INTRODUCTION
The Eno Center of Transportation launched the second of its three Public-Private Partnership (P3) Technical Assistance Awards in Washington, DC. The Technical Assistance Awards are intended to educate public-sector professionals about the P3 development process and lessons learned, as well as spur P3 action at the local level, as most P3 activity in the U.S. is limited to a handful of states. As part of winning a P3 Technical Assistance Award, the DC Office of Public-Private Partnerships (OP3) received a one-day summit about local P3 issues and a one-day course session about the P3 development process. While the Award is focused on transportation P3s, fundamental concepts are transferrable to other sectors. This program was funded by a grant from the Surdna Foundation.

The summit took place on December 9, 2015 in Washington, DC as an invitation-only session. Attendees included professionals from various departments within the Mayor’s Office and the District Department of Transportation. The full list of attendees can be found at the end of the summary.

OVERVIEW OF ENO’S PARTNERSHIP FINANCING REPORT
*Presentation and discussion led by Paul Lewis, Eno Center for Transportation*

This session provided a brief overview of the basics of P3s and the findings from Eno’s Partnership Financing report, released in 2014. Although the amount of P3 investment in American transportation infrastructure has increased dramatically in recent years, it is still a small part of the global P3 market (accounting for only 9% of all P3 investment in the world between 1985 and 2014).

Many state and local governments have considered pursuing P3s for various reasons, including limited funding and financing from the state and federal level; the possibility of risk transfer; and introducing efficiencies and innovation into potential projects. However, many public sector governments mistakenly believe that P3s mean “free money” from the private sector, but in fact the private sector only
provides financing. Another important aspect is to understand how the public and private sectors have different perspectives when approaching P3s. For instance, whereas the public sector sees a P3 as a “project,” the private sector sees it as a “transaction;” and while the public sector seeks transparency, the private sector seeks confidentiality.

The Partnership Financing report studied state and local experiences with transportation P3s, and identified the most common barriers to P3s in the U.S. The barriers identified included political and public opposition; lack of dedicated and skilled staff; limiting features of enabling legislation; and shortcomings in institutional development and management.

**OVERVIEW OF THE P3 DEVELOPMENT PROCESS**

*Presentation and discussion led by Roy Kienitz, Roy Kienitz LLC*

This session provided an overview of the P3 development process and the decision-making roles during that process. Two key components behind the development process are the motivating reasons behind a P3 and the role of risk transfer.

While P3s can meet a variety of needs – generating cash, solving an existing problem, or fulfilling a dream – the project development process differs from the conventional design-build process. Because risk transfer is one of the potential benefits of P3s, it is also important to understand the role of risk and how it changes in a P3. For instance, in traditional procurement, the public sector handles all project management, thus bearing the full risk of the project. In contrast, the public sector has a greater role in assigning risk, rather than only managing it. For a P3, writing a comprehensive contract is key to ensuring both the government entity and private company understand the full distribution of risk. The following are examples: 1) the private party generally assumes construction cost and schedule risks; 2) the private party generally does not assume environmental risks, permitting risks, and state and local tax risks; 3) the private party occasionally assumes revenue and ridership risks (if applicable).

Given the financial and legal complexities of P3 projects, one of the main points emphasized was the need for the public sector to ensure they have experts involved (typically in the form of consultants). Unfortunately, the current challenge is that there are few P3 project examples but broad interest among many state and local governments. However, many governments have inadequate staffing capacity to fully handle the P3 development process.

**P3S AROUND THE U.S. AND THEIR LESSONS FOR THE DC REGION**

*Presentation and discussion led by Alex Bond, Eno Center for Transportation*

**Panelists:** Mary Peters, Working Group Co-Chair; Susan Binder, Cambridge Systematics; Thomas Grogan, HDR

This session focused on two selected case studies and their potential lessons for the DC region: Colorado’s Eagle P3 and Virginia’s I-495 toll lanes.
The Eagle P3, the first transit P3 to reach financial close in the U.S., consists of three transportation projects: two commuter rail lines and a maintenance facility. It was carried out as a joint venture between the Denver Regional Transportation District (RTD) and the Colorado Department of Transportation’s High-Performance Transportation Enterprise (HPTE). The project was funded by a combination of funding from the Federal Transit Administration (FTA), private equity, and funding from Denver RTD. Its success as a transit P3 can be attributed to multiple factors: public buy-in through a voter-passed sales tax increase to help fund the project, federal involvement as a catalyst, and P3 enabling legislation that allows for inter-agency agreements.

The Virginia I-495 toll lanes (also known as high-occupancy toll (HOT) lanes) project was overseen by the Virginia Department of Transportation and consists of variable tolling lanes that run through northern Virginia, opening to drivers in 2012. It began as an unsolicited proposal, in which the private partners were able to devise a design solution that would also heavily reduce the project cost. The project provided some key lessons learned for future P3s, such as protecting the public interest through a point-based performance incentives system and standardizing internal processes in order to reflect both market interest and the public need for a P3. Furthermore, both a public and P3 option proceeded until later stages of review. This offers a non-binary example where government entities can pursue both options until later in the process. Despite Virginia’s success with P3s, it has also undergone changes in its institutional structure and P3 legislation, attesting to the need for adapting for improvement.

DISCUSSION TAKEAWAYS

Optimizing internal processes
Given the nascent nature of the DC OP3 and their ongoing process to develop procurement rules and regulations, establishing internal processes was a prominent discussion topic during this session.

There are multiple factors to bear in mind when developing internal processes: sufficient staffing, understanding market interest, and uniformity in the proposal evaluation process. Ensuring the involvement of skilled staff and consultants earlier in the project development process allows the development of a more successful procurement process down the road, due to the core staff developing the comprehensive understanding of a project idea from the earliest stages. Request for Information proposals (RFIs) are another method to gauge market interest. In addition, having pre-solicitation discussions with private companies allows the government entity to further refine a project idea, one that would not only protect the public interest but also appeal to private companies as a revenue stream.

Standardizing internal processes
Another step towards optimizing internal processes was the importance of a standardized proposal evaluation process. Having a standard set of processes in place can incorporate and allow for transparency and consistency, as well as greater cooperation by the private sector, who can follow a predictable bidding process. Having
standardized processes in place also ensures more streamlined processes for future P3s, so that the staff does “not need to reinvent the wheel every time.” For example, the success of Virginia’s I-495 HOT lanes could be partly attributed to the Virginia P3 office’s standard guidelines, which allowed for a predictable process for project bidders.

**UNDERSTANDING DC’S P3 LEGISLATION**  
*Presentation by Paul Lewis, Eno Center for Transportation & Chris Lloyd, McGuire-Woods Consulting*

This session provided an overview of DC’s P3 enabling legislation to ensure an overall understanding of regulations and project eligibility. It also included discussion about the P3 legislation for Maryland and Virginia, and how the three jurisdictions relate to each other. The DC legislation was passed in 2014, with the OP3 established in 2015. The legislation goes beyond transportation and permits other project types, such as social infrastructure and utility facilities.

Critical components in P3 legislation address aspects such as project eligibility, project selection, reviewing a public-sector alternative, and protecting the public interest. In terms of transportation projects, the P3 legislation is not limited to specific modes. It adopts a programmatic approach, meaning that it approaches P3s as a form of implementing long-term projects, rather than as pilot projects or project demonstrations. (As highlighted in Eno’s Partnership Financing report, programmatic language demonstrates a public-sector commitment to the private sector regarding P3s.)

The DC legislation also allows for regional projects, i.e. without geographic limitations, when it is within the project scope and allows both solicited and unsolicited proposals (listing the criteria for evaluating unsolicited proposals). The legislation allows the use of both local and federal funds. In terms of protecting the public interest, the legislation requires an outreach strategy and Council review of requests for proposals before proceeding with the RFP process. In addition, requirements for project proposals include minimum performance standards for when the project is built (e.g. incentives, penalties, and reporting standards) and a specific plan for returning the asset in good condition to the public sector.

DC’s P3 legislation shares some features with its jurisdictional neighbors. For instance, all have broad project eligibility, permit solicited and unsolicited proposals, provide legal projects for confidential information, include guidelines for the proposal evaluation process, create a strong system of “checks and balances” to protect the public interest, and include the executive branch in the procurement process. However, regional differences, rivalries, and differences in powers exercised also need to be accounted for, such as the entities responsible for project review and decision-making, delineations between statutes and guidelines, and transparency provisions.
OVERCOMING OBSTACLES TO P3S IN THE DC REGION

Moderated by Susan Binder, Cambridge Systematics

Panelists: Roy Kienitz, Roy Kienitz LLC; Samara Barend, AECOM; Thomas Grogan, HDR

This session was intended to explore the recurring topics that emerged during the summit to discuss the potential barriers and obstacles to P3s in the DC region.

DISCUSSION TAKEAWAYS

**Protecting the Public Interest through Outreach and Metrics**

It was emphasized in previous sessions that public support is key to a successful P3 and that opposition could easily “derail a project.” The panelists emphasized that performance metrics (also referred to as performance measures) are another crucial tool. Performance metrics provide information that help ensure transparency and accountability. They are critical to providing information to share with the public about a P3 and to continually build a foundation of public trust. Given the urban context of DC, developing metrics involves understanding what are the specific regional needs for DC that the metrics would need to address (e.g. neighborhood equity, labor protection laws). These may differ from the needs of other states active in P3s, such as Texas or Virginia. The list of necessary metrics would need to be comprehensive, and it is necessary to embed those aspects into the criteria for evaluating proposals. However, despite the benefits, there are also challenges, such as having sufficient resources for data collection (e.g. automated data reporting).

**Working towards Internal Processes: Staffing**

While building public support for P3s is crucial for future success in the region, the discussion focused on how the OP3 could develop its internal processes, such as staffing, developing a pipeline of projects, and accessing resources.

Relevant staff and consultants need to develop an understanding of the different stakeholders that would need to be involved (e.g. different agencies as operator, different jurisdictions, different bond holders, differences between transportation P3 project types) and what types of projects are considered “no-go” ideas (not feasible for technical, political, and other reasons.). As the OP3 continues to build its own staff, it would also be beneficial to “borrow” staff from other agencies that have the necessary skill sets and embed them within the P3 office. Staff capacity is also a potential way to gauge how many proposals can be evaluated. As one participant phrased it, “If you don’t have the resources to monitor, then you probably don’t want to pursue a P3.”

**Working towards Internal Processes: Engaging with Other Agencies**

Other key issues for internal processes include internal paradigm shifts for government agencies and utilizing outreach for knowledge gain.

Much of the early steps towards ensuring successful P3 projects include changing internal perspectives within government agencies that may be involved in the P3
development process. This entails understanding the different perspectives of a P3 compared to the more common design-build process, building political support among elected officials, and gathering sufficient talent within the local government agencies. Bringing in the relevant agencies and advisors as early as possible keeps them involved throughout the project development process and builds inter-agency cooperation.

However, these efforts do require substantial staff resources and energy, but as one panelist phrased it, the efforts are “an investment upfront.”

CONCLUSION
The P3 summit for DC provided a forum for public-sector professionals not only to discuss relevant and local P3 issues, but also to provide a platform to convene other government entities that may also be involved with the P3 development process in the future. The most useful session was the overview of DC’s P3 legislation. Eno staff and Working Group members will continue to be a resource for DC as they pursue P3 projects in 2016 and beyond.

Following this summit, the Working Group and Eno staff will continue with the DC course session (for a select number of attendees) and the third Technical Assistance Award for MTC in the spring. For DC, this summit can spur the internal dialogues to help build the foundations of the P3 development process for the region.

FULL LIST OF ATTENDEES

**District of Columbia Government and Related Entities**
1. George Schutter, Office of Contracting and Procurement
2. Nancy Hapeman, Office of Contracting and Procurement
3. Jerry Regan, Office of Contracting and Procurement
4. George Lewis, Office of Contracting and Procurement
5. Jonathan Kayne, Department of General Services
6. Leif Dormsjo, District Department of Transportation
7. Billy Hwang, District Department of Transportation
8. Dorinda Floyd, District Department of Transportation
9. Greer Gillis, District Department of Transportation
10. Tom Coleman, District Department of Transportation
11. Seth Miller-Gabriel, Office of Public-Private Partnerships
12. Judah Gluckman, Office of Public-Private Partnerships
13. Darryl Street, Office of the Chief Financial Officer
14. James Brown, HDR
15. Kate Ko, HDR

**Eno Working Group Members**
17. Mary Peters, Mary Peters Consulting, Working Group co-chair
18. Samara Barend, AECOM
19. Susan Binder, Cambridge Systematics
20. Thomas Grogan, HDR
21. Eric Peterson, Consultant

**STAFF (ENO CENTER FOR TRANSPORTATION)**
22. Emil Frankel, Eno Center for Transportation
23. Paul Lewis, Eno Center for Transportation
24. Alex Bond, Eno Center for Transportation
25. Emily Han, Eno Center for Transportation
26. Roy Kienitz, Roy Kienitz LLC