Susman, Catherine – Written Assignment 3

Marlowe, Riverbark, & Vogt (2009), note that public-private partnerships (P3's) present unique challenges in the area of accountability (p. 93). Critics of these types of structures see the P3's as based on money and profit for the private sector, not necessarily on the achievement of the public good (p. 93). This perception is not easily overcome because it seems for every successful P3, there is an unsuccessful one (Romoff, Sanger, Slact, & Stence, 2015). In analyzing the unsuccessful P3 projects, frequently one of the downfalls of the project is its lack of accountability in part due to a lack of transparency (Marlowe, Rivenbark, & Vogt, 2009, p. 111). This lack of transparency is, in turn, due to the fact that private sector entities are not accustomed to publically disclosing their financial positions or business plans (p. 111). This inherent difference between the public sector and private sector is one of the unique features of a P3 that must be overcome to allow for a successful P3 project (p. 111). Toward this end, Marlowe, Riverbark, & Vogt (2009), provide an overview of three tools that the public entity partner may include in the public-private partnership (P3) project to increase transparency and accountability: (i) the inclusion of qualifying condition requirements; (ii) the inclusion of disclosure requirements; and (iii) the inclusion of enforcement provisions (p.111).

The first tool, qualifying conditions, refers to structuring the P3 agreement to include certain requirements the P3 project/private-entity partner must meet such as the creation of a set number of new jobs or a requirement to for the private entity remain on site for a certain number of years (Marlowe, Rivenbark, & Vogt, 2009, p. 113). Many times these types of requirements are paired with public subsidies (p. 113).

The second tool, disclosure laws, broadly refers to any requirement related to the disclosure of the financial details and business practices of both the P3 and the private entity. These disclosure requirements may be through inclusion of requirements in the P3 agreement or based on legal and regulatory requirements such as those issued by the Governmental Accounting Standards Board (GASB) (Marlowe, Rivenbark, & Vogt, 2009, p. 113). With respect to legal and regulatory requirements, as expected, public entities will need to follow certain requirements for P3s (p. 114). For instance, in November 2010, GASB issued Statement No. 60, relating to service concession arrangements, a particular type of P3 (Governmental Accounting Standards Board of the Financial Accounting Foundation, 2010). Further, in May 2020, GASB issued Statement No. 94, providing specific uniform guidance regarding requirements for financial reporting and accounting for all types of P3 arrangements as well as modifications increasing the requirements under Statement No. 60 (Governmental Accounting Standards Board of the Financial Accounting Foundation, 2020). Additionally, in April 2016, Federal Accounting Standards Advisory Board (FASB) issued its Statement of Federal Financial Accounting Standards 49 regarding disclosure requirement for P3s (Financial Accounting Standards Advisory Board, 2016). Overall, whether through the inclusion of disclosure requirements in the P3 agreement or through compliance with regulations such as GASB or FASB, the P3 arrangement needs to include disclosure of financial and business practice information that transparently addresses many key issues such as on whose financial statement the P3 property and other resources will be reported and what impact such reporting will have on that entity (Marlowe, Rivenbark, & Vogt, 2009, p. 114).

Lastly, the third tool, enforcement provisions, refers to the inclusion of incentives or penalties in the P3 agreement that encourage the private entity to meet one or more qualifying conditions (Marlowe, Rivenbark, & Vogt, 2009, p. 114). Generally, penalty provisions (a.k.a. stick provisions) may include requiring the private entity to pay back an incentive, possibly with interest, or barring the private entity from participating in future projects if the private entity fails to meet a qualifying conditions (pp. 114-115). Conversely, incentive provisions (a.k.a. carrot provisions) provide some additional benefit to the private entity, such as an increased share of the profits, if the private entity meets or exceeds a qualifying condition (p. 115). Much like the P3 projects themselves, both tools have benefits and risks, so the public entity should carefully evaluate the P3 project when utilizing these tools (p. 115).

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