Energy Communities Alliance

Local concerns. National impact.

Infrastructure and Facilities

A Better Way to Upgrade Our Infrastructure
Using Capital Markets

Who owns many of NNSA's and DOE's newest facilities?

What can DOE learn from other Agencies to Upgrade its Facilities and Infrastructure?

What are DOE's Infrastructure and Facility Needs?

OBJECTIVE

- Sharing the market's perspective on the current environment
- Understanding Needs
- Preparing for the future with new approaches

Oak Ridge National Laboratory
East Campus Research Facilities

Pantex New Administrative Building

SRS Biomass Facility

WHY DO GOVERNMENT AND PRIVATE SECTOR HAVE AN INTEREST?

Government

- Need New Infrastructure to accomplish mission
- Annual Appropriations Not Sufficient to pay for infrastructure needs
- Can pay on an annual basis
- Design/build by third party (lower risk)
- Difficult projects need to be clearly defined

Developers

- High profile projects
- Strong Return
- Creating a Market
- Long-term Project

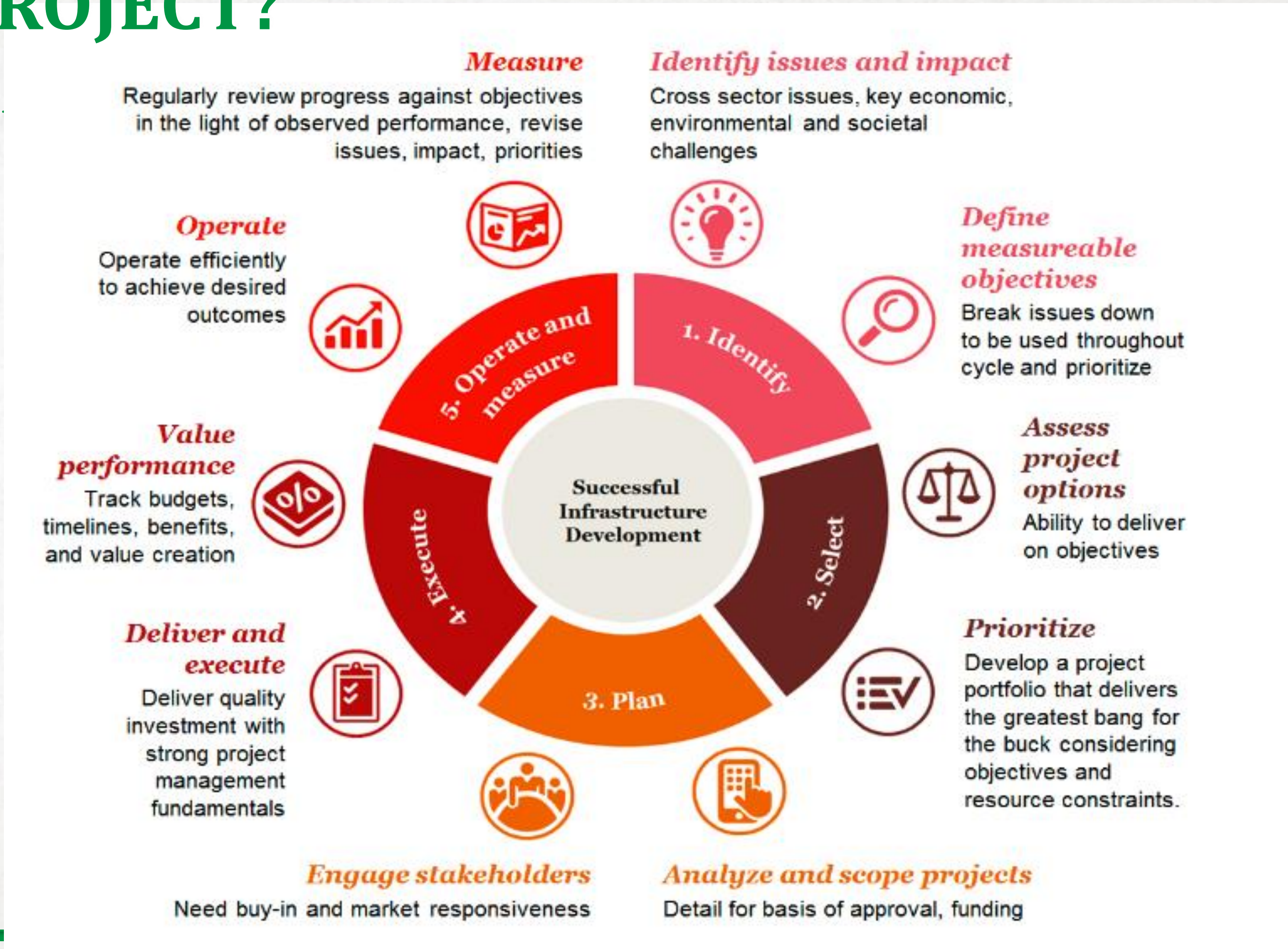
Investors

- Return for Capital
- Credit Rated Entity
- Strong Developer (?)
- Tax incentives
- Long-term investment

WHAT IS A P3 PROJECT?

Choosing the right infrastructure projects

- High Priority
- Feasibility

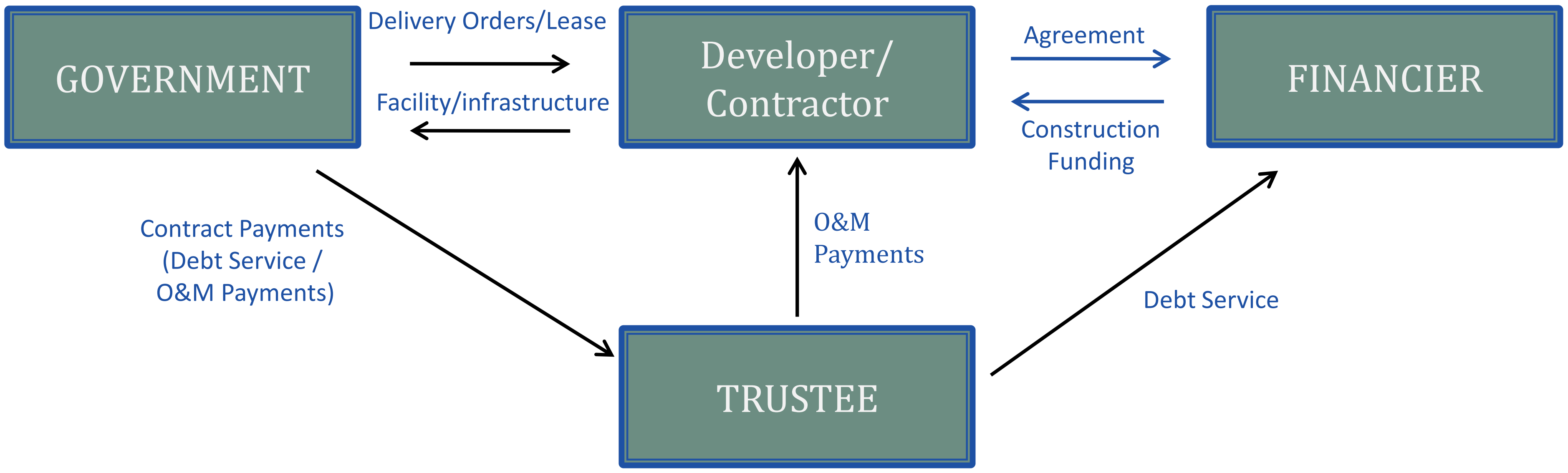


Complexities

- Timing
- Federal issues – Authority
- Term of Agreements
- Cost Issues and Justification for Federal Agencies (Economic Rational)
- Security Issues
- Real Estate and Service Agreements (FAR/non-FAR)
- Rate Impact Analysis
  - Identification of the economics for project customers
- Financing Costs

- Financing Structure
  - What financing is likely to look like for the project
  - Tax Structure and Tax Credits
  - How terms of the federal PPA mitigate/raise financing concerns
- Extent of DOE Role as Lessor, lender, off-taker
- **OMB Budgetary Scoring issues**
- Analysis of federal power purchase options

Financing Structure - Example



Critical Issues: Private Sector

- Diligence and pre-procurement work by the agency
- Procurement method used
- Essentiality of the facility/installation (Closure?)
- Project size and technologies sought
- Economics
- Track Record of the Agency and installation
- Team must include members with experience and financial strength

DOD FACILITIES

- Enhanced Use Leases
- Privatized Housing
- Privatized Lodging
- Privatized Office Buildings
- Exchange of Facilities (for new facilities)
- Privatized Utilities
- UESC, ESPC

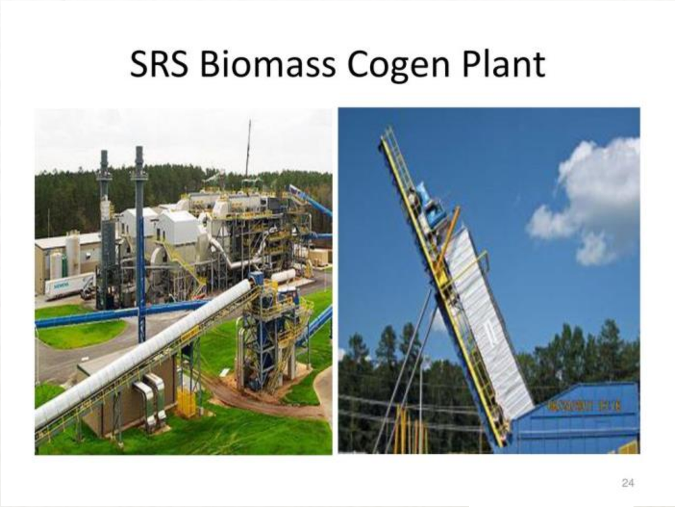
DOD INFRASTRUCTURE – A MODEL FOR DOE?

- **Utilities Privatization (electric, water, wastewater)** - DOD installations shift from the role of owner-operators of an on-base power generation or distribution system to that of utility service customers by establishing a partnership and direct investment through a "bill of sale“ conveyance of the utility system to a third party.
- Also includes a utility service contract for operations, maintenance, and recapitalization for a specified period of time, not to exceed 50 years in exchange for pre-determined rate structure.
- Allows for long term financing of the utility improvements.

EFFICIENCY FINANCINGS

- **Alternate Financing Mechanisms (UESCs, ESPC's. PPA's)**
  - Considering the resource constraints of appropriated funding to improve efficiency, DOE, DoD and other federal agencies leveraging private capital through the use of performance-based contracts.
- Must show "savings"
- Includes heating,

on-site power sources, water infrastructure, etc.



What are other key issues?

- Understand long term costs when analyzing your project
  - Developers need a return
  - Transaction costs
  - Oversight
- Understand the Savings over the long-term and benefits
  - Reinvestment requirements
  - Management strength
- Risk
  - More complex projects often carry more risk,
  - Understand that risk transfer is never complete given a government/university interest in project success.

How is A Project Developed

- **(Usual) Parties to Development project**
  - Government (site and headquarters)/OMB Review
  - Operating Contractor
  - Development Team
    - Developer
    - Construction Contractor
    - Manager(s)
  - Property Owner (if not part of the Development Team)
  - Financing Entities/Investors
    - Capital Markets

What are the Key Terms to a PPP

- **Party Executing the Agreement**
  - Government
  - Private Developer or Local Entity (Government, University or Economic Development Entity)
- **Term of the Agreement**
  - What payment is the government guarantying if any?
  - Long-term preferred by lenders (15-20 years beyond term of the debt/equity investment)
  - Usually much shorter – risk (initial term + renewals) – remember Government Management contracts usually 5 years or less
- **Critical Nature of Facility**
  - Can Government walk away or is it a critical facility
  - Government support?
  - Location of facility is a key (OMB scoring and reuse)
- **Construction and Construction Risk (Schedule)**
- **Government Acceptance**

OMB Definition of "Alternative Financing"

Agencies **required to submit to OMB all "non-routine financing proposals"** for review of the scoring impact including:

- Any proposed **lease** where total govt payments over full **term of lease** **exceed $50 million** (assumes all options to renew will be exercised)
- All **financing proposals that are non-routine** including:
  - **Outlease-leasebacks**
  - Establishment of public-private **partnerships** or LLCs
  - Issuance of **debt by a third party** with explicit "full faith and credit" guarantee of debt repayment
  - **Special purpose assets** for which there is no real private sector market
  - **Enhanced-use leases with leasebacks** with annual payments above threshold levels
  - Projects constructed or located **on govt land**; (NOTE: OMB has special provision for "subsequent leasebacks," see "Scoring Alternative Financing Transactions" slide)
  - **Service contracts** that require the contractor to acquire or construct assets valued over $50 million
  - **Share in savings** proposals that result in the acquisition of real property
  - Proposals raising issues about **govt or non-govt status of the asset/entity** that holds title
  - Any financing proposal for which **statute requires OMB approval** of the scoring
  - Arrangements **conveying special tax status** by virtue govt participation
  - Leases whose **options** can be **conveyed to third party** in exchange for future considerations

OMB Guidance: Scoring "Alt. Financing" Transactions

Leaseback Arrangements

- If the Govt is part owner of the entity that owns the asset and there is substantial private participation, the lease is treated as a capital lease ("upfront scoring")
  - The agency must obligate budget authority (BA) equal to discounted present value of lease payments over the term of the lease
- If there is not substantial private participation, the partnership is considered governmental (and traditional "upfront" scoring applies)

Public/Private Partnerships

- If part governmental, considered totally governmental
- Treat borrowing by the partnership as Federal borrowing
- Require agency to obligate BA equal to the amount borrowed ("upfront scoring")
- Includes special purpose entities for which the Govt is a beneficiary

Special Provision for "Subsequent" Leasebacks

- If the govt ground-leases property to a non-Federal party and subsequently leases back the improvements, the lease will not be considered a lease-back from a public/private partnership, as long as the lessor is a totally non-Federal entity. Such lease-backs may be treated as operating leases if they meet the criteria for an operating lease.

Note: CBO also takes this position when scoring legislation.

II.B. OMB Guidance: Scoring "Alt. Financing" Transactions

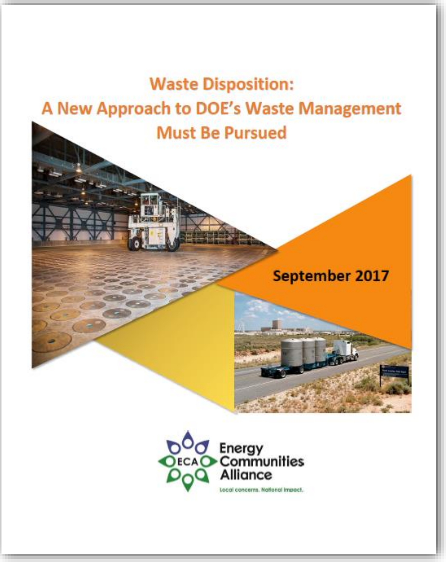
Sample principles derived from OMB Circular A-11.

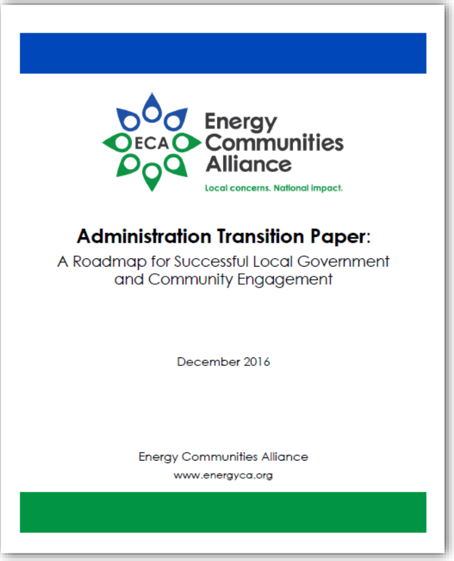
May qualify for "Operating Lease" scoring	Automatic triggers for "Capital Lease" scoring
✓ Can provide ground lease underutilized real property/ assets to developer (up to 50 years)	☒ Cannot link ground lease to federal leaseback of space (no discounted leaseback)
✓ Must transfer ownership risks and costs to developer	☒ Cannot provide federal guarantee of financing of developer
✓ Ground lease "in-kind rent" can include provision of services or office space	☒ Cannot have link between decision-making on space lease and contingent ground lease rent
✓ Space lease must be secured through competition under "operating lease" guidelines	☒ This authority cannot be delegated to another agency
✓ Gov't occupancy is the result of a larger, long-term private sector development	☒ DoE cannot purchase land specifically for an outlease/leaseback transaction.
✓ Non-federal tenants outleasing space in public buildings should pay their proportionate share of all costs and expenses	☒ Property with no long-term need should be sold, subject to standard disposal process and public body screenings.

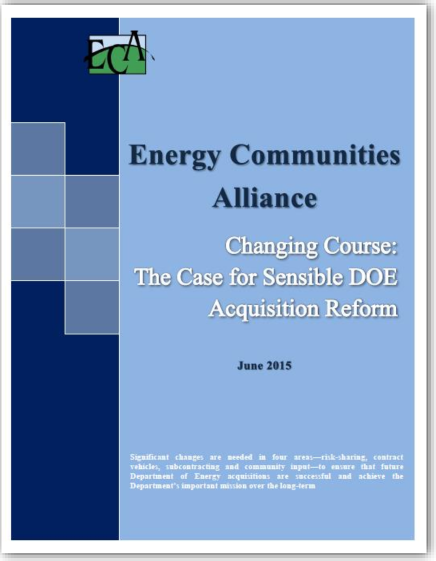
Opportunities

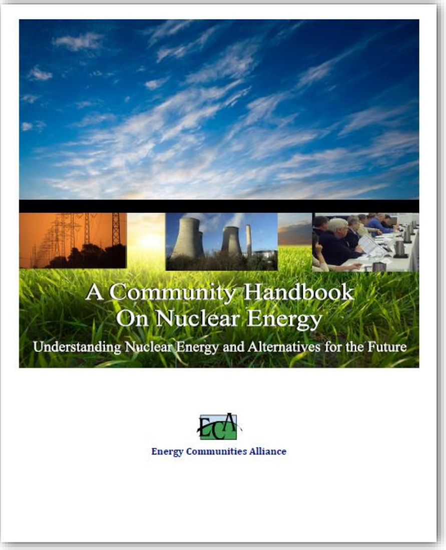
- New facilities for operations
- New infrastructure that supports long-term missions
- Integrate with the community for upgrades
- Long-term Assistance to DOE
- Private risk on the financing
- Paid for on annual basis

ECA Papers on Issues Impacting Communities Adjacent to DOE Facilities









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