
Arizona P3 Workshop
Public Private Partnerships... The Hot Topic
September 29, 2009
WilburSmith ASSOCIATES
NOSSAMAN LLP
KPMG


Guest Speaker:
Representative Andy Biggs
Arizona House of Representatives
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Why P3's Are Important to Arizona

John McGee

Executive Director for Planning and Policy

Arizona Department of Transportation

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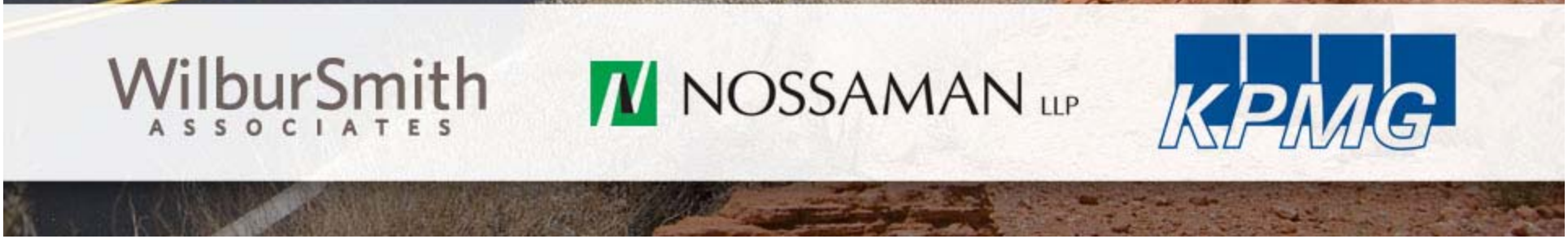
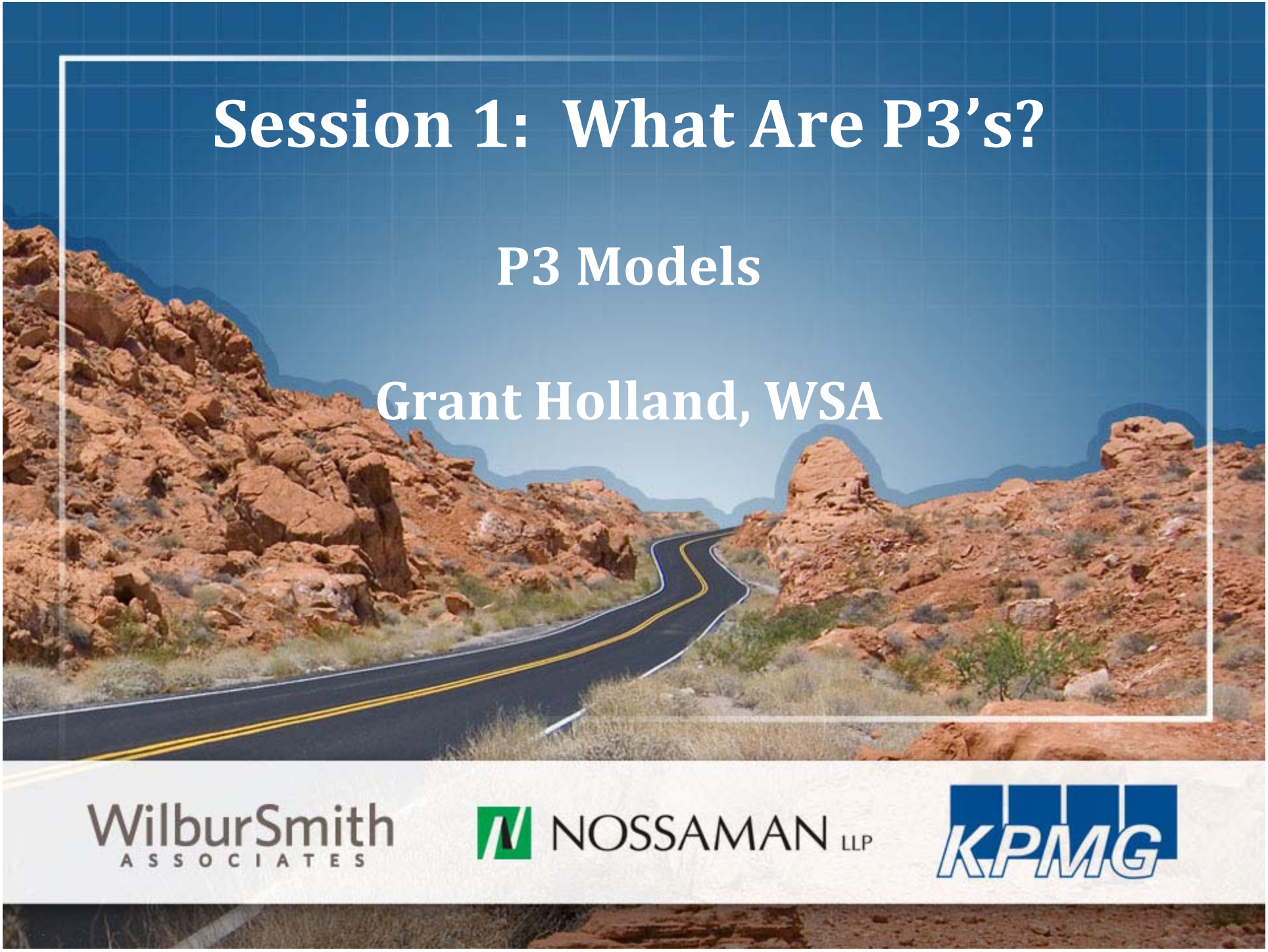
Session 1: What Are P3's?

Moderator – Dale Miller, WSA
P3 Models – Grant Holland, WSA
Risk Transfer in a P3 – Lisa Fenner, KPMG
P3 Contractual Issues – Corey Boock, Nossaman
P3 Financial Tools – Lisa Fenner, KPMG





Session 1: What Are P3's?

P3 Models

Grant Holland, WSA

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P3 Objectives

- Maximize the ability of public sponsors to leverage existing federal and/or state revenue sources.
- More effectively use of existing public funds.
- Move projects into construction more quickly than under traditional financing mechanisms.
- Make possible major infrastructure investments that might not otherwise receive financing.

P3 Delivery Models

- Project Pre-Development Agreement
- Design/Build
- Design/Build/Finance
- Design/Build/Operate/Maintain
- Design/Build/Finance/Operate/Maintain
- Concession

Pre-Development Agreement

- Early Private Partner Involvement
  - Typically during environmental phase
  - Projects in early stages of definition
  - Technically challenging projects
- Selection based on qualifications, development plan, and project “vision”
- Private Partner may undertake pre-development work at risk, or with shared public sector risk
  - Private Partner gets first right to negotiate development agreement
  - Becomes in essence a sole source contract
- If acceptable agreement not reached; public sponsor has fully developed project

Design/Build

- Designer and contractor hired under single contract
  - Selection usually based on best value
- Private partner takes majority of design and construction risk
  - Introduces private sector innovation
  - Greater cost and schedule certainty
- Public sector has single point of contact
  - Design and construction disputes typically remain between designer and contractor
- Public sponsor retains obligation to fund
- Public sector retains full operational and maintenance obligation

Design/Build/Finance

- Similar attributes to Design/Build
  - Public Sponsor provides revenue stream
  - Private Partner takes financing risk
- Procurement generally based on lowest annual payment
- Expedites delivery of infrastructure
- Private Sponsor retains operational and maintenance obligations
- Off balance sheet financing
  - Revenue stream typically subject to prior appropriations
  - Generally does not count against bonding caps
- Best applications facilities not suitable as toll facilities

Design/Build/Operate/Maintain

- Similar attributes to Design/Build
- Private partner has long term operational and maintenance responsibility
  - Acts like an extended warranty
- Transfers life-cycle costs to Private Partner
  - Balances upfront capital costs v. long term maintenance costs
- Public Sponsor responsible for revenue and financing
- Maximum term of 15 years
  - An be longer if Private Activity Bonds are used
- Suited for facilities with specialized operational and/or maintenance requirements

Design/Build/Finance/Operate/Maintain

- Similar to DBOM
- Private Partner is responsible for financing
- Public Sponsor responsible for revenue stream
- Applicable to both revenue and non-revenue facilities
- Also referred to as Availability Payment
  - Private Partner required to have facility “available”
  - Annual payment is a function of facilities “availability”
- Suitability
  - Where transfer of revenue risk may not be best value for money
  - Transit projects

Concession

- Greatest risk transfer model
  - Design, Construction, Revenue, Finance, Operations, Maintenance, Capital Renewal
  - Potentially includes capacity expansions
- Public Sponsor retains least control
  - Rate Setting
  - Operational/Performance Standards
- Payments to Public Sponsor
  - Upfront payment
  - Revenue Sharing
  - Unplanned refinancing
  - Excess revenue

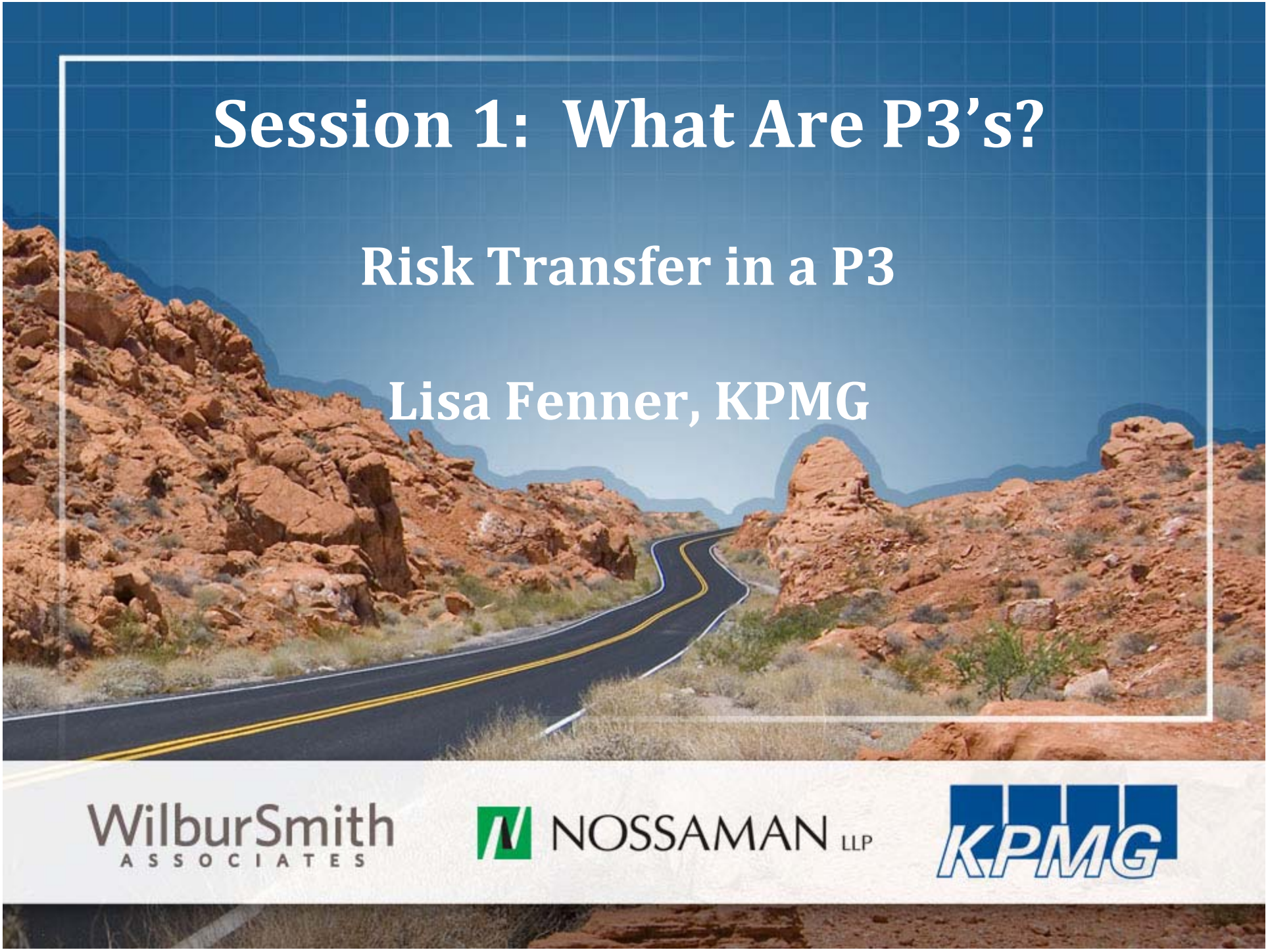
Conclusions

- P3s are very flexible delivery mechanisms
- P3s can be structured to meet public sponsor's objectives subject to commercial constraints
- Public Sponsor needs to due upfront due diligence to determine the most appropriate P3 Model

Session 1: What Are P3's?

Risk Transfer in a P3

Lisa Fenner, KPMG



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Risk Transfer in a P3

Overview

- **Understanding Risk**
- **Changing Risk Profile Over Life of Project**
- **Risk Transfer Under Different Business Models**
- **Quantifying Cost of Risk Transfer**

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Risk Transfer in a P3

Understanding Risk

- ***What is risk?***
  - Risk is an uncertain event or condition that, if it occurs, has a positive or negative effect on at least one project variable, eg. time, cost, scope or quality

Risk Transfer in a P3

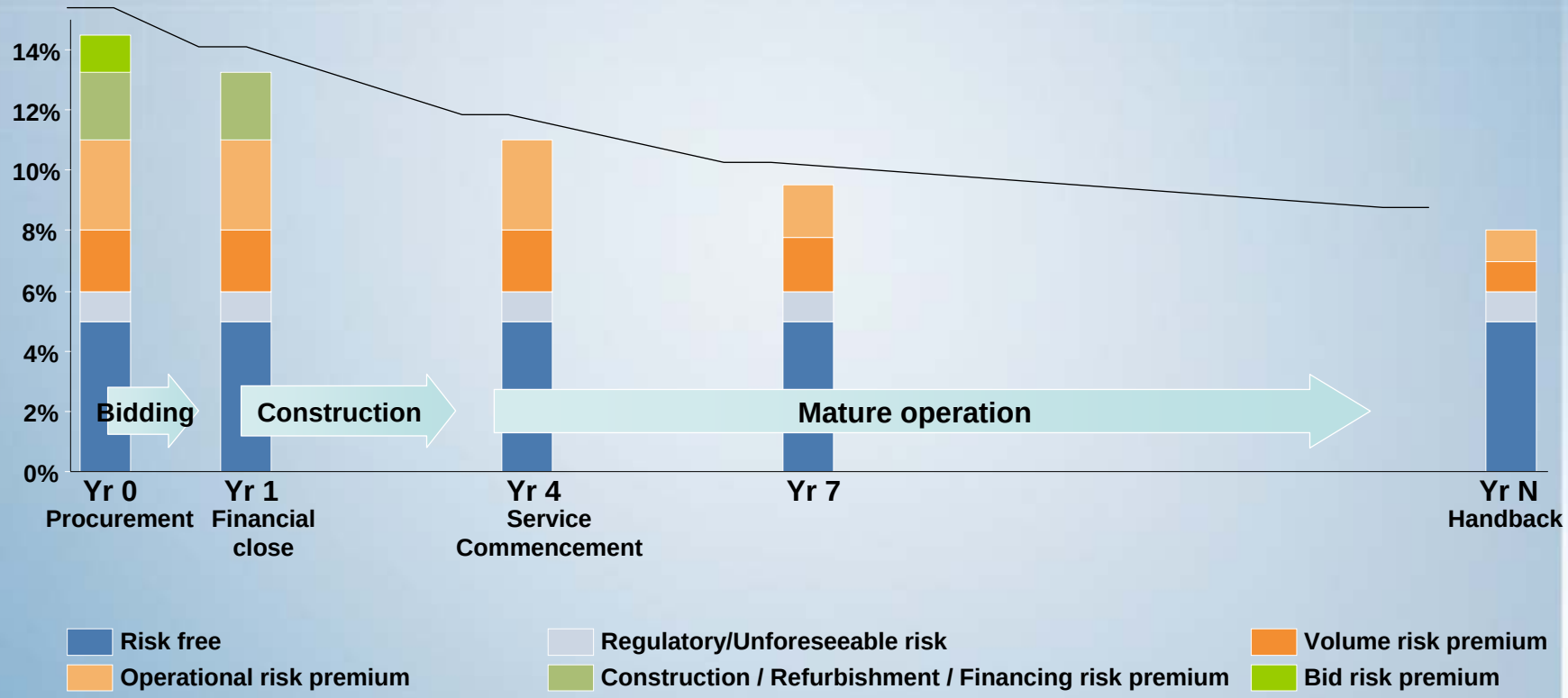
Risk Allocation Considerations

- Project characteristics will drive risk allocation strategy
- Risk should be allocated to party best suited to manage
  - More often allocated to private party in a P3 due to
    - strong project control,
    - ability to spread risk over time,
    - equity cushion
- If neither better situated to manage risk, share it
- Value for money is maximized by the optimal allocation of risk

- ***P3 DOES NOT MEAN ADOT DOES NOT RETAIN RISK***

Risk Transfer in a P3

Risk Profile Changes over Life of Project



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Risk Transfer in a P3

Typical Risks – Pre Construction Phase

- Development
  - Public acceptance
  - Control
  - Political stability
- Financing
  - Market acceptance
  - Credit quality of project
  - Interest rates
  - Tax treatment
  - Currency/foreign exchange

Risk Transfer in a P3

Typical Risks –Construction Phase

- Design, engineering and construction
  - Site conditions
  - Environmental
  - Cost
  - Changes in project scope
  - Completion
  - Liability/latent defects
  - Regulatory/permitting

Risk Transfer in a P3

Typical– Operational/Ongoing

- Operation and maintenance
  - Asset performance in real toll projects
  - Operator's performance in availability payment projects
  - Costs
- Revenue
  - Macro economic factors
  - Ability to meet debt service obligations
  - Return on equity
- Changes in Law
- Handback
- Termination

Risk Transfer in a P3

Risk Share Profile Defines Business Model

	Design	Construction	Operations & Maintenance	Financing	Revenue	Collection
1. Traditional Design Bid Build	○	○	○	○	○	○
2. Design Build	●	●	○	○	○	○
3. Design Build Operate & Maintain – DBOM	●	●	●	○	○	○
4. Design Build Finance Operate – DBFO *(Availability Payment)*	●	●	●	●	○	○
5. Design Build Finance Operate – DBFO *(Real User Fee)*	●	●	●	●	●	●

○ - Risk retained by Public Sector

● - Risk transferred to Private Sector

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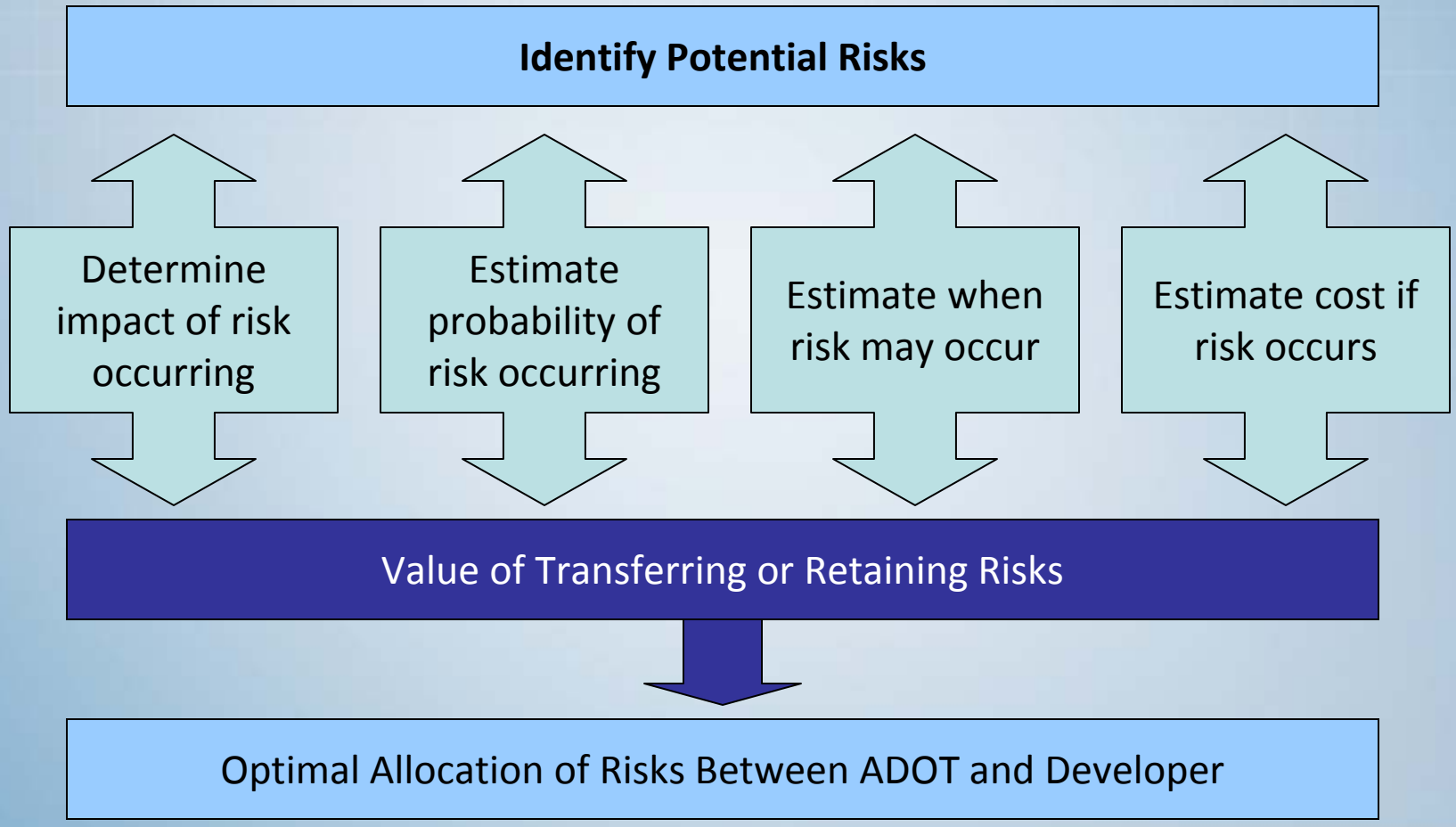
Risk Transfer in a P3

Quantifying Risk Transfer



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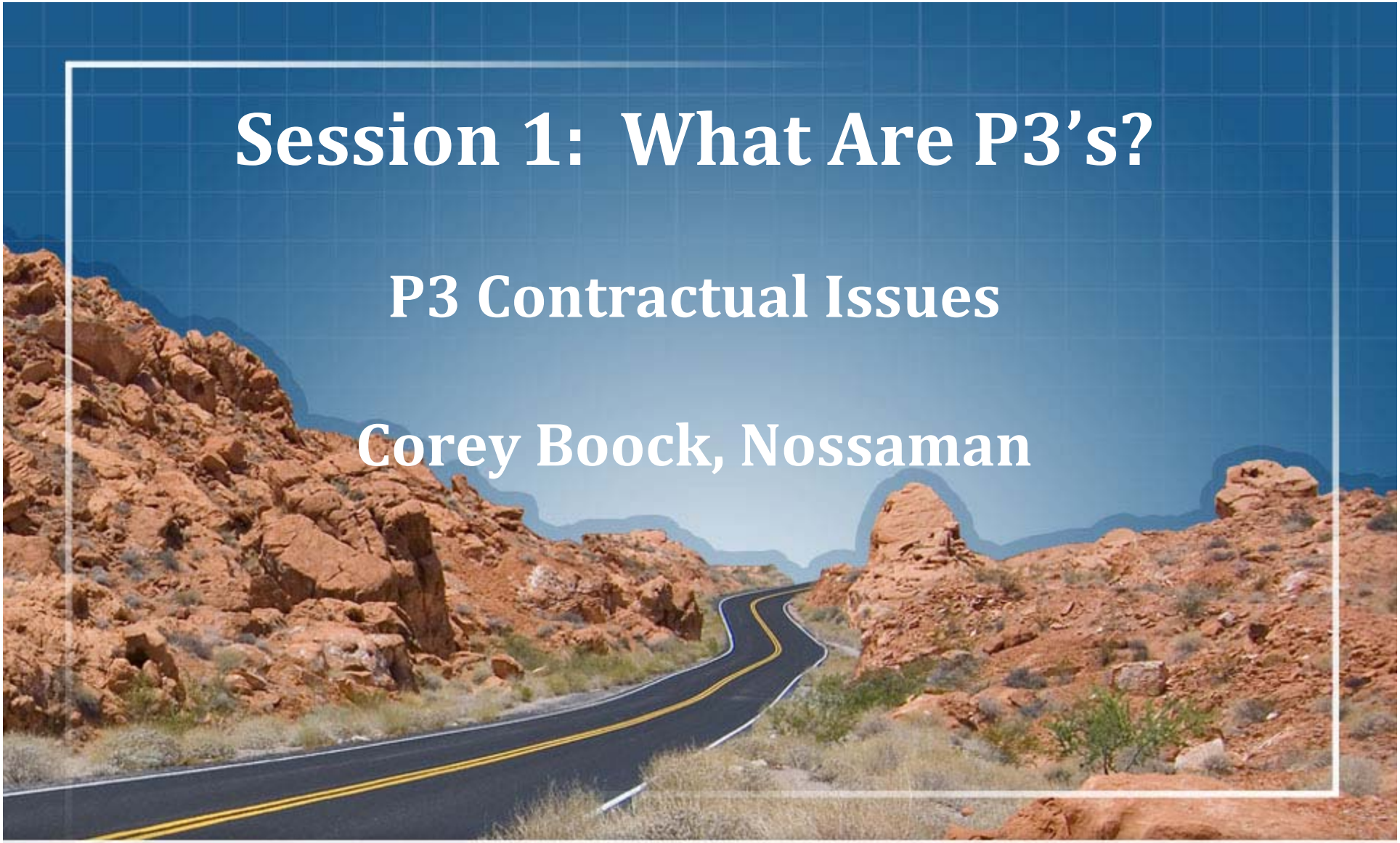
Session 1: What Are P3's?

P3 Contractual Issues

Corey Boock, Nossaman



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Select Contract Issues
Overview

- **Development Issues**
- **Change Over Time Issues**
- **Financial Issues**
- **Agency Oversight Issues**
- **Performance Security Issues**

Select Contract Issues
Intro – P3 Contract Themes

- A P3 Project is an encapsulated business and financing arrangement
- Contract must cover the entire arrangement
  - Means that documents are complex
  - Must foresee issues over the course of a long-term relationship
  - Must address issues in ways that investors and lenders can assess, address and price project financing risks
    - Limited ability to simply leave things up to later agency discretion
- If contract does not constrain, Concessionaire has full discretion

Select Contract Issues
Intro - Efficient Risk Allocation

- Allocate to party in best position to manage the risk
  - More often allocated to private party in a P3 due to
    - strong project control,
    - ability to spread risk over time,
    - equity cushion
- If neither better situated to manage risk, share it
- Compare cost of:
  - Risk retention vs. private party contingency to take risk transfer
- P3 DOES NOT MEAN NO RETAINED AGENCY RISK

Select Contract Issues
Development Risks - Design

- **Traditional contracts**
  - Standard approach is for Agency to hire an engineer and fully design the project and then “let” the construction project
  - This traditional approach/case law leads to retention of design-risk by Agency
  - Agency has an implied warranty to contractor of adequacy of design

Select Contract Issues
Development Risks - Design

- **PPP Arrangements**
  - Agency takes design to conceptual/preliminary level and Concessionaire is responsible for design and construction
    - Greater design control vested in Concessionaire and less Agency control
    - Allows shifting of significant design risk to the private entity
    - Can result in Agency receiving design warranties
  - Movement in PPP deals to performance-based specifications focusing on outputs and not means/methods exemplifies the risk shift

Select Contract Issues
Development Risks – Enviro/Permitting

- **Traditional Contracts**
  - Traditional approach is for the Agency to obtain all major environmental approvals and many of the major permits
  - Underlying assumption that facilities are permitted
- **PPP Arrangements**
  - As design responsibility shifts, some of the permitting responsibility and risks shift with it
  - Agency remains responsible for major environmental clearances
    - Market has shown little appetite for taking this level of risk

Select Contract Issues
Change Over Time - Change of Law

- **Traditional Contracts**
  - Traditional approach is for the Agency to bear the risk of change in law
  - There may be some limited exceptions such as:
    - Requirement that the change be "material" or have a minimum dollar impact
    - Income taxes
- **PPP Arrangements**
  - Similar to traditional during design/construction phase
  - Different approach during operations phase

Select Contract Issues
Change Over Time - Change of Law

- **Operations Phase**
  - Concept of "Discriminatory" vs. "General" Change of Law
- **General Change of Law**
  - Something of general application
    - Example – change in labor/OSHA laws
  - Risk often passed on to Concessionaire
- **"Discriminatory" Change of Law**
  - Definition is very project-specific
  - Targets project or particular owner (or in some cases, a class of owners)
  - Risk generally retained by the Agency

Select Contract Issues
Change Over Time - Change in Standards

- **Similar in many respects to Change in Law**
- **Additional issue with Change in Standards is not only cost responsibility but timing of implementation (even for a "general" change in standards)**
- **Cost responsibility**
  - Similar Discriminatory vs. General Change in Standards construct as with Change in Law

Select Contract Issues
Change Over Time - Change in Standards

- **Timing of implementation**
  - Depends on what kind of change in standards/reason
- **Safety standard**
  - Immediate implementation may be required
- **Non-safety**
  - Need for capital work or replacement
  - Period articulated in the applicable manual or changed standard
  - When the Agency starts to implement on its own or similar facilities

Select Contract Issues
Financial Issues - Revenue Sharing

- **Compensation to an Agency in a PPP can take many forms**
  - Upfront payment
  - Monthly/annual concession or lease payment
  - Revenue sharing
- **Issues with Revenue Sharing**
  - Purpose – Sharing risk and upside vs. avoiding runaway profits
  - Net vs. Gross
  - Amount of sharing
  - Priority of payment

Select Contract Issues
Financial Issues - Refinancings

- **Refinancing of Project Debt can happen for many reasons**
  - Planned in financial model
  - Better market conditions
  - Restructuring of a troubled project ("rescue refinancings")
- **Issue – Should Agency share in any refinancing gain?**

Select Contract Issues
Financial Issues - Refinancings

- **If refinancing was planned or part of base case financial model or is a rescue refinancing, rationale for sharing not very strong**
- **Stronger case can be made if "unplanned" refinancing**
- **If share, key issues include:**
  - How do you measure "gain"?
  - What is the share?
  - Any "black-out" periods?

Select Contract Issues
Agency Oversight Issues

- **Traditional Contracts**
  - Agency plays very active oversight role
    - Direct design review and approvals
    - Performs or hires consultants as a GEC for major and construction and improvement work
    - Performs or hires consultant for major QC/QA role
    - Prescriptive specifications and requirements
  - Underlying Rationale
    - Public $
    - Little long term private sector role or alignment in interest between public and private sector

Select Contract Issues
Agency Oversight Issues

- **PPP Arrangements**
  - Underlying rationale is different
    - Private $
    - Longer term relationship means Concessionaire has to address life-cycle cost issues
    - In a development/greenfield project, Concessionaire does not start earning $/revenues unless facility complete and opened
    - Additional parties have interest in completion and quality work (e.g., lenders)

Select Contract Issues
Agency Oversight Issues

- **PPP Arrangements**
  - Significant and direct Agency oversight and QC/QA role replaced by:
    - Focus on performance-based standards
    - Concessionaire QC/QA
      - Agency approval of QC/QA program
    - Independent Engineer
      - Mutually retained
      - QC/QA Auditing and Oversight
    - Agency spot-checking

Select Contract Issues
Performance Security Issues

- **Traditional Contracts**
  - Contractor posts 100% payment and performance bonds
  - Contractor entity is generally a corporation that has history and assets
  - Potential parent guaranties

Select Contract Issues
Performance Security Issues

- **PPP Arrangements**
  - Concessionaire typically a single purpose entity (SPE) with no assets/history
  - No parent guaranties typically
  - Bonding for construction generally runs from DB contractor to SPE, not Agency
  - Bonding for O&M period is uncommon
  - Trends:
    - Increased use of Letters of Credit
    - Not 100% bonding

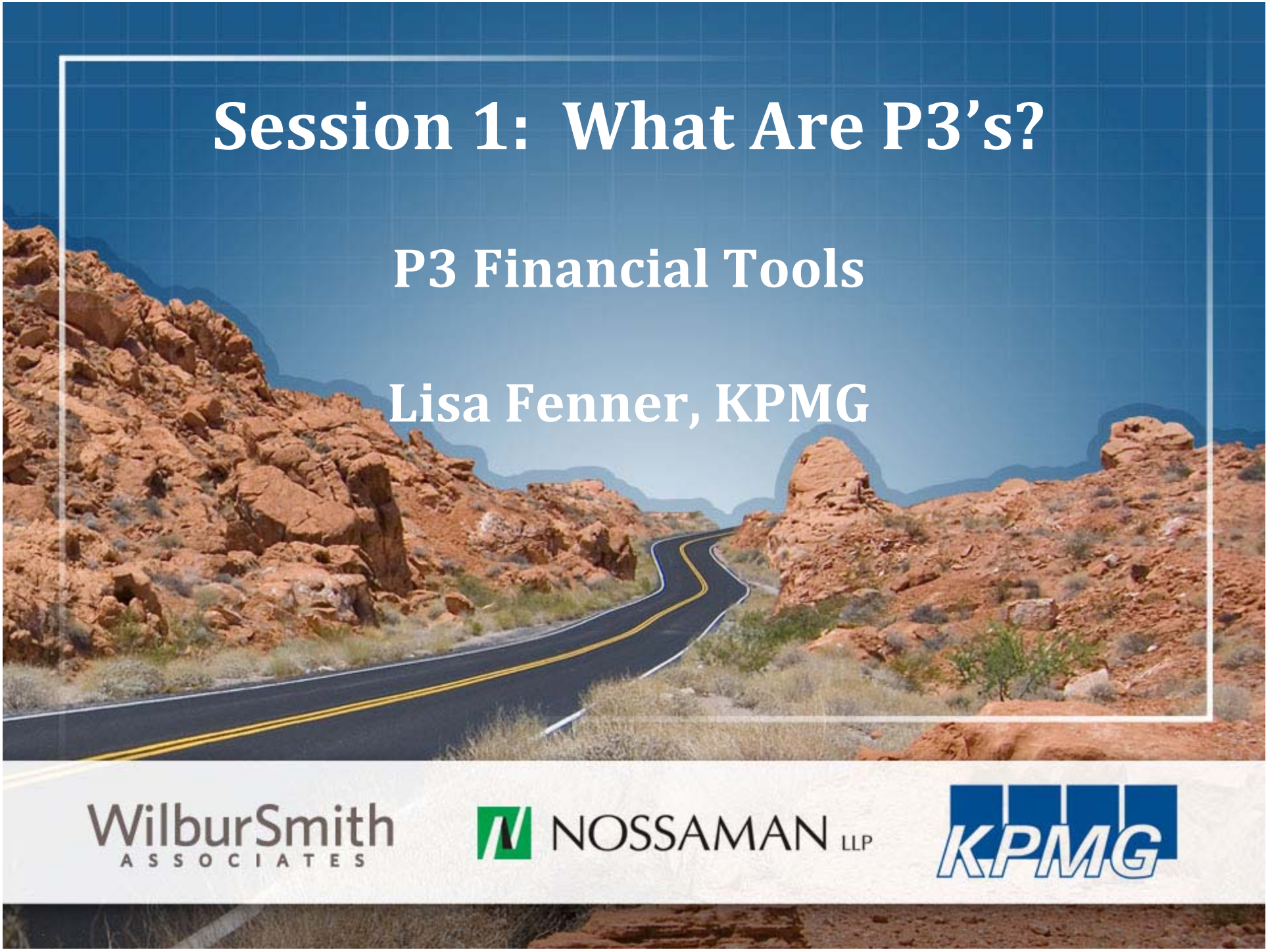
Select Contract Issues
Performance Security Issues

- **PPP Arrangements: Why Does The Performance Security Structure Work**
  - Equity will act to protect itself
  - Lenders interests aligned in many respects with Agency
    - Will act to protect its debt and collateral through exercise of “step-in” rights
    - Critical to ensure that “alignment” of interests is preserved and termination compensation provisions do not eliminate the alignment

Session 1: What Are P3's?

P3 Financial Tools

Lisa Fenner, KPMG



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P3 Financing Tools

Overview

- **Financing options available to ADOT**
- **Overview of innovative financing tools**
- **Why the P3 financial model works**

P3 Financing Tools
AZ HB 2396

Revenues

- Tolls and user fees
- Sale of development rights
- Federal, state, local sources
- Lease proceeds
- Rent payments
- Availability payments

Financing Tools

- GARVEE bonds
- Revenue bonds
- TIFIA credit support
- Private Activity Bonds
- Private Equity
- Project finance

P3 Financing Tools

TIFIA Credit Program

- The Transportation Infrastructure Finance and Innovation Act of 1998 (TIFIA) established a Federal credit program for eligible transportation projects of national or regional significance
- Eligible projects include public or private highway, transit, rail and port projects over $50 million and ITS projects over $15 million
- Three forms of credit assistance are available:
  - direct loans
  - loan guarantees
  - standby lines of credit
- Provides maximum flexibility of repayment terms
- Is subordinate to other debt
- Limited to 33 percent of project cost
- $6.6bn is currently active, awaiting commitment or retired

P3 Financing Tools
Private Activity Bonds

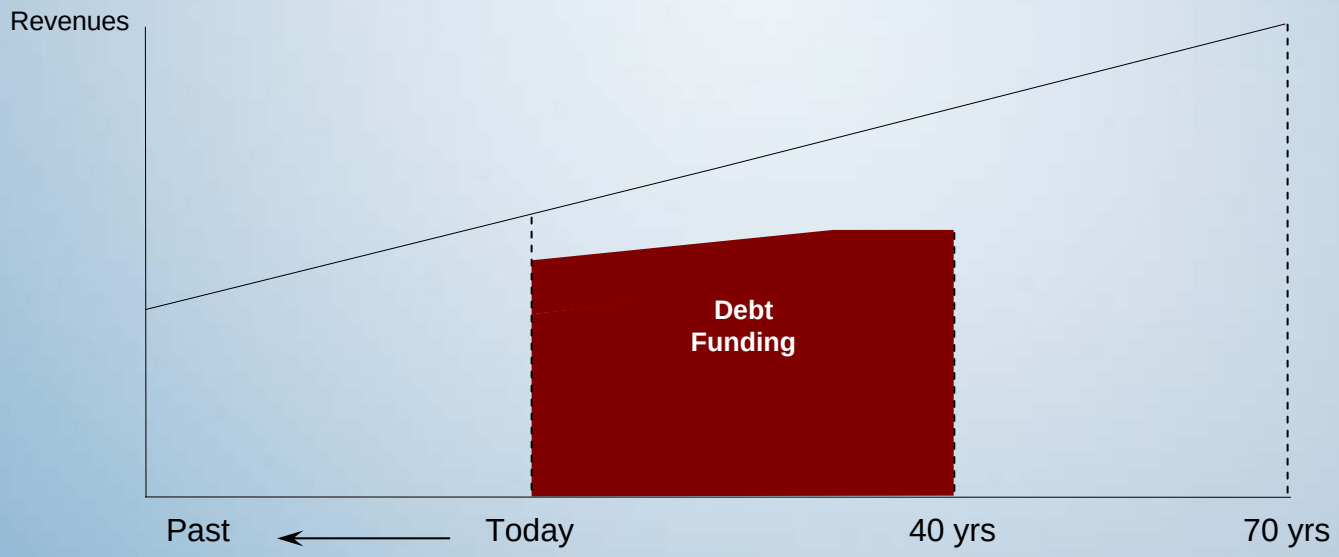
- $15 billion authorized for surface transportation projects
- To date the Capital Beltway in Virginia is the only PPP project funded using this tool
- PABs have been assumed in finance plans for several other projects that have not reached financial close
- Surface transportation PABs allow tax-exempt bonds to be issued for infrastructure PPP projects
- Allocations made by the USDOT based on project economics
- PABs are subject to the Alternative Minimum Tax (AMT)
- PAB issuances fell 51.9% from 2007 to 2008 (2008 - $28.3bn; 2007 - $13.7bn) due to market conditions

P3 Financing Tools
Transit Oriented Development

- A transit-oriented development (TOD) is a mixed-use residential or commercial area designed to maximize access to public transport, and often incorporates features to encourage transit ridership.
- Transit Oriented Development
  - Limits traffic congestion
  - Reduces urban sprawl
  - Assists in revival of City centers
- TODs can create additional opportunities for developer compensation or provide additional funding to the public agency
- Revenues from TOD are typically captured as incremental growth in property tax or sales tax revenues
- Additional revenues may be generated from development opportunities granted to developer such as parking or retail development

P3 Financing Tools
Public Finance Model

- Capital Structure typically 100% debt financed
  - Limited capacity due to coverage constraints and bond rating goals
- Conservative view of revenue
- Capacity limited to revenues expected during term of debt



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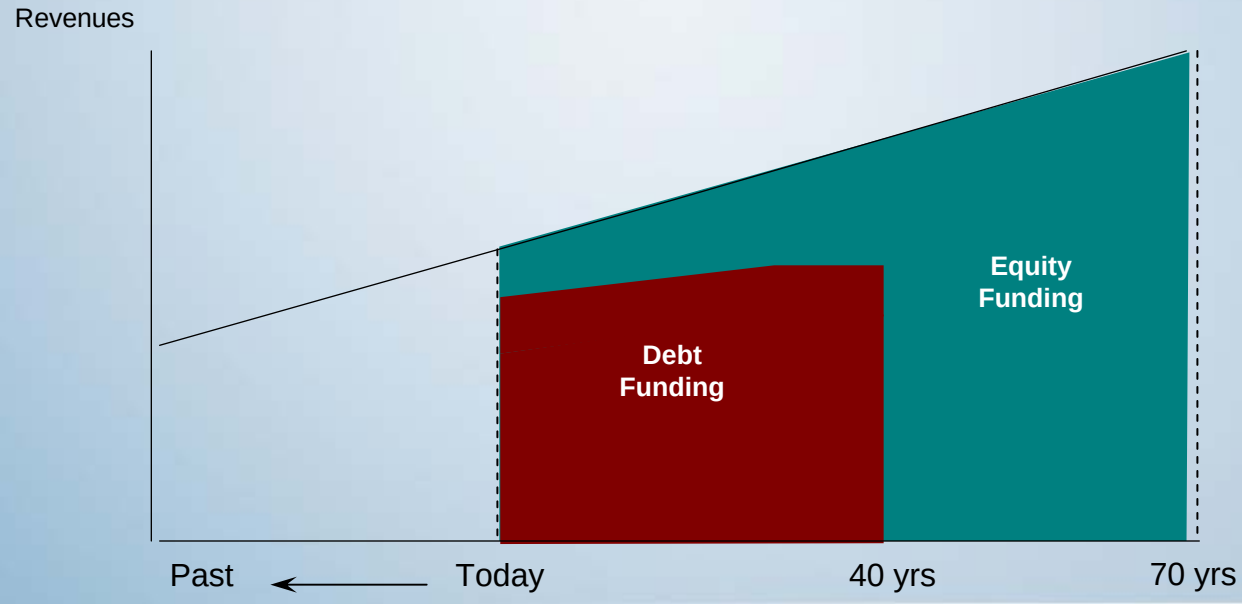
P3 Financing Tools

P3 Finance Model

- Capital Structure a mix of
  - Senior and Subordinate/Mezzanine Debt
  - Equity
- More aggressive view of revenues
- Ability to capture revenues to equity beyond normal bond maturities



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P3 Financing Tools
Impact of Current Market

Cost of debt has gone up and terms are less favorable to borrowers

- **Bank Debt**
  - Shorter terms and lower loan limits resulting in more “club” structures
  - Clear preference for availability-style P3s with limited appetite for real toll/Greenfield projects
  - Increased regulation expected
- **Tax-Exempt Bonds**
  - Limited market due to collapse of Monoline insurance market and decline in bank LOC availability
  - PABs subject to AMT have met with limited investor appetite to date
  - Temporary elimination of AMT on PABs issued through 2010 may stimulate issuance
- **TIFIA**
  - Constrained capacity to make loans due to budget reductions
- **Taxable Bonds**
  - Expands investor base but limited appetite for low investment grade debt
  - Typical make-whole call provisions make future refinancings challenging

P3 Financing Tools
Impact of Current Market

Cost of equity has also gone up, but significant amounts available

- Equity playing a much larger role – lower upfront leverage
- Some recent deals initiated with 100% equity capital


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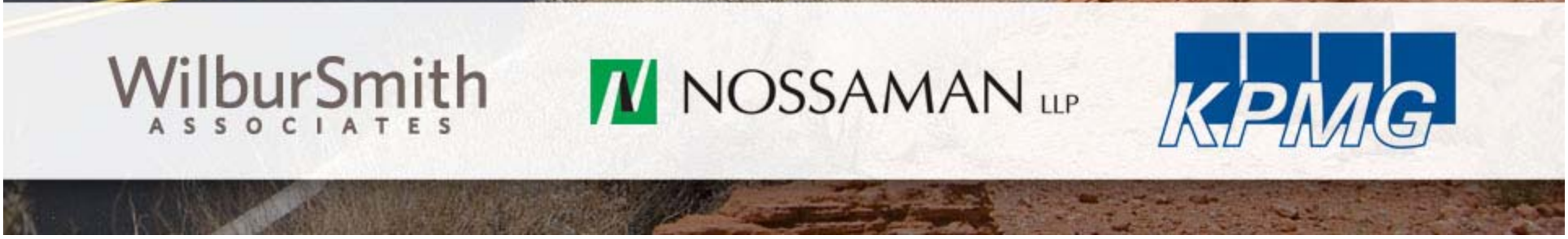
Session 2: P3 Implementation Best Practices, Lessons Learned

Moderator – Rebecca Brooks, WSA
P3 Program Development and Project Identification, Grant Holland, WSA
P3 Procurement – Corey Boock, Nossaman
P3 Market Overview, Andrew Garbutt, KPMG



Session 2: P3 Implementation Best Practices, Lessons Learned

P3 Program Development and Project Identification

Grant Holland, WSA

Why Use a P3?

- Shift risks
  - Construction
  - Operations
  - Financial
  - Revenue
- Accelerate Mega-Projects
- Add New Capacity
- Leverage existing funds
- Better match cost to beneficiaries

ADOT's P3 Authority

- Authorizes ADOT to enter into public private partnerships
- Authorizes ADOT to use a number of delivery methods
- Projects can be solicited and unsolicited
  - If unsolicited, ADOT has to decide to pursue and then conduct a competitive procurement
  - ADOT can charge an administrative fee for unsolicited proposals
- ADOT can undertake P3s on behalf of other governmental entities

Project Selection

- Projects can be awarded on “best value to state”
  - Price
  - Financial Proposal
  - Other factors
- Evaluation factors ADOT may consider
  - Cost
  - Financial Commitment
  - Innovative Financing
  - Technical, Scientific. Technological, or socioeconomic merit
  - Other factors
- Selection Criteria must be disclosed in the procurement

Tolling

- Tolls Allowed
  - Toll setting mechanism must be included in the project agreement
  - Allows ADOT to participate in Project revenues
- Authorizes a variety of traffic management approaches
  - General purpose toll lanes
  - HOT Lanes
  - Time of Day pricing
- Does not limit ADOT's ability to build any planned facilities
  - ADOT can build unplanned facilities but with comepnsation if it impacts revenue
- Provides for enforcement of tolls
- Misuse of, including negligently securing data, results in a $10,000 fine **per violation**

Other Provisions

- Does not limit ADOT's ability to build any planned facilities
  - ADOT can build unplanned facilities but with compensation if it impacts revenue
- ADOT may pay a stipend
- ADOT can issue Public Activity Bonds
- ADOT may utilize TIFIA

Eligible Facilities

- Highways
- Railways
- Monorails
- Transit
- Bus Systems
- Guided Rapid Transit
- Parking Facilities
- Rail Yard and Storage
- Vehicles
- Rolling Stock and other related equipment, items or property
- Other related facilities and structures

P3 Feasibility

- There Is No Single Factor That Makes a P3 Project Feasible
- P3 Feasibility is Not an Issue of Design and Construction
  - Design and construction typically constitute about 5% to 10% of a concession's term
- Feasibility of a P3 Project is Driven by Financial and Contractual Considerations
- Support of Project by Public Sector

P3 Types

- Project Structures
  - Design/Build
  - Design/Build/Finance
  - Design/Build/Operate/Maintain
  - Design/Build/Finance/Operate Maintain (Availability Payments)
  - Pure concession
- Projects
  - New Capacity
  - Congestions Reliever
  - Development Driven
  - Managed Lanes
  - Rehabilitation

Elements of P3 Feasibility

- Statutory Framework
  - Authority to enter into a P3
  - Ability of public to participate financially in P3
  - Predictable revenue stream
  - DOT or Transportation Commission/Board as power to approve agreement
- Project Costs
  - Capital costs
  - Operations & Maintenance
  - Long-term or capital maintenance
  - Future expansion needs

Elements of P3 Feasibility

- Economic Considerations
  - Local economic drivers
    - Employers
    - Population growth
    - Tax base
  - Income levels
  - Employment levels
- Traffic and Revenue
  - How does the project fit into the regional transportation network?
  - Alternative routes
  - What, when and where are future facilities planned

Elements of P3 Feasibility

- Project's Risk Profile
  - Startup
  - Design and construction issues
  - Toll rate regime
  - Toll enforceability
  - Change in laws or regulations
  - Permit/Environmental
  - Termination

P3 Feasibility

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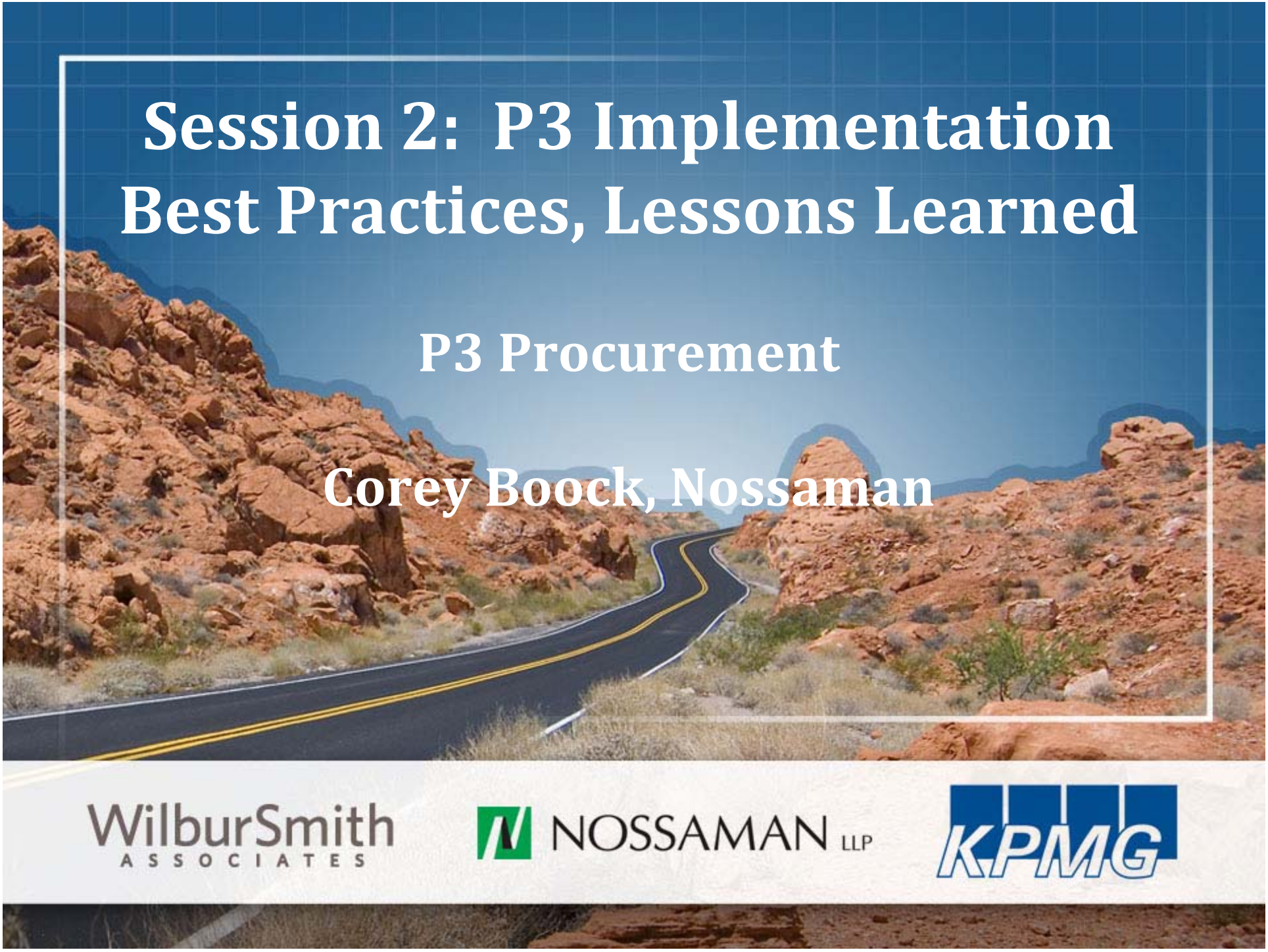
P3 Procurement

Corey Boock, Nossaman



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Overview

- Procurement Approach – Hard Money/Committed Concession vs. PDA
- Procurement Process

Procurement Approach – Hard Money/Committed Concession vs. PDA

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Delivering the Greenfield/Development Project

- 2 Main Procurement Options for PPP:
  - Hard Money/Committed Concession
    - Includes DB, DBF, DBFO (Availability), Concession
  - Pre-Development Agreement (PDA)
- Both contemplated by new AZ legislation
- Advantages/disadvantages to either approach
  - Both successfully used in US

Hard Money/Committed Concession vs. PDA Hard Money/Committed Concession

- Parties = Agency and Developer/Concessionaire
- When to Use
  - Project well defined
  - Major environmental approvals in hand or close (e.g., NEPA/CEQA environmental clearances, 404 Permit)
  - Preliminary engineering complete or close
  - Technical standards/specifications developed or close
  - Basically, the project is able to be priced by engineers/contractors and equity and debt sources will be willing to commit to financing

Hard Money/Committed Concession vs. PDA Hard Money/Committed Concession

- Items Needed to Pursue:
  - Environmental Approvals (in hand or close)
  - Preliminary Engineering
  - If a toll concession, intermediate level traffic & revenue reports
  - Documents that allow full project pricing and financing commitment
    - Form of P3 Agreement that sets out full elements of business deal, including risk allocation
    - Technical Provisions/requirements that set out full project scope and requirements

Hard Money/Committed Concession vs. PDA Hard Money/Committed Concession

- Items Needed to Pursue (cont'):
  - Team
    - Internal Team – Technical, Financial, Legal
    - External Team
      - Financial, Technical and Legal Advisors
      - Traffic & Revenue Consultant
      - Insurance Advisor
    - Team/apparatus to administer contract, project delivery and operations phase
  - $ to fund pre-development and procurement costs
  - $ to support any public subsidy or compensation that may be payable to private sector under PPP agreement

Hard Money/Committed Concession vs. PDA Hard Money/Committed Concession

- Result of the procurement process:
  - Committed pricing and financing – defined financial proposal
  - Defined technical proposal for development
  - P3 Agreement that defines project scope, financial terms, obligations and risk allocation

Hard Money/Committed Concession vs. PDA PDA

- Parties = Agency and Developer/Concessionaire
- When to Use
  - Project less defined
  - Major environmental approvals, preliminary engineering, technical standards development not complete or close
  - Could benefit from private sector innovation and ideas in the concept phase, private sector energy and (potentially) cost-sharing/sweat equity
    - These items may substantially accelerate development of project

Hard Money/Committed Concession vs. PDA PDA

- Items Needed to Pursue:
  - Project concept/basic alignment
  - Basic feasibility analysis
  - Documents that allow pricing of pre-project delivery scope
    - Form of P3 Agreement that sets out obligations for pre-project delivery, milestones and compensation
    - Technical Provisions/requirements that guide the project definition/development phase and that will generally apply to future delivery

Hard Money/Committed Concession vs. PDA PDA

- Items Needed to Pursue (cont'):
  - Team
    - Internal Team – Technical, Financial, Legal
    - External Team
      - Financial, Technical and Legal Advisors
    - Team/apparatus to administer contract and undertake pre-project delivery scope of work
  - $ to fund procurement (less than under the Hard $/Committed Concession Model)

Hard Money/Committed Concession vs. PDA PDA

- Result of the procurement process:
  - Conceptual financial and technical proposal
  - A pre-development agreement
  - Developer assists and supports agency with enviro process (Agency still prepares enviro docs)
    - Can perform studies, prelim engineering
    - Can help develop delivery plan and financial plan
  - Private entity may or may not be paid for this work and may contribute “sweat equity”

Hard Money/Committed Concession vs. PDA PDA

- Private entity often receives a right of first negotiation when the project is defined and capable of being priced and financed
- If milestones aren't achieved or a deal cannot be reached with the private entity, the private entity may get paid something (more) for their services and agency is free to procure a Hard Money/Committed Concession or other means to deliver the project

Hard Money/Committed Concession vs. PDA PDA

- Unlike a Hard Money/Committed Concession, a PDA is not the last step before “delivery” commences
- PDA will lead to:
  - Negotiated concession agreement;
  - Negotiated “other delivery model” agreement; or
  - Procured concession agreement; or
  - Procurement using other delivery model
- Most items “needed” for Hard Money/Committed Concession will ultimately still be needed under a PDA

Hard Money/Committed Concession vs. PDA Comparison - Scope

Private Partner Role	***PDA***	***Hard $***
Private partner participation in predevelopment work	Strategic partner	Minimal Role
Project definition	Strong	Weak
Environmental review	Technical and economic analysis	None
Preliminary T&R work	Yes	No
Investment grade T&R study	Yes	Yes
Value engineering	Yes, all stages	Only via Alternative Technical Concepts at proposal stage, and post-award design
Stakeholder relations	Possibly	More limited

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Hard Money/Committed Concession vs. PDA Comparison - Scope

Private Partner Role	***PDA***	***Hard $***
Technical specification development	Direct participation	Only via industry review and comment
Financial planning analysis	Yes	Yes

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Hard Money/Committed Concession vs. PDA U.S. Examples Where Used

- Hard Money Concessions
  - IH 635 and North Tarrant Express Projects (Texas DOT)
  - Port of Miami Tunnel and I-595 (Florida DOT)
- PDAs
  - SR-91 and SR-125 (Caltrans)
  - TTC-35 and TTC-69 (Texas DOT)
  - Mid-Currituck Bridge (North Carolina Turnpike Authority)

Procurement Process

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Procurement Process
Overall Timeline

- Hard Money/Committed Concessions
  - Approximately 15-21 months (12-15 months to execution; 3-6 months to financial close)
    - Assumes technical and “committed” financial proposal submittal
  - 3-5 months for submittal of proposal after RFP issued
    - Depends on complexity of technical submittal requirements and required “commitment” level of financial proposal
- PDAs
  - Approximately 9-15 months
  - 2-3 months for submittal of proposals after RFP issued

Procurement Process Comparison

	PDA	***Hard $***
Selection Criteria	Qualifications/Concepts	Defined Financial/Technical
Competition For P3 Agmt.	Yes for PDA Scope Sole source negotiation for ultimate deal (subject to price reasonableness)	Yes
Transparency	Moderate	High
Timeline	9-15 months	12-18 months

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Procurement Process Phases

- Procurement is in 5 or 6 Phases (AZ legislation allows this approach)
  - RFQ (2-3 months)
    - Result: Shortlist of 3-5 Proposers
  - Industry Review (2-3 months)
    - Result: Issuance of RFP
  - RFP (3-5 months)
    - Result: Proposals
  - Selection/Award/Negotiations (2-3 months)
    - Result: Apparent Best Value Proposer
  - Commercial Close (1 month)
    - Executed P3 Agreement
  - If Hard Money/Committed Concession, Financial Close (3-6 months)
    - Financially closed deal

Session 2: P3 Implementation Best Practices, Lessons Learned

P3 Market Overview

Andrew Garbutt, KPMG

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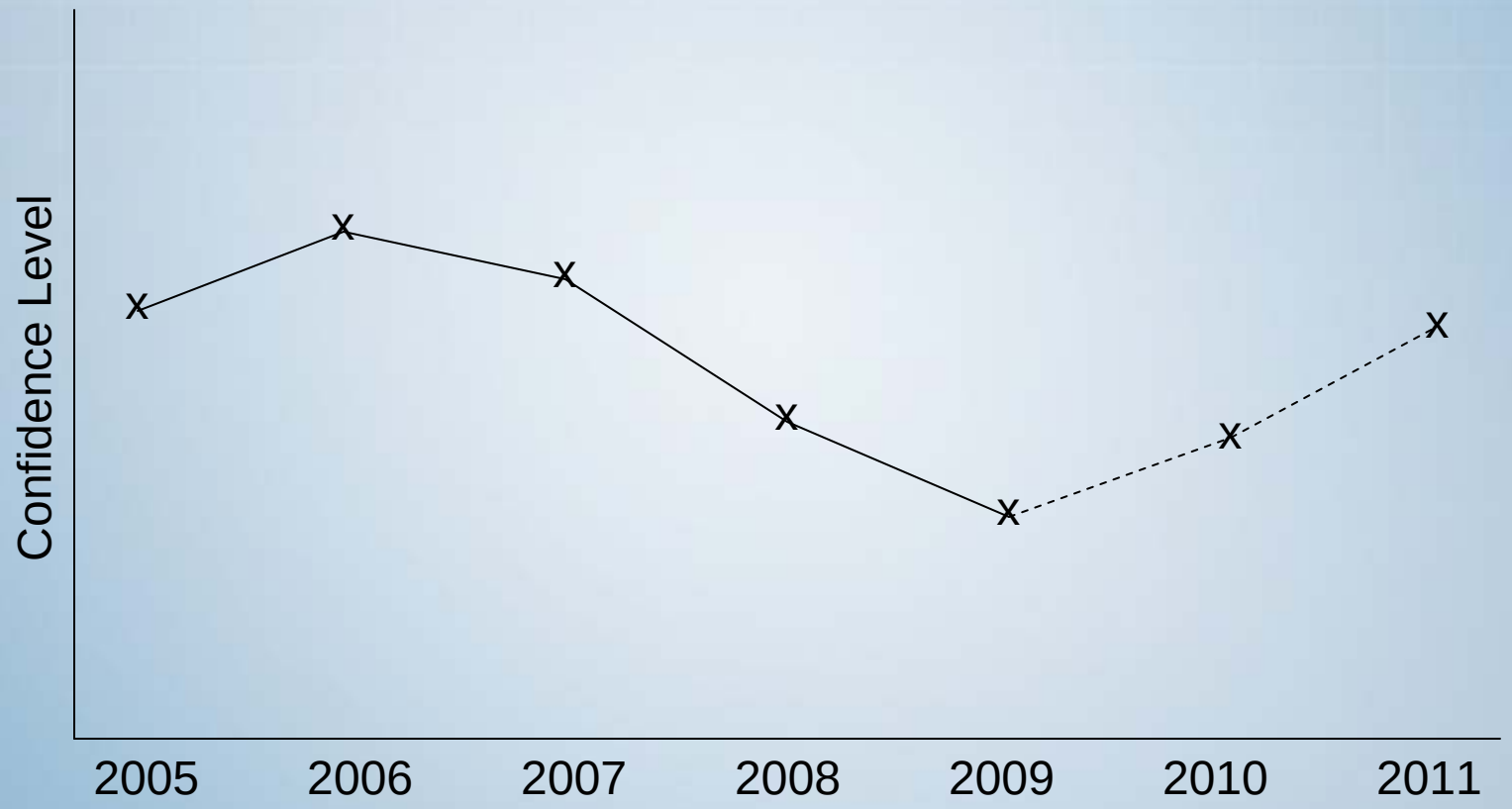
P3 Market Confidence: 2005 - 2011



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2005/2006

- US P3s – " The next big thing for the global infrastructure market"
- Pioneer States: Texas, Florida, Virginia – Procuring multiple P3 projects
- USDOT supportive
- High profile monetization transactions in the market
  - Indiana Toll Road
  - Chicago Skyway
  - Chicago Parking

2007/2008

- Growing interest across states
- More state enacted P3 legislation
- Contractors, lenders and investors “bullish”
- Political backlash from interest groups
- Texas toll road moratorium
- Federal political uncertainty (2008)
- Credit crunch bites
- Economic downturn
- Project economics begin to suffer
- High profile setbacks – Pennsylvania Turnpike, SH 121 (Politics not project economics won the day)

2009

"A Year of Contradictions"

The Bad

- The credit crunch continues
- Dislocation in the capital markets
- Declining federal, state and local tax revenues
- Uncertainty regarding SAFETEA-LU reauthorization
- TIFIA close to capacity
- Not a good time for asset monetizations
- Still too many "political stumbling blocks"
- Credibility gap seen at state legislature level
- Some infrastructure players moving out of the US market
- Seed dollars are scarce

The Good

- Infrastructure is high profile
- Federal stimulus bill
- More states and municipalities looking seriously at P3, e.g., Arizona, Michigan, California, Los Angeles, NYC
- Equity markets open for business
- Debt markets open for business
- New P3 sectors opening up, e.g., Long Beach Courthouse, Michigan Data Centers
- Good deals still getting done
  - TxDOT North Tarrant Express & I-635
  - FDOT I-595
  - FDOT POMT – financial close imminent

2010/2011

"What This All Means"

- The world hasn't ended!
- The P3 market continues to grow
- More sectors opening up, particularly social infrastructure
- Deal structuring is more robust – lenders paying attention
- Non-revenue risk models gaining popularity
- This is about infrastructure **not** financial engineering
- A big uptick in feasibility work – VFM & costs benefit analysis
- An increasing recognition at federal and state levels of the need and value for robust comparator analysis

But…

- Political issues still seen as more harmful than economic issues
- The P3 industry needs to continue to provide unbiased education to stakeholders

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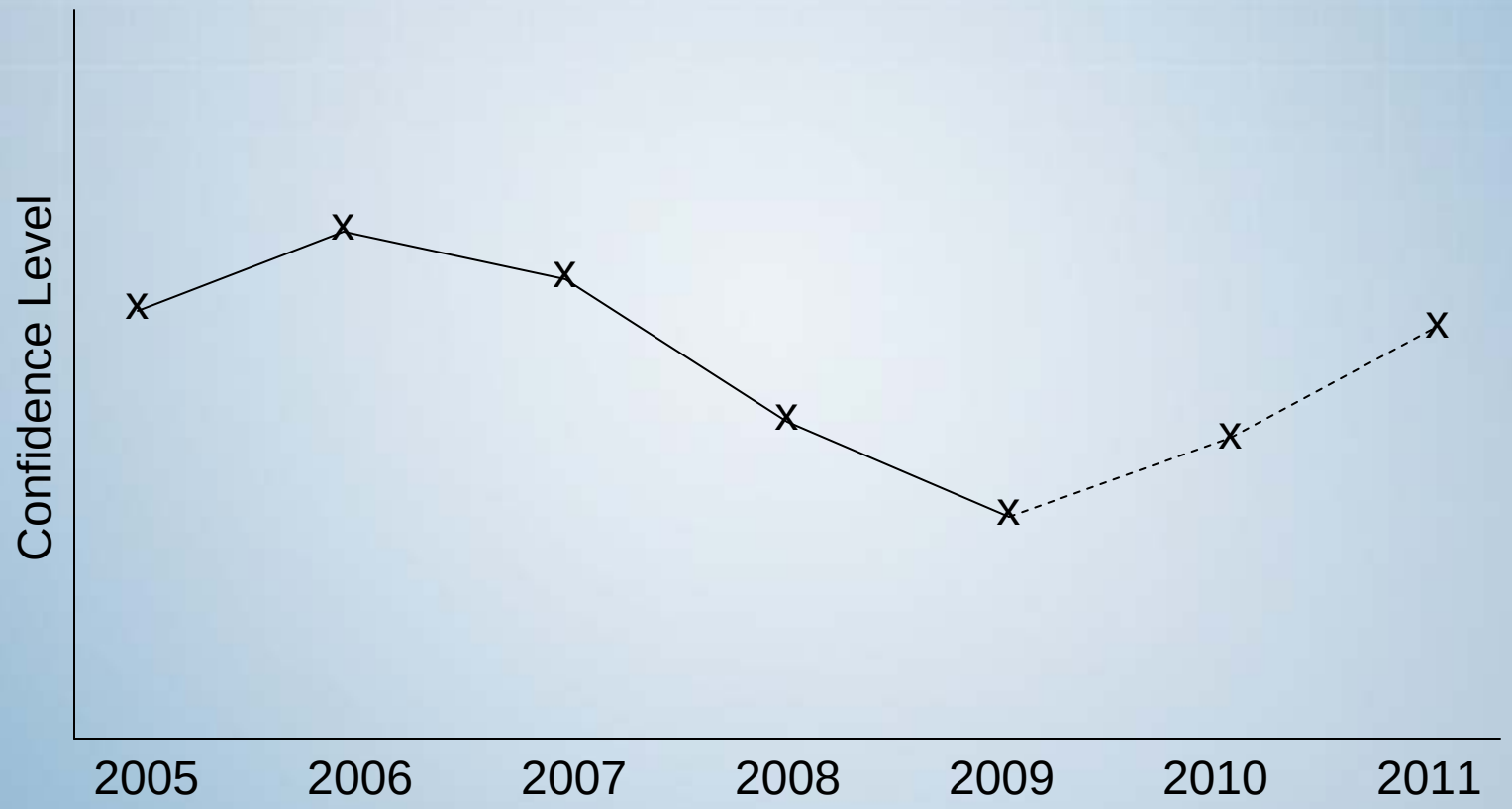
P3 Market Confidence: 2005 - 2011



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Arizona's Next Steps Toward P3 Implementation

Gail Lewis

Assistant Director for Policy and Governmental Affairs

Arizona Department of Transportation

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New Criteria for Infrastructure

- Affordability – can we afford to build it? Can we afford to maintain it?
- Sustainability – can we build it greener? Can we maintain it greener? What will be the long term impact on environmental sustainability?
- Mobility – will it enable the movement of people and goods today? Tomorrow? Will it reduce congestion? Will it improve safety? Will it improve economic opportunity?

Or, to quote HNTB: Lean. Green. Keen.

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ADOT'S Key Needs

- Enhanced capacity in urban areas
- Greenfield projects to accommodate new growth
- Border connectors
- Rest areas!
- Transit and rail?

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The Perils of P3s

- Public opposition to “selling” public assets
- Inadequate public debate – closed door deals
- Randolph-Sheppard Act
- Uncertainty about existing investment climate
- Extended negotiations with no results
- Opposition to tolls:
  - Public
  - Trucking companies

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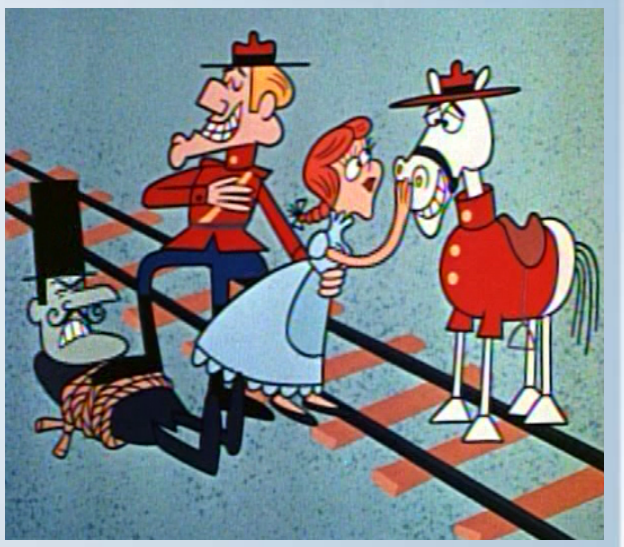
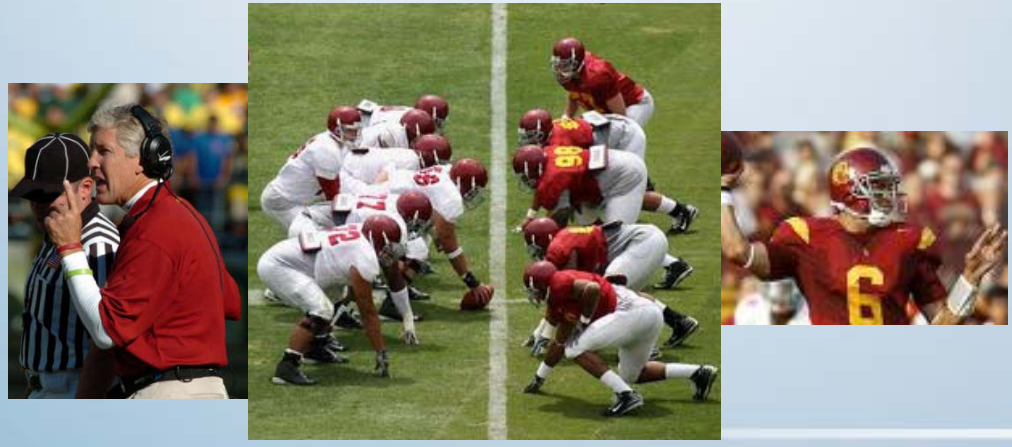
ADOT Principles

- Develop a program based on national Best Practices
- Develop a transparent process for the evaluation and implementation of P3 projects
- Integrate P3 projects into statewide transportation plans
- Use P3 projects to better leverage the State's limited resources
- Create P3 projects that are financially viable over the long-term
- Create P3 projects that will enhance mobility and improve safety



Moving Forward

- Very complex and outside normal course of business
- Take advantage of being relative late comers by using best approaches proven by others
- Coach, quarterback and team



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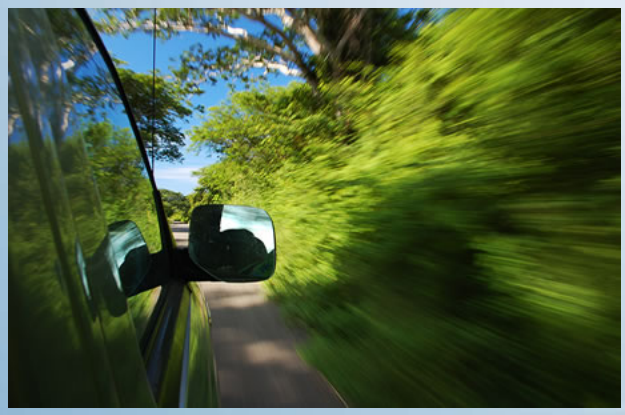
Moving Forward

- Wilbur Smith has been hired and will assist in development of:

  -articulating the agency's primary objectives in using public private partnerships

  -developing RFPs for long term advisory services in finance, legal affairs, engineering, and communications.

  -rules, policies and procedures that ADOT will need to implement the law (procurement, for example)



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Moving Forward

- Wilbur Smith has been hired and will assist in development of:

  -criteria for determining what types of projects are good candidates for P3s

  -internal ADOT resources and expertise necessary to manage P3 projects

  -incorporate P3s into our existing planning process

  - develop web site to inform the public and potential private partners of progress

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Moving Forward

- Award proposals to long term advisors in December
- Consultations with COGs, MPOs, local governments, developers, etc.
- Expect a combination of projects put forward by ADOT and unsolicited projects from private partners.
- Interested in exploring P3s for rest areas.
- Interested in exploring P3s for other modes of transportation If successful in transportation, will be of interest for other government services (water, vertical construction, facilities)

Be ready to entertain potential projects on January 1, 2010.

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Border P3s

- Most Active States
  - Texas
  - Michigan
  - California
- DHS needs estimated at $6 billion just for existing POEs
- P3s used for connecting facilities, not within POEs
- Minimal experience outside of private bridges

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Times are tough, but rest areas are still important

- *Safety*: Passenger and professional driver fatigue, result in an estimated 100,000 crashes, 1,550 deaths, 71,000 injuries, and $12.5 billion in monetary losses
- *Tourism:* Opportunity to encourage and direct tourism
- *Economy and efficiency:* Staging area for trucks, which utilize rest area facilities to manage “just in time” pick ups and deliveries

Interstate Oasis vs. State-governed Enhanced PPP

- Interstate Oasis program requires lockstep with federal criteria
- Utah has its own enhanced P3 program with its own standards :
  - Selectivity: don't have to take every facility that meets basic federal criteria
  - Standards: can go beyond federal standards

Next Steps for Rest Stops

- More detailed discussions with Utah and FHWA
- Establish priorities for procurement
- Consider oversight and inspection responsibilities
- Begin solicitation and outreach with private partners
- Seek partners for new, off-highway rest areas
- Have program ready to go in 2010

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In Conclusion…

- Public Private Partnerships are not “the” answer. *Most facilities are not candidates*.
- Helpful tool but NOT a long term solution to the serious lack of funding. Can’t let the need to do this distract us from the big picture.
- We’ll be ready in

  early 2010 –

  but ready for

  what?

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Arizona P3 Workshop
Public Private Partnerships... The Hot Topic
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