



# Partnerships



# Victoria



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The Government of Victoria has promised to deliver on four key pillars – responsible financial management, promoting growth across the whole State, delivering improved services and restoring democracy. These four pillars provide the foundation for Government policy, including *Partnerships Victoria*.

*Partnerships Victoria* is concerned primarily with the establishment of partnerships for the provision of public infrastructure and related ancillary services.

The policy builds upon and improves policies of previous Victorian governments and draws upon experiences in other countries, including those of the Blair Government in the United Kingdom. It builds upon the reputation that Victoria has established in its dealings with private parties in delivering infrastructure and associated services. Probity, consistency, clarity of risk allocation, honouring of commitments and care in costing the exposure of the public purse remain fundamental virtues.

But *Partnerships Victoria* also moves us on. It is not constrained by any expectation that public-private relationships will fit a common mould, but is open to a variety of forms of productive partnerships. While the achievement of value for money outcomes remains fundamental, its vision takes in the wider benefits and costs to the people of Victoria. Importantly, it recognises that a government has particular responsibilities and democratic accountabilities with respect to the delivery of services to the community.

Choices between public and private provision of public infrastructure and related ancillary services will be made on practical grounds. Such choices will be based on consideration of the needs of each project and will be assessed against a rigorous public interest test which will examine the potential impact upon privacy, security, consumer rights, public access and equity.

In establishing this policy, the Victorian Government is particularly conscious of the ever-accelerating rate of change and of the challenges and opportunities brought by globalisation and related trends. *Partnerships Victoria* avoids rigidities that would restrict our capability to adapt. It allows for the formation of partnerships that may respond to

changing needs. It provides for an openness and inclusiveness that is sensitive to the real interests of communities, including local communities and business communities.

Ultimately, *Partnerships Victoria* is a policy of a responsible government. Proposals arising under this policy will be examined rigorously in all of their financial, economic and social dimensions. The Government will promote research, development and entrepreneurial endeavour to deliver all of the benefits that may be gained, including the generation of employment opportunities throughout the State.

Government approval processes under the policy are designed to minimise delays and expenses for private proponents. The approval process allows a Portfolio Minister to take a project through a competitive bidding process up to the point of closure with a preferred bidder.

Unless otherwise declared for a particular project, the policy will be applied consistently for all Government investment in public infrastructure and related ancillary services where the Government has decided to work in partnership with the private sector. The Government sees the confidence of all parties, including the public, in the policy as a key to its success.

*Partnerships Victoria* recognises that yesterday's solutions are not acceptable for Victorians. Every opportunity must be given to maintain Victoria at the cutting edge of development, to ensure that Victorian infrastructure and service delivery is a showcase of Victorian innovation.

A handwritten signature in blue ink, appearing to read 'John Brumby'.

**John Brumby MP**  
Treasurer



**The Government is committed to maximising the level of infrastructure spending through a responsible use of the resources of both the public and private sectors. The choice between public and private provision of infrastructure will be made on practical grounds. Such choices will be based on an assessment of the needs of each project and will be tested against a rigorous public interest test that will examine the potential impact upon privacy, security, consumer rights, public access and equity.**

The Government accepts that in building modern infrastructure for Victoria there is a role to be played by all sectors of the economy. Governments should not presume that either the private or the public sector can deliver projects more efficiently or effectively. The Government has introduced a new partnership between the public and private sectors under which decisions are made on merit and outcomes are judged on the public benefits obtained.

Prior to a decision in principle to commit to major infrastructure projects, the Government will prepare a full cost benefit analysis of the potential project. This will include taking full account of the value of public land being committed to any project. The evaluation of infrastructure proposals will also receive independent verification of financing arrangements and a full assessment of risk.

Where there is private sector involvement in major public infrastructure projects, the choice of contractors will be through a rigorous and transparent system of public tendering.

The public interest in any infrastructure development must be fully protected by ensuring that work is awarded to private contractors through a public tender process under which there are clear and enforceable performance arrangements. This requires public release of tender specifications, disclosure of financial risks accepted by the State, and oversight by the Auditor-General.

The Government will provide community input into infrastructure development through appropriate planning mechanisms. In all infrastructure developments, the Government will protect the public interest through strong third party rights, fair appeals processes, effective conflict resolution and transparency.

*Partnerships Victoria* is about creating partnerships between the Government and private businesses in which improved value for money is achieved by utilising the innovation capabilities and skills of both to deliver performance improvements and efficiency savings.

The *Partnerships Victoria* policy provides a high level framework. The policy will be underpinned by detailed guidance material, developed in consultation with Government agencies and private parties and subject to continuing assessment and review.



# Scope and Application

The policy applies to the provision of public infrastructure and any related ancillary services which involve private investment or financing. The term 'infrastructure' can extend beyond physical assets to encompass major information technology procurements. In this context, 'related ancillary services' may encompass accommodation services arising out of the infrastructure, building-related services such as maintenance and some support services.

The *Partnerships Victoria* policy does not apply to the general procurement of services by the Government where public infrastructure is not being provided (e.g. professional consulting services and printing services).

The policy applies to public infrastructure projects when the present value of payments to be made by the Government (and/or by consumers of a service) will exceed \$10 million during the period of a partnership.

The policy applies to all such projects entered into by Government departments, unless a specific Government decision advises that other provisions will apply. Application of the policy to the provision of infrastructure by a Government Business Enterprise shall be determined, on a project by project basis, following consideration by the responsible Minister of the business plan of the Government Business Enterprise.

**Partnership projects bring public and private parties together for long-term mutual benefit. Partnerships focus on ensuring improved services to the community through the provision of better infrastructure.**

Partnerships entered into under the *Partnerships Victoria* policy can take a wide variety of forms. However, there is no single preferred form.

These projects generally have a number of common features:

- Outputs clearly specified including measurable performance standards;
- The Government making payments only upon delivery of the specified services, to the required standards;
- A relatively long-term commitment, with the term depending upon the nature of the project;
- One or more private parties, fully accountable to the Government for the delivery of the specified services;
- Risk allocation between the parties being clear and enforceable, with consequential financial outcomes;
- Clear articulation of the Government's responsibilities, with respect to the monitoring of outcomes; and
- Inclusion of mechanisms for delivering ongoing value for money throughout the life of the project.

The clear specification of required outputs allows bidders to compete in devising creative means of delivering those outputs, with a view to reducing costs. Thus, the Government will limit detailed specification of inputs, such as the design of infrastructure, or of the means by which outputs are to be generated.

Likewise, the Government will be open to solutions by which proponents may derive other additional benefit or revenue from infrastructure, subject to the value for money and public interest tests.



# Objectives

The Government will develop partnerships under this policy framework with the following objectives in mind:

- To maximise the level of infrastructure spending through a responsible use of the resources of both the public and private sectors;
- To ensure that infrastructure and related ancillary services are provided in accordance with best practice, and where appropriate, to relevant international standards;
- To promote growth and employment opportunities for the whole of Victoria;
- To deliver significantly improved services to the community;
- To encourage innovation in the provision of infrastructure and related ancillary services;
- To maximise the social and economic returns from Government expenditure;
- To pass through the benefits of *Partnerships Victoria* to customers, businesses and the Victorian community; and
- To clearly articulate accountabilities for outcomes.

In undertaking partnership projects, regard will be had also to industry development, investment, recruitment, and skill development and transfer.

# Principles

In designing partnerships with the private sector to deliver these objectives, the following principles underpin the Government's approach:

- Projects should focus on the specification of the end result rather than the means of delivery;
- Projects to be delivered within the *Partnerships Victoria* policy framework must, prior to the formal involvement of the private sector, have the Government's approval;
- The allocation of risk and the commercial framework of the partnership model utilised should deliver the best outcomes for Victoria;
- Performance measures should be established to ensure that the quality of the services delivered meets the needs of the community and that the outcomes of the project are transparent;
- Private participation is to be subject to competitive tendering processes, consistent with the Government's general goods and services procurement policies;
- There should be an emphasis on transparency and disclosure of the processes and outcomes, acknowledging the need to protect commercial confidentiality where appropriate;
- The conduct of the public sector should always be such that confidence in the probity of the partnership model and the way in which it is implemented is able to be maintained at all times;
- Standardised approaches should be used wherever possible to minimise transaction time and cost; and
- Where appropriate, incentives for all parties should be provided to encourage high level performance.



# Protecting the Public Interest

**The Government is committed to ensuring that each partnership project is assessed against the public interest.**

The assessment will include the impact of the project on:

- **Effectiveness.** Is the project effective in meeting the Government's objectives?
- **Accountability and transparency.** Do the partnership arrangements ensure that the community can be well informed about the obligations of the Government and the private sector partner, and that these can be oversighted by the Auditor-General?
- **Affected individuals and communities.** Have those affected been able to contribute effectively at the planning stages, and are their rights protected through fair appeals processes and other conflict resolution mechanisms?
- **Equity.** Are there adequate arrangements to ensure that disadvantaged groups can effectively use the infrastructure?
- **Public access.** Are there safeguards that ensure ongoing public access to essential infrastructure?
- **Consumer rights.** Does the project provide sufficient safeguards for consumers, particularly those for whom the Government has a high level of duty of care, and/or are most vulnerable?
- **Security.** Does the project provide assurance that community health and safety will be secured?
- **Privacy.** Does the project provide adequate protection of users' rights to privacy?

# Value for Money

Deployment of the *Partnerships Victoria* policy will be vigorously pursued where it is likely to deliver better value for money than traditional delivery methods. A Public Sector Comparator, which estimates the cost of the most efficient form of public sector delivery, will be constructed to test for value for money.

*Partnerships Victoria* has a real potential to deliver value for money where:

- A Government need has been defined in measurable output terms;
- The project is structured to optimise risk allocation in order to generate the incentives for cost-effective, high quality services;
- There is an identifiable market of bidders prepared to compete for the opportunity to undertake the project;
- There is scope for private parties to demonstrate particular skills and/or innovative capacity; and
- The project size justifies the transaction costs and ongoing management costs.

While value for money will vary between projects, partnership terms should be long enough to enable value for money savings to be generated while not being so long that competitive pressures are reduced.

## Identifying Private Potential

Submissions for Government approval to seek expressions of interest or to release a Project Brief must clearly demonstrate the potential for private parties to add value.

Such demonstration may, for example, give evidence of:

- Any capacity of such parties to better manage particular risks;
- Benefits resulting from paying only for specified outputs, rather than for inputs;
- Any benefit from establishing a long-term relationship, with performance incentives;
- Benefits of competition;
- Any particular management or operational efficiencies that may be gained; and
- Any other benefit that the *Partnerships Victoria* approach would provide.

# Risk Identification, Allocation and Management

The principle governing risk transfer is that risk will be allocated to whoever is best able to manage it at least cost, taking into account public interest considerations. This does not mean that all risk is transferred. If risk is transferred inappropriately, the Government will pay a premium.

The ability to secure risk transfer on worthwhile terms requires the scope of the project to be drawn sufficiently widely.

Because there will always be a wide variety of risks associated with potential projects, the structure of a partnership project needs to take account of which party is best able to take responsibility for managing such risks as:

- Design and construct risk – to cost, quality and time;
- Commissioning and operating risk;
- Service under-performance risk;
- Industrial relations risk;
- Maintenance risk;
- Technology obsolescence risk;
- Regulation and legal change risk;
- Planning risk;
- Price risk;
- Taxation risk;
- Residual value risk; and (where appropriate)
- Demand (or volume/usage) risk.

Decisions on risk transfer will also recognise two general principles:

- Whoever is allocated risk must have the freedom to choose how to handle and minimise it; and
- Materiality must be considered.

Where a department or agency is not the only user of an asset, demand (or volume/usage) risk may also be transferred.

The value of risks transferred will be estimated and included in the Public Sector Comparator, to allow for a like-with-like value for money assessment.



# Engaging the Market

**The Government does not intend to waste public or private resources on fruitless bidding rounds.**

Bids will be invited only when it is clear that there is scope for a private proponent to add value.

The pursuit of partnership arrangements is only practicable where there are parties able to undertake the project and willing to accept the associated risks. In some cases the level of likely market interest may be difficult to predict.

Therefore, Government departments and agencies are required to ascertain likely market interest. This can be done by various means, including holding preliminary discussions with an appropriate sample of industry practitioners.

In undertaking such discussions, the Government department or agency will ensure that proper probity processes are followed. In particular, such discussions must not restrict or distort competition, or give any supplier an unfair advantage.

Prior to any discussion, the Government department or agency will have done enough work to be confident that there is a good indication that a value for money partnership project exists.

# Government Accountability and Support Structures

The Treasurer is responsible for developing and overseeing the *Partnerships Victoria* framework.

Each project initiative under this policy will be overseen by, and will be the responsibility of, the relevant Portfolio Minister.

## Approval Process

Underlying *Partnerships Victoria* is a commitment to thorough initial preparation and an efficient Cabinet approval process. Through the approval process, Cabinet overviews the implementation of project initiatives.

Prior to formal consideration of a *Partnerships Victoria* procurement, a project proposal will be considered by the Department of Treasury and Finance to review the conformity of the proposal to Government policies, its viability and its priority.

For each project, approval by Cabinet is required before expressions of interest are sought and again before the release of a Project Brief to shortlisted bidders. Release of the Project Brief is a significant milestone as it signals that the Government is prepared to proceed with the project provided that a conforming bid offering value for money in comparison with the Public Sector Comparator is received. The Portfolio Minister will also inform the Treasurer before documentation is signed.

Unless otherwise declared to suit the requirements of a particular project, this accountability structure and approval process will be applied consistently for the provision of public infrastructure where the Government has decided to work in partnership with the private sector.

## Procurement Team

The Procurement Team responsible for delivery will include, as a minimum:

- Dedicated personnel from the responsible Government department or agency;
- The Project Director who may be an internal or external appointment, depending on the ability of the Government department or agency to resource the position with a person with the necessary skills and experience; and
- External legal, technical and financial advisers with appropriate experience in implementing the relevant project initiative.

The responsible Portfolio Minister will delegate sufficient powers through the Secretary or Chief Executive Officer to ensure that the Project Director is empowered to deliver the project (to cost, quality and time) and to manage the Procurement Team. The Secretary or Chief Executive of the Government department or agency will determine the Project Director's reporting accountabilities.

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