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BY CHRISTIAN BRAZIL BAUTISTA MARCH 9, 2016

The Social Network: Government and Private Sector Focus on "Social Infrastructure"

The collaboration between government and the private sector has taken a more social turn.

Public private partnerships, once forged mainly for infrastructure projects, have now expanded to benefit society in a different way, resulting in the creation of "social infrastructure" such as housing, education and healthcare.

Michael Zetlin
Co-Founding Partner
Zetlin & De Chiara LLP

"You have this partnership arrangement for the benefit of the social good, for the good of the public," said Michael Zetlin, a senior partner at law firm Zetlin & De Chiara.

According to Zetlin, social public private partnerships, as such deals are now called, offer a mutually beneficial arrangement to both sides of the transaction.

The private sector gets public land to build on while the government gets funding for major projects.

Zetlin claims that the arrangement has proven attractive to investors around the world, with private equity firms and foreign investors competing for projects across the country.

"When you think of private-public, you basically think of infrastructure jobs. Social public private partnerships are focused on other partnership joint venture arrangements between the public and private sectors for different types of projects.

"It can be, for example, security (police stations, prisons), healthcare (hospitals, clinics), civic convention centers, things of that sort," Zetlin said. "It's a tool. It's an option to help accomplish and achieve these projects. The public has the benefit of certainty with costs and schedule.

"It's not a transfer of the asset. But you get the guarantee of performance for the project. That is the intent behind these P3s, when you get these projects to market that otherwise may never happen."

According to Richard Anderson, the president of the New York Building Congress, the entry of social P3s would help address a funding shortfall for the city's social projects.
"The capital needs of New York City are at least double what the city's capital budget is right now. That includes schools, includes libraries, and includes all of the facilities that are considered social P3 candidates," he said.

Right now, however, the footprint of social P3s in New York is capped.

There is no enabling legislation for social P3s, or P3s of any kind, in the state. This means that such deals can only be struck through public authorities such as the MTA and the Port Authority.

Recently, the Port Authority, which has a special charter that is not covered by state procurement laws, closed on a design-build-finance-and-maintain P3 contract for Goethals Bridge in Staten Island. The agency also tapped into P3s for the renovation of LaGuardia Airport's Central Terminal Building.

According to a 2013 report from state comptroller Tom DiNapoli, policy makers in the state level earlier considered authorizing P3s. The executive budget for fiscal year 2013-2014 included a proposal for "design-build finance" that would have enabled private investment in public projects. However, the provision was not included in the enacted budget.

Currently, only a few agencies, such as the Department of Transportation and the New York State Thruway Authority can enter into design-build contracts.

P3s are currently in their infancy in New York, which means it is lagging behind the majority of states in the country. Anderson said that the absence of legislation is keeping projects in limbo.

"The idea of private investment in public facilities is a very good one and it should happen in New York. We have plenty of worthy opportunities. But whether it will happen is a serious question and I say that because we don't even have enabling legislation," he said.

Advocates of social P3s get to argue their case at the "Social Public Private Partnerships: A New Tool for Real Estate Development" panel discussion at Club 101 on Thursday morning (March 10).

The panelists for the event include Zetlin, Skanska USA EVP Larry Casey and KPMG Infrastructure Advisory Group Managing Director Thomas Mulvhill.