Public Interest Protections

In order for the Screening tool to be applied in a practical manner, a number of minimum Public Interest Protections must be assumed to be binding requirements of all future PPP projects. Such protections are implementable and enforceable through statutes and / or mandatory guidelines at a project level (through RFP and Concession Agreement control mechanisms), and include:

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1. Maintaining control and/or ownership over the asset
2. Use of upfront funds generated by PPP projects
3. Quality of service
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11. Prevailing Wage
12. Minority and Women-Owned Business Enterprises (MWBEs) should be encouraged to participate in P3 initiatives

1 Tier 1 - Fatal Flaw Category (Pass or Fatal Flaw)

	Criteria	Description of Criteria	Fatal Flaw (Yes, No or Project Specific)	Select from Drop Down Menu	Directly input value	Rating scale between 1 (lowest) and 4 (highest)	Comment
1.01	**Category 1 - Public Interest**						
1.01.01	Affordability	While the private partner may provide the initial funding for capital improvements, there must be a means of repayment of this investment over the long term of the partnership. The income stream can be generated by a variety and combination of sources, but must be assured for the length of the partnership.	**Project Specific**	Please Select:			
1.01.02	Support from elected officials and the public	This criterion will help determine the level of support that a project has among stakeholders, elected officials, transportation officials, and the public at large. The procuring authority must consider the existing levels of support, the issues raised by any project opposition, and potential means to mitigate any opposition.	**Yes**	Please Select:			
1.02	**Category 2 - Is there ability for PPP to potentially add value to the project**						
1.02.01	Financial Feasibility	A PPP project is considered financially feasible if lenders are willing to finance it (generally on a project finance basis), debt is a cheaper source of funding than equity, as it carries relatively less risk. Lending to PPP projects looks to the cash flow of the project as the principal source of security. The State and its advisers need to assess financial risks thoroughly. The financial risks experienced by PPP projects tend to be related to some or all of the following factors: • reliance on optimistic revenue assumptions and on levels of demand from a poorly chosen “baseline” case; • lack of attention to financing needs in the project feasibility, which leads to larger amounts of debt in projects; • long-term PPP projects that are financed with short-term debt, coupled with a sometimes unjustified assumption that the short-term debt can be rolled over at the same or even better refinancing conditions; floating rate debt that creates interest rate risk; • refinancing that can create unforeseen benefits for the PPP Company, which the State might not share if the contract does not explicitly provide for this possibility	**Yes**	Please Select:			

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1 Tier 1 - Fatal Flaw Category (Pass or Fatal Flaw)

	Criteria	Description of Criteria	Fatal Flaw (Yes, No or Project Specific)	Select from Drop Down Menu	Directly input value	Rating scale between 1 (lowest) and 4 (highest)	Comment
1.03	**Category 3 - Will the project attract private sector interest**						
1.03.01	Return justifies risk	When assessing the viability of a P3 project it is critical to determine if the likely returns that the private sector will realize will be commensurate with the risks they are assuming. Projects that have risks which are hard to quantify, unknown, difficult to control, and dispersed will be less attractive to the private sector. It is important to continually consider whether the risks being transferred can be better managed by the private sector.	**Yes**	Please Select:			
1.03.02	Suitable deal size	Is the deal size appropriate at current market condition between 100 million and 4 billion	**Yes**	Please Select:			
1.04	**Category 4 - Regulatory, legal, and political feasibility**						
1.04.01	Environmental approvals expected within three years	Completion or near-completion of requisite early planning work, including environmental assessment, is a strong indicator of project implementation state-of-readiness. Private sector bidders will more likely respond to Request for Proposals for projects that have achieved, or are close to achieving, environmental approval and supported by the requisite feasibility studies.	**Yes**	Please Select:			
1.04.02	Are land ownerships issues likely to stop the project	The public partner should examine its ability to assemble the necessary land. Evaluate the capacity for the right of eminent domain. Consider the potential for land banking to avoid any land assembly issues if the opportunity makes itself available.	**Yes**	Please Select:			

Total number of Criteria	7
Maximum value of Limitations	11
Total value of Limitations	0

Has a Fatal Flaw occurred?	Incomplete Analyses
Why has a fatal Flaw occurred?	

Project Suitability	Incomplete Analyses

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2 Tier 2 - Non Fatal Flaw Category (Pass, Pass with Limitations or Fail)

	Criteria	Description of Criteria	Fatal Flaw (Yes, No or Project Specific)		Select from Drop Down Menu	Directly input value	Rating scale between 1 (lowest) and 4 (highest)	Comment
2.01	**Category 1 - Public Interest**							
2.01.01	Consistency with statewide transportation plan	This purpose of this criterion is to determine whether a project is consistent with an adopted statewide transportation plan. The procuring public entity should consider whether or not a project is included in an adopted statewide transportation plan and, if so, what the project's ranking is in the plan.	**No**	Please Select:				
2.02	**Category 2 - Is there ability for PPP to potentially add value to the project**							
2.02.01	Technical innovation	Does the project provide opportunities for technical innovation, including in the interface between design and build phases? If so, risk transfer to private proponents can provide strong incentives realizing the innovation opportunities	**No**	Please Select:				
2.02.02	Provides value for money	Value for Money (VFM) is a method of analysis for comparing the total estimated life cycle costs of traditional procurement versus alternative procurement. VFM describes the benefits to the public expected to be realized through a particular procurement method, and can be quantitative and/or qualitative in nature. The Value for Money is a progressive analyze and needs to be considered during all stages of any procumbent process.	**No**	Please Select:				
2.02.03	Economies of scale	This screening evaluation should identify if opportunities exist to group phases of a project together rather than spreading delivery out over multiple phases. In addition, individual but similar projects can be bundled together to achieve efficiencies of scale, such as the replacement of 2-300 short span bridges.	**No**	Please Select:				
2.02.04	Risk Transfer	Well-structured public-private partnership agreements are tailored to address the specific characteristic of a particular project and to allocate risks to the party best positioned to assume and price those risks. In considering risk transfer as a criterion it is important to determine whether the public sector can manage the various project risks better than the private sector. Selection of the right contractual and financial models facilitates efficient allocation of risk and opportunity, which will ultimately determine the Value for Money available for a project under a particular asset maximization approach.	**No**	Please Select:				
2.02.05	Schedule Certainty	If there is a timing benefit associated with a PPP, private financing can be utilized by the State to accelerate project delivery, avoiding up-front capital costs and paying for infrastructure only when it is ready to be used.	**No**	Please Select:				
2.02.06	Whole life costing	To determine whether "whole life costing" is associated with a project, the State must consider the benefit of tying the upfront construction and operating and maintenance costs together. If structured appropriately, the transfer of risk over the life cycle of the project can generate savings and budget certainty to the public.	**No**	Please Select:				

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2	**Tier 2 - Non Fatal Flaw Category (Pass, Pass with Limitations or Fail)**							
	Criteria	Description of Criteria	Fatal Flaw (Yes, No or Project Specific)		Select from Drop Down Menu	Directly input value	Rating scale between 1 (lowest) and 4 (highest)	Comment
2.02.07	Renovation work would not constitute a substantial share of construction costs	A new build versus renovation will lead to differences in both cost and functionality. Historically with PPP projects, if a substantial share of the project consists of renovation work, the risk transfer to the private sector has been more difficult to achieve due to latent risks associated with original infrastructure	**No**	Please Select:				
2.02.08	Competitive market likely to produce at least three bids	A process used to assess the market's reaction to a proposed project and or procurement approach by providing an opportunity for market participants to provide input in terms of interest, capability and capacity. The objective is to structure a project in a manner that will encourage competition by generating a favorable market response	**No**	Please Select:				
2.03	**Category 3 - Will the project attract private sector interest?**							
2.03.01	Current market liquidity	In difficult financial market conditions (e.g. reduced liquidity), fully committed financing packages may be difficult to obtain at the time of bidding. This may mean that the financing agreements will not be concluded immediately once the PPP contract is signed.	**No**	Please Select:				
2.03.02	Project's ability to attract TIFIA, Private Activity Bonds (PABs)	With highway and transit funds becoming limited, federal loans are taking the place of federal grants. TIFIA financing and a PABs allocation is often applied for prior to seeking proposals from bidders in order to provide bidders with the opportunity to factor these sources of financing into their proposals. PABs, may be issued by state or local governmental entities for the benefit of private developers. Accordingly, private concessionaires receiving PAB allocations may now benefit from the lower cost of capital achievable in the US tax-exempt bond markets.	**No**	Please Select:				
2.03.03	Confidence public sector will be able to facilitate project completion: - Confidence in public sector timely & effective decision making process - Transparency of the procurement process - Credible Consultants to the public sector (technical, legal, and financial)	The manner by which the public sector is organized to execute a P3 procurement and oversee the project's implementation can attract or discourage investors. In a P3, the private sector assumes schedule, budget, and many major project delivery risks over the long-term. While the private sector is taking on these risks, it must still gather approval from the public agency throughout the course of the project. If an agency appears to be fragmented and decisions will take considerable time to be made and if it appears there is a lack of understanding that overseeing a P3 project differs from a traditionally delivered project, bidders will be reluctant to come forward. However, if an agency is organized so that individuals are empowered with clear authority to make decisions on P3 projects, bidders will be more encouraged to participate and the overall cost of financing the project will be reduced.	**No**	Please Select:				
2.03.04	The private sector has sufficient P3 capacity (expertise and availability) to successfully deliver project objectives	Potential private sector must be sufficiently qualified to deliver the facility and services it will be required to fulfill. The private sector will need adequate administrative and investment appetite based on how much money they have to spend and if they have sufficient resources to deliver project objectives.	**No**	Please Select:				

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2 Tier 2 - Non Fatal Flaw Category (Pass, Pass with Limitations or Fail)

	Criteria	Description of Criteria	Fatal Flaw (Yes, No or Project Specific)		Select from Drop Down Menu	Directly input value	Rating scale between 1 (lowest) and 4 (highest)	Comment
2.04	**Category 4 - Regulatory, legal, and political feasibility**							
2.04.01	Consensus among local and regional authorities	This criterion will help determine the level of support that a project has among stakeholders, elected officials, transportation officials, and the public at large. The procuring authority must consider the existing levels of support, the issues raised by any project opposition, and potential means to mitigate any opposition.	**No**	Please Select:				
2.04.02	Need for new or change in legislation	Early identification of whether there are any legal obstacles to moving a project forward as a P3 is critical. If changes are needed it is necessary to pinpoint them upfront and work together new legislation before an RFP is advanced. Given the significant cost of responding to a P3 procurement, bidders will be weary of responding to an RFP unless legislative authority is clear and issues concerning the project's bankability are addressed.	**No**	Please Select:				
2.04.03	No specific legislative approval required post award	If specific legislative approval is required before Financial Close is reached, given the significant cost of responding to a P3 procurement and risk associated with such approval, bidders will be weary of responding to an RFP.	**No**	Please Select:				

Total number of Criteria	16
Maximum value of Limitations	24
Total value of Limitations	0

Has a Fatal Flaw occurred?	Incomplete Analyses
Why has a fatal Flaw occurred?	

Project Suitability	Incomplete Analyses