

## Best Practices/Issues for Consideration 2009

	Item	Working Group Discussion Points 6/09/09	Status
1	<b>Award bonus points for state grants that are applied to PPEA projects</b>	This item needs to be fleshed out more. It is unclear what entity would award the bonus points and what entity would be awarded the bonus points. Would the bonus points have to be awarded to all subsequent proposers?	
2	<b>Clarify the role of the Public Private Advisory Commission to include a more functional role for the Commission and to position the Commission to encourage the use of the PPEA projects at the state level.</b>	Staffing for the Commission may be an issue; DGS not be in the best position to provide independent review. Commission must establish a process for reviewing ; to be effective, the commission must adopt a process to carry out its review	
3	<b>Create a PPEA "czar" in the administration who will advocate use of PPEA or at least serve as a central clearinghouse in the administration for PPEA to speed approvals.</b>	May be more appropriate for the position to serve as an information source rather than as an advocate. Could be accomplished by designating a point of contact in each RPE.	
4	<b>Request the Office of the Attorney General to assign an individual to specialize in the review of PPEA agreements to assist in accelerating the process.</b>	A good idea; development of expertise. May already be in place.	
5	<b>Develop model comprehensive agreements and interim agreements.</b>	Should be viewed as a template to start from rather than model or uniform document. Consider multiple templates to cover services and the different types of projects. Query-who would develop? <b>Concerns:</b> (i) fear that would be viewed as "uniform" agreements rather than templates, (ii) models can quickly become outdated, and (iii) standardization may lessen creativity and ingenuity. The key is for the RPE and proposer's expectations are the same and that the project specifications are clearly understood.	
6	<b>Should the definition of "qualifying project" be amended to remove the "list" and use a more general definition?</b>	2007 amendments have alleviated the main source of contention- the inclusion of services. Act is sufficiently clear that list is not exclusive.	

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7	Does the PPEA process, in particular when unsolicited proposals are involved, provide for an adequate level of competition?	2007 amendments provided several points in the process giving notice to the public and potential competing proposers. The best prospect for success in terms of competing proposals is the amount of time the proposal is advertised for competing proposals.	
8	Should the PPEA model guidelines (or statute) provide more specificity or clarity regarding the level of communication that the RPE has with potential bidders. Currently, the amount of communication with potential bidders varies widely by jurisdiction and state agency.	2007 amendments to the current model guidelines include language requiring the RPE to make staff available to entities considering competing proposals. It was noted that many localities do not update their guidelines. Annual updating of guideline should be recommended for best practices.	
9	Should there be a time limit on how long a PPEA proposal can be reviewed?	Public entity representatives asserted the need for flexibility to perform adequate review; result would be rejection of most proposals. From the private entity perspective it was noted that the review period may be limited by placing a time limit on the pricing included in the proposal	
10	Clarify applicability of mandatory procurement source requirements to PPEA projects. (e.g. the Virginia Correctional Enterprises)	The intent should be clear. Whether the requirements apply or not and any relevant criteria for application should be stated in the PPEA.	
11	Does the PPEA adequately protect against inappropriate or unlawful conflicts of interests?	Relevant conflict of interest statutes are already applicable. Model guidelines currently include reference to State and Local Government Conflict of Interest Act.	

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<p><b>12</b> Is the level of public participation at key stages of the proposal review process adequate?</p>	<p>2007 amendments and SB 1153 (2008) have enhanced public participation.</p>	
<p><b>13</b> Should the PPEA require an RPE deciding to reject a services proposal to formally state the basis for the rejection to include addressing the purported savings and efficiencies asserted by the private entity? In addition, should there be an appeals process available to the private entity presenting the proposal?</p>	<p>Should not be a requirement, but best practices should provide for the RPE, if requested, to make staff available to a losing proposer to discuss basis for decision. Providing for an appeals process would add time to the process.</p>	
<p><b>14</b> Should the PPEA discourage an RPE from rejecting an attractive unsolicited proposal then converting all or part of the proposal into a standard RFP?</p>	<p>Would be difficult to address through statute; also difficult to enforce. The RPE may have already been working on an invitation for bid involving the same or similar subject matter before the unsolicited bid was submitted. It would be difficult to untangle which aspects of the rejected proposal have been included in the standard RFP subsequently issued by the RPE.</p>	