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For **Joseph Charczenko** at Construction Risk Partners LLC

US market sees social infrastructure gaining steam

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Many industry experts are expressing optimism for the growth of the P3 market for courthouses, campuses, prisons and even hospitals. Several hurdles, including low cost tax-exempt financing, remain, but the US market for these projects is expected to continue to develop in spite of these barriers. *InfraAmericas* reporter Eugene Gilligan outlines the positives and pitfalls of social infrastructure P3s in the US.

Some say US social infrastructure P3s will never reach the same level as other countries like Canada and the UK. However, the number of projects in the market has increased, and industry experts say that more P3s in education, healthcare and criminal justice could be on the horizon. Many are expressing moderate optimism for the US market, which contains some major hurdles.

One significant project, the USD 1bn UC Merced Campus, recently received a robust response to its RFQ, and several more projects have been completed or are in various stages of procurement and planning. Organizations like the West Coast Infrastructure Exchange and the Performance Based Buildings Coalition are focusing attention on the subsector, and industry sources tell *InfraAmericas* that the time is right to talk about social infrastructure as a source of growth in the US P3 pipeline.

Snowball effect

Mike Marasco, CEO of Plenary Concessions, sees a “snowball effect” in the US’s social infrastructure marketplace as jurisdictions look to emulate the successes of others. Projects such as the Marion County Justice Complex and the Long Beach Civic Center are in procurement, while officials in Houston are considering a potential DBFOM for the Houston Justice complex and in Multnomah County, Oregon, for a courthouse.

A roster of successful P3 transportation projects will reflect well on P3 projects overall, said Samara Barend, senior vice president and director of P3s for AECOM.

Marasco said that it is likely that procurement agencies in state transportation departments will expand their mandate into social P3s. Virginia is making that move, and Colorado’s High Performance Transportation Enterprise (HPTE), which procures transportation projects, is another that is likely to move in that direction, he said.

The HTPE “is open to” expanding its mandate, said Kari Grant, HPTE Specialist, although the focus now is on working fully on priority transportation projects.

Higher cost financing

Jeffrey Cangemi, senior vice president at Balfour Beatty Investments, noted that social infrastructure P3s in other countries have not had to compete with tax-exempt financing. In this environment, a P3 structure will have a higher cost of capital, which will many times be a deal breaker. That cost “can be a hard thing to break through,” Cangemi says.

The differences in cost between a P3 and the same project financed with tax-exempt debt cannot be easily calculated, as it can depend to a large extent on the split between debt and equity, and the condition of the debt markets, says one source familiar with social infrastructure projects.

A value-for-money study would be the best way to compare a traditionally delivered social infrastructure project and a P3, said Geoffrey Stricker, managing director of Edgemoor Infrastructure and Real Estate. The study would compare the design-build, financing, and O&M costs over 30-40 years. The method is able to determine on a net present value basis which method is more cost-effective, that is, carries a lower net present value, and therefore provides better value for the taxpayers, he explained. A simple comparison of financing costs doesn't capture the true benefits of a P3 project from an innovation, speed of delivery, cost certainty, operations, and lifecycle perspective, he argues.

It can also be difficult to win stakeholder support among local contractors and unions “who may be leery of a new approach,” Cangemi says.

Some politicians have reservations about committing budgetary funds for the long concession term of a P3 contract, Cangemi says, although he points out that municipal bond issuances also have a long duration.

And states, counties and cities also face the roadblock of not having P3-enabling legislation, he says, though Barend notes that states such as Florida, North Carolina and Texas have P3 enabling legislation.

Select US P3 Projects: Status Check

Project	Status	Grantor	Amount
Indianapolis Courthouse	Shortlisted Proponents	City of Indianapolis	USD500m
U. of California, Merced Campus Expansion	RFQ Response	University of California, Mercd	USD 1bn
Long Beach Civic Center	Shortlisted Proponents	City of Long Beach	USD200m
Multnomah Country Courthouse	Pre-Launch	Multnomah County (OR)	USD250m
Houston Justic Complex	Shortlisted Proponents	City of Houston	n/a
Source: *www.Infra-Deals.com*			

Bridges model

One major transportation project, the Pennsylvania Rapid Bridge Replacement project, could provide a template for social infrastructure, says Roderick Devlin, Of Counsel with Squire Patton Boggs. Due to their smaller size in comparison to transportation projects, several social infrastructure projects may have to be bundled together to attract the interest of private investors.

Because of that need to bundle projects, it will pay to watch how Pennsylvania’s bridges project proceeds, since it bundles a number of bridge rehabilitation projects into a single P3, he says.

Peter Raymond, US leader, Capital Projects and Infrastructure for PwC, believes social infrastructure is the “next frontier."

University campus frontier

That “next frontier” could include a roster of university P3s, Cangemi says, with many state universities seeing enrollment increasing. But, along with that good news is the bad news that states, due to fiscal belt-tightening, are contributing less funding to state university systems. There will be a greater interest on their part to take a closer look at alternative funding sources, he says.

Patrick Harder, partner at Nossaman, says that while Britain and Canada have seen a large roster of healthcare projects, that may not be the case here, as in the US many hospitals are privately-owned or non-profit. There may be an opportunity for P3s for healthcare facilities in prisons, since they are state-owned.

P3s are also a good fit for revenue-generating projects, such as sports stadiums and performing arts centers, Harder says. Marasco sees opportunity for county-owned hospitals in California, as many are in need of upgrades to meet new seismic standards.

But some challenges do stand in the way of a more robust P3 pipeline. The City of Chicago, which has home rule, has the authority to use P3s, and could use the structure to rehabilitate some of its aging school buildings. But P3s such as the Chicago Skyway and the Parking Meters deal have harmed P3s' perception with the public, he says.

Industry coalitions

The lack of a centralized P3 procurement agency, such as Canada’s Infrastructure Ontario and Partnerships BC, has been a hindrance to social P3s in the US, Stricker says. These type of agencies could help support state and local governments by providing knowledge and expertise regarding P3 transactions.

The picture has brightened a bit, Stricker says, as organizations like the West Coast Infrastructure Exchange, which includes California, Oregon, Washington, and Partnerships BC, could help to fill that void.

A coalition of P3 industry executives has formed to advocate for leveling the playing field for P3s. The Performance Based Building Coalition is lobbying for the creation of a new category of Private Activity Bond that can be used for social infrastructure projects. The group is also advocating for the creation of a federal, low-cost loan program, modeled on the Department of Transportation’s TIFIA loan program that has been a key part of many transportation P3 projects.

Barend, the founder of the PBBC, says the group is working to get PABS for social infrastructure into the next transportation funding bill. The short-term funding patch, which President Obama signed on 8 August, expires next May.

The fate of the legislation is still to be determined, but if it does become law, Marasco predicts an “explosion” of US social P3 projects.

Following a model
One hurdle to filling the pipeline with social infrastructure projects is a lack of legislative authority on the part of state, county and local authorities to do a social infrastructure P3.

Earlier this year, Nossaman released model social infrastructure P3 legislation. A draft version of the model bill was released for public comment in April, and after some minor revisions, a final version was released in June.

The bill provides authorizations that a public entity would require to enter into a P3 agreement for social infrastructure projects. But the bill also provides the necessary amount of “procurement flexibility” for the public agency, says Yukiko Kojima, partner at Nossaman.

One important aspect of the legislation allows for two or more projects to be bundled into a single P3. It also allows the public agency to enter into a development agreement, and also allows for unsolicited proposals, Kojima says.

“The public sponsor is authorized to pay stipends or payments for work product on terms and conditions and in such amounts as determined in the public sponsor’s discretion," the bill says.

The bill authorizes the procuring agency to pay stipends to shortlisted proposers, and under certain other circumstances, such as when a procurement is cancelled prior to the due date for RFP proposals.