC. Author. Downloaded from: <https://www.fhwa.dot.gov/policy/2010cpr/pdfs/cp2010.pdf>
- U. S. Environmental Protection Agency (USEPA, 2013). Drinking water infrastructure needs survey and assessment. Washington, DC: Author. Downloaded from: <https://www.epa.gov/sites/production/files/2015-07/documents/ep-a816r13006.pdf>
- Van Slyke, D. (2017). Trump's Infrastructure Plan: How "Private" Will He Go? Politico. Retrieved from: <https://www.politico.com/agenda/story/2017/06/07/trumps-infrastructure-public-private-partnership-000454>
- White House (2018). Legislative Outline for Rebuilding Infrastructure in America. Washington, DC, White House. Retrieved from: <https://www.politico.com/f/?id=00000161-8a9d-d53a-a5f5-bffd597b0000>
- Widmann, M. (2017). Trump's Infrastructure Plan: A Gift to the Private Sector. Statistics Review & Environmental Policy Blog. Retrieved from: <http://sites.nicholas.duke.edu/statsreview/env-212-environmental-policy-blog-2017/trumps-infrastructure-plan-a-gift-to-the-private-sector/>
- World Bank (2017). Benchmarking Public-Private Partnerships Procurement 2017. Washington, DC: World Bank. Downloaded from: <https://openknowledge.worldbank.org/bitstream/handle/10986/25089/PPPBenchmarking.pdf?sequence=1&isAllowed=y>