

## Summary of responses from Request for Information on potential Bureau of Reclamation public-private partnerships

On April 25, 2017, Reclamation released a formal Request for Information (RFI No. R17PS00874) seeking market feedback on the potential use of alternative finance and delivery structures, such as public-private partnerships (P3), to advance Reclamation's mission and deliver project benefits. The RFI requested general feedback regarding market interest in leveraging alternative finance and delivery structures for Reclamation's portfolio, as well as specific feedback on a handful of projects deemed "representative" of the broader portfolio. The RFI process was complemented by an industry forum held in Denver on May 9, 2017.

### Key Takeaways

- The vast majority of Respondents expressed strong support for and interest in a potential Reclamation P3 initiative.
- The preponderance of Respondents judged that some or all of the five projects identified in the RFI are suitable for P3 delivery; however, Respondents also noted market interest in these projects as P3 would depend on whether they were structured appropriately and meet key criteria (such as having a predictable funding stream, political champion, credit-worthy back-stop, etc.).
- Many Respondents asserted that allowing for innovation within P3 was critical and offered specific suggestions (i.e., making easements available for additional and/or ancillary purposes).
- After reviewing feedback received as a result of the RFI process, Reclamation is highly motivated and encouraged to further explore the potential for leveraging P3 to the benefit of taxpayers and Reclamation stakeholders.
- In the next fiscal year, Reclamation plans to continue moving forward with this effort by: assessing its enabling framework regarding legislative, policy and/or institutional constraints to P3, considering developing a framework for screening and evaluating projects, and working within the Infrastructure Investment Strategy to build Reclamation's P3 capacity.

### Comment Overview

Reclamation received 37 responses to the RFI from a combined total of 52 companies and organizations. The majority were from private companies interested in partnering on future P3 projects, but some responses were from other types of organizations, such as existing Reclamation-project partners (e.g., water-user associations, power associations), and environmental non-governmental organizations. The private companies represented a broad cross-section of firms already participating in P3s, including developers, equity investors, design-build firms, operators, and asset managers. Of the 25 responses received from private companies, 10 were submitted by pre-formed consortia comprised of multiple companies (typically a developer/operator, equity investor, and design-build contractor).

Of the 37 responses, the vast majority (33) expressed strong support for a potential Reclamation P3 initiative. Most Respondents believed some or all of the projects identified in the RFI are suitable for P3 delivery and most identified the same core benefits of the P3 approach: (1) faster delivery of project benefits than is achievable through the traditional government appropriations and procurement processes; (2) lower project construction and life-cycle costs; (3) greater technical and process innovation; (4) the shifting of schedule and cost risk to the private sector; (5) economies of scale; and (6) life-cycle asset management. Of the different potential project types, a majority of the Respondents believed municipal and industrial water supply, and irrigation projects, are the best candidates for a P3 approach.

Several Respondents noted there is currently significant demand within the private sector for P3 projects. For a specific project to be suitable for private investment, however, most Respondents agreed the following core criteria would need to be met: (1) appropriate project size and complexity; (2) clear statutory authority; (3) a sufficient and credit-worthy source of revenue capable of reliably covering debt service, O&M costs, and return on equity (most Respondents believe either a government-funded availability payment or a government guarantee of project revenues will be required); (4) strong political support at the federal, state and local levels; (5) strong stakeholder support and involvement; (6) demonstrable capacity within Reclamation to execute the procurement, backed by outside advisors with relevant P3 expertise and experience; (7) pre-solicitation completion of environmental, right-of-way and water-rights processes (or, at a minimum, a clear and realistic path to completion for each); (8) an appropriate allocation of the project risks (e.g., government partner retains risk for post-award changes in law, *force majeure* events, unknown hazards and utilities, unforeseeable utility delays); (9) clearly definable project outcomes and performance specifications, including allowance for innovation; and (10) a competitive and transparent procurement process.

Most Respondents interested in participating as a private partner in a Reclamation P3 project favor a Design, Build, Finance, Operate and Maintain (DBFOM) structure, although many also noted current legislative and policy shortfalls as a chief obstacle to any approach requiring Reclamation to commit to a long-term payment stream (i.e., availability payments). Absent a change in scoring rules, most Respondents believe projects with clearly identifiable beneficiaries capable of providing adequate and reasonably assured off-taker payments are best suited for a P3 delivery approach. Potential investors expressed a strong preference for performance-based compensation, rather than demand-based compensation.

The majority of Respondents also recommended Reclamation take a programmatic approach to P3 and alternative finance and delivery to best address legislative and policy shortfalls. This would allow Reclamation to build internal capacity and integrate innovative finance and delivery structures into its broader planning and budgeting processes. An overwhelming number of Respondents also underscored the need for Reclamation to leverage experienced and qualified advisors to assist them with both programmatic and project-specific issues, noting that this will help ensure projects are balanced and well-structured, thereby lowering investor risk-premiums and maximizing value-for-money through a P3 approach.

In addition to a general discussion of the Reclamation portfolio, Respondents provided comments on specific projects, summarized in the attached table.

## **Next Steps**

Reclamation is highly motivated and encouraged by the RFI responses, and is engaging in internal efforts to explore the potential for leveraging P3 to deliver critical infrastructure and services in a timelier and more cost-effective manner, to the benefit of both taxpayers and Reclamation stakeholders. Reclamation emphasizes, however, that it does not view P3 as an exclusive funding tool or as a total replacement for traditional project delivery approaches. Instead, Reclamation is analyzing how best to enable P3 as an additional tool for project delivery, while continuing to utilize traditional delivery approaches.

As a next step, Reclamation will undertake an assessment of its enabling framework to determine what, if any, actions might be required to address any legislative, policy and/or institutional constraints to P3. Concurrently, Reclamation is considering developing a framework for screening and evaluating projects to determine their suitability for innovative finance and delivery approaches. Reclamation is also developing a strategy for P3 capacity building within Reclamation (and the Department of Interior, more broadly) in an effort to facilitate institutional advancement toward innovative project delivery, when appropriate. As it has during the RFI phase, Reclamation will work with external P3 experts to ensure any future P3 initiatives comply with best practices and will continue to keep industry and the public abreast of our progress, as appropriate.

## Project Specific Considerations

Project	Summary of Feedback
Kachess Drought Relief Pumping Plant	The vast majority of the Respondents considered Kachess to be a suitable candidate for P3; however, uncertainty regarding the plant's future level of operations led some to believe the project may be better suited as a Design-Build-Finance (DBF) than as a Design-Build-Finance-Operate-Maintain (DBFOM). At least one Respondent suggested potentially combining planned projects, such as the Kachess pumping plant with the Keechelus to Kachess Conveyance project and other potential uses of Reclamation assets to create additional and diversified revenue streams for a larger comprehensive project, such as hydro and wind power.
Eastern New Mexico Rural Water System (ENMRWS)	The majority of Respondents viewed ENMRWS as a good candidate for P3, but expressed a need for a credit-worthy off-taker (or government back stop). There was general agreement a DBFOM is the best arrangement for an ENMWUA P3.
Paradox Valley Unit (PVU)	A majority of Respondents believed PVU would be a good candidate for P3; however, there were differing opinions on whether it would be best structured as a DBFOM or other structure. Many Respondents focused their comments on technical elements of the structure, as well as on challenges relating to Office of Management and Budget scoring of federal budget payments. There was a strong belief the project would benefit from allowing for Alternative Technical Considerations (ATC) and innovative delivery approaches. One Respondent noted an opportunity to capitalize future savings and ancillary revenues.
Yuma Desalting Plant (YDP)	Most Respondents believed YDP lends itself to alternative finance and delivery structures, although there was some concern as to whether the project itself requires additional treaty clarification (particularly as pertains to impacts to the Cienega de Santa Clara). There was no common consensus as to the preferred transaction structure, with some favoring a DBFOM and others preferring a privately owned facility with an off-take agreement. A number of Respondents suggested Reclamation could outlease/sell the existing facility in exchange for the concessionaire making an upfront payment to Reclamation and then building a facility to meet the output requirements stipulated in the Treaty. Some Respondents questioned the criticality of the project, while others stressed the need to allow for innovative technical concepts. Several stakeholders requested that Reclamation engage with them regarding the possible project.
Arkansas Valley Conduit (AVC)	The majority of Respondents believe a DBFOM would accelerate delivery, lower costs and generate significant value-for-money; but all noted the need to identify a reliable funding source. Given the small population, there were questions concerning whether potential project beneficiaries could support the level of payments needed to fund the project. Respondents noted the importance of employing performance- or outcome-based criteria (as opposed to prescriptive requirements), thereby encouraging innovative approaches and technologies to reduce costs and risks. Some Respondents suggested additional financial incentive could be provided by making the alignment available for ancillary purposes, such as fiber-optic cable easement, and/or encouraging development of land adjacent to the easement for commercial uses.