THE LAW COURTS PPP:
PUBLIC PRIVATE PARTNERSHIPS AND THE EVOLUTION OF INFRASTRUCTURE PROCUREMENT IN THE ACT

ACT Government

FACT SHEET

THE PARTNERSHIPS FRAMEWORK

The Law Courts Public Private Partnerships (PPP) project is a pathfinder for the Territory. The Territory started this journey in December 2013 with the launch of *The Partnerships Framework* and announced that the courts would be the first PPP project. Whilst this is the Territory's first PPP, it has the benefit of decades of "lessons learned" from other jurisdictions. Public Private Partnerships are a sophisticated form of procurement that involves the integrated purchase of design, construction, operations, maintenance and financing.

WHAT BENEFITS DOES A PPP BRING?

PPPs involve a significant transfer of risk to the private sector. The value of this risk transfer more than compensates for the higher cost of funding borne by the private sector as compared to government. Other benefits include driving innovation in design and operation, reducing cost and improving functionality. This can generate significantly reduced whole-of-life costs

HOW DOES A PPP WORK?

In response to a call for Expressions of Interests, consortia form to bid on the project. Each consortium typically comprise companies specialising in design, construction, project management, facilities management and operation, equity and debt financing. PPP sdiffer from traditional procurement models (such as Design & Construct) in a number of ways. Rather than commissioning a separate design, the PPP solution is developed through an Interactive Tender Process. This involves numerous workshops held between government's various stakeholders and each bidding consortium. Through this process a solution is iteratively developed which is aligned with the government's functional needs and stakeholder expectations.

OPERATION AND MAINTENANCE UNDER A PPP

PPPs incorporate the delivery of a range of services. The government does not just procure a building, but rather signs on to a comprehensive service offering over an extended period of time (e.g. 25 years). This can include building operation and maintenance including lifecycle costs, facilities management, such as cleaning and security, as well as the delivery of specific services. The bidding consortium needs to take the long term nature of their service offering into consideration in the way they design and construct the project. They need to ensure that it can be operated and maintained on a cost effective basis over the long term.

FINANCING IN A PPP

The most significant difference between PPP and "traditional" procurement is the presence of private finance. Debt and equity investors provide upfront capital to fund the construction of the project. Only when the project is completed and operating does the consortium typically start to be paid for construction and earn a return on their investment. This return comes by way of Availability (or Service) Payments across the life of the project or concession period (e.g. 25 years).

Many of the benefits of the PPP model are driven by this financing structure as it strongly incentivises the consortium to:

- complete the project on time in order to commence earning availability payments;
- design the project to ensure efficient and cost effective operation whilst meeting stakeholder expectations;
- construct the project with durable materials to ensure cost effective maintenance; and
- meet government's expected performance standards (KPI) to avoid a reduction in payments.

PAYING FOR THE PROJECT UNDER A PPP

The usual way government pays for the asset and services delivered by the PPP is through regular Availability Payments. These payments only commence once the asset becomes operational and services commence. Payments are not unconditional and can be reduced (abated) if Key Performance Indicators (KPI) are not met.

PPPs IN THE ACT

The interest in the Territory's PPP projects has been strong to date. Six responses were received for the ACT Law Courts PPP at the Expression of Interest stage and four responses were received for the Capital Metro light rail project. Consistent with *The Partnerships Framework* both projects were shortlisted down to two bidders for the Request for Proposal stage. Shortlisting to two bidders has permitted a more cost effective and streamlined evaluation process for the Territory.

FUTURE PPPs

Looking forward, there are many opportunities to apply the PPP model to meet the Territory's infrastructure needs. Consistent with ACT Government policy, each infrastructure project with a cost estimate greater than $50 million will be assessed through business case development for possible PPP delivery.

PPP offers the Territory a proven and effective model to deliver infrastructure that will ensure Canberra remains a modern, vibrant and growing city.

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