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***INNOVATIVE MODELS FOR THE  
DESIGN, BUILD,  
OPERATION & FINANCING OF PUBLIC  
INFRASTRUCTURE***

With local, state and federal budgets stretched thin, public-private partnerships offer numerous advantages over the traditional approach to meeting public infrastructure needs. Mainly, public-private partnerships can create public infrastructure faster and cheaper, eliminating the need to ask taxpayers to approve funding or bonds or, to put projects out for bid the “old fashioned way” in a time consuming and costly fashion. Plus a private partner has a powerful incentive – namely profits – to be as efficient as possible.

Local governments operating through public-private partnerships have institutionalized a new way of doing business. The process includes:

- a result-oriented and performance based relationship,
- assessment and transfer of the risks to the private partner,
- use of the competitive request for the unsolicited proposal process,
- assurances of performance through contractual terms and conditions, and
- the use of consultants to assist in the public-private partnership process.

**Public-Private Partnerships Allow  
Communities to Control the Services and Facilities  
through Performance-based Contractual Terms and Conditions**

Public-private partnerships allow local governments to control the service and infrastructure such as wastewater management and facilities through contractual terms and conditions. Contract requirements set performance standards in measurable terms. With modern technology including computer maintenance programs, real-time reporting of data, and monitoring, local governments can ensure that private partners meet the performance standards.



To establish safeguards and risk management, local governments can use (a) an annual performance review of private sector operations, (b) reverter clauses (which allow a local government to retake possession of outsourced facilities should a breach of contract occur), (c) indemnity and hold harmless provisions, and (d) performance bonds or letters of credit. To further protect its citizens, local governments may include contract provisions which restrict rate increases and reduce risk. A local government's ultimate protection can be contract termination clauses or other similar escape clauses.

In today's environment, local governments simply do not have the capital to maintain, expand and/or upgrade sewer systems and treatment plants, much less keep up with the on-going EPA mandates and state (such as SB550) mandates. The result is sometimes dismal; systems in disrepair, barely meeting environmental standards, operated by inefficient workforces, at an inflated cost to the taxpayer.

### **Unsolicited Proposal Procurement Models – A Time and Cost-Effective Way to Meet Infrastructure Needs**

The "unsolicited bid proposal" process allows for the receipt of unsolicited bids from proposers to contract for the design, construction, operation, and financing of public infrastructure such as wastewater facilities. Through imposition of a processing or review fee, the local government's staff costs for technical and legal review are reduced or eliminated. Upon submission of a proposal and processing fee, the local government shall have 90 days, or additional time if required, to accept the proposal (should it meet the local government's project purposes and informational requirements) solely for the purpose of publishing notice to other prospective proposers. Thereafter, other proposals can be submitted within a specified period of time following "acceptance" of the initial proposal and publication of its "acceptance". Once the response period has expired, the local government shall evaluate all proposals and rank them in order of preference utilizing the criteria published for the specific project. The local government is free to negotiate with all, one or none of the proposers to arrive at a mutually satisfactory agreement.

Advantages are significant. The unsolicited bid proposal process taps into private-sector innovation and entrepreneurship while avoiding time consuming and costly expenditures in hiring engineering, design and financial experts to assist in preparing detailed solicitation documents. An additional advantage is that the unsolicited bid proposal process allows for an expedited review and procurement process while still establishing a platform for competitive proposals. The enactment of an unsolicited bid proposal process simply requires the adoption of a policy or ordinance detailing the unsolicited proposal review process and acceptance schedule.