Managing for Impact in Public-Private Partnerships

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Table of Contents

- Overview of Public–Private Partnerships (PPPs)
- Drivers of Successful Data Sharing
- Approach for Accelerating PPP Startups
- Examples of PPPs

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Overview of Public-Private Partnerships
Definition

- Collaborative working relationship

$$\text{🏛} + \text{🏭} + \text{🏢} = \text{PPP}$$

- Mutually determined goals, structure, governance, roles and responsibilities

- Shared decision making

Key Features:

1. Mutual benefit

2. Transparency

3. Voluntary partnership and equitable contributions

4. Trust–based relationships

5. Not a traditional contractual arrangement

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Overview of Public-Private Partnerships
Types of PPPs

Historical

- Most PPPs are for public works (e.g., toll road)
- Long-term, performance-based government contract to provide a public good that places the management and major share of risk on the private entity

Current/Future

- Information-centric PPPs serve as a focal point for public and private entities to exchange insights and data to address national issues
- Applications include:
  - Government integrity & efficiency
  - Health
  - Homeland Security/cyber
  - Transportation safety
  - Innovation

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Data Sharing Drivers: Overview
Three Required Elements

Partner buy-in that there is a compelling need to share now based on the value/benefit exceeding cost and risk
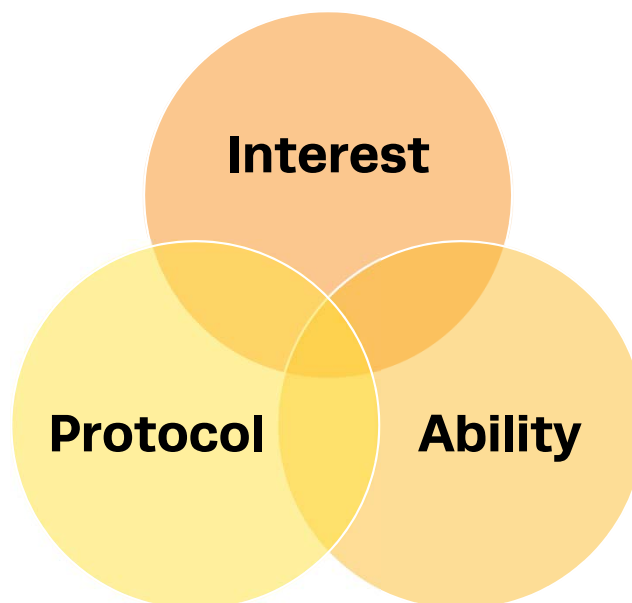
Common, agreed-upon tools, methods, and roles to deliver on sharing expectations (agreements) and realize value

Authorization to share granted or delegated by cognizant officials coupled with resourcing and capability to engage

Interest

Protocol

Ability

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Data Sharing Drivers: Interest

Consider a PPP When…

Wicked problem is beyond what a single entity can solve or influence on their own

Collaboration is essential — value is when information is fused across partners and actionable insights delivered

Galvanizing issue drives action — tangible benefit and acceptable risk at reasonable cost motivates partners now

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Data Sharing Drivers: Ability
Considerations and Enablers

- A partner's decision on whether/how to share data is influenced by

| Business | Legal | Privacy | Security | IT |

- Related, at the partnership level, this is influenced by ability to align and manage equities among all partners as well as with the Trusted Third Party
- The result of multiparty negotiations is consensus on expectations and accountability—codified in agreements of some form
- Resourcing, skills, and tools also affect ability to actually share

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Data Sharing Drivers: Ability
Agreements and Related Considerations
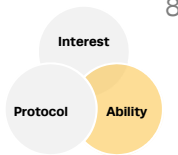
- Agreements are always unique to
  - Data Sharing Entities' (DSEs) goals and equities
  - Specific ecosystem/context
  - What is being shared
- Close coordination with General Counsel is critical to tailor agreements to DSEs' expectations
- There may not be a single agreement, nor one and done—allow for natural DSE-driven evolution

- Key considerations include
  - Ownership and use of IP including proprietary data
  - Data protection: privacy, security, permitted uses, etc.
  - Exposure: discoverability, FOIA, scrutiny, risk management
  - Conflicts of interest and unfair competitive advantage or access
  - Other expectations that are situation-specific

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Data Sharing Drivers: Ability
Formalizing Partnerships

Documentation requirements are situational, evolve over time,
and require tailoring with the the advice of counsel

Initiating
1

Planning
2

Executing
3

Exploratory Discussions
- Non-Disclosure Agreement (NDA)

Funding to Operate PPP
- Contract

Establishing the Partnership options include
- Letter of Intent
- Memorandum of Agreement
- Cooperative Agreement
- Membership Agreement

For Data Sharing PPPs
- Data Sharing Agreement
  - Business Associate Agreement (for PHI)

Govern the Partnership:
- Charter for Executive and other Committee(s) / Board(s)
- Other governance documents (or bylaws) as needed

Operate the Partnership:
- Procedures and Operations Manual

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Data Sharing Drivers: Ability
Legal Considerations for Government Partners
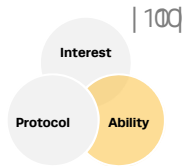
- Legal issues that arise in PPPs may also apply to other government data sharing
  - Statutory authority
  - PII/PHI handling expectations (e.g., Privacy Act, Computer Matching and Privacy Protection Act, Health Insurance Portability and Accountability Act)
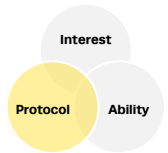 - Freedom of Information Act (FOIA)
  - Ownership of Intellectual Property
  - Paperwork Reduction Act (PRA)
  - Federal Acquisition Regulations (FAR)
  - Conflicts of interest

Source: Administrative Conference of the United States (December 2018). *Guide to Legal Issues Involved in Public–Private Partnerships at the Federal Level.*

- There is support for gov't data sharing and PPPs
  - HITECH and DATA Act
  - OMB guidance
  - Executive Office priorities/directives (see e.g., role of PPPs and data access in 2018 President's Management Agenda)

- Federal agencies can draw on existing authorities to collaborate and form PPPs under, for example
  - Economy Act
  - Bayh–Dole Act
  - Federal Technology Transfer Act
  - OMB guidance
  - as well as DARPA, NASA, HHS, and other agency policies and precedents

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Data Sharing Drivers: Protocol
Enabling Partners to Contribute

Partners need to define, agree on, and ultimately be able to execute on common ways of working together and sharing data and results

- Data–related expectations
  - What data elements in what form, with what frequency
  - How to share, collaborate, troubleshoot
- Policies & procedures
  - Data management
  - Security / privacy
  - Sharing results & outcomes
- Operational tempo and nature of work (Concept of Operations)

- Common tools and methods for
  - Identity and access mgt
  - Data governance/mgt
    - Data transfer
    - Data storage and fusion
    - Data analysis
    - Data dissemination
  - Collaboration / communications
  - Program management

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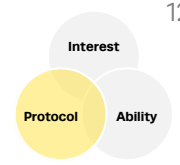
Data Sharing Drivers: Protocol
Lifecycle View of Data/Analysis Tools and Methods

Interest

Protocol   Ability

Partner Collaboration & Communication

Ingest
- Secure transfer
- Quality
- Integrity
- Standards

Manage
- Architecture
- SQL/noSQL
- Gold/working
- Files, code, info

Prepare
- Discover
- Transform
- Link
- Clean

Analyze
- Entity resolution
- Data mining
- Analysis
- Visualization

Share
- Disseminate
- Collaborate
- Act
- Reuse

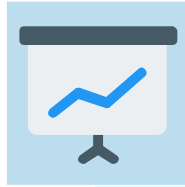**Management / Orchestration**

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Accelerating PPPs

## Key Questions to Ask When Exploring a PPP

Mission
- What is the shared goal that brings the right stakeholders together now?
- How do we define success?
- What will incentivize partners to join and act?

Business Model
- Who will contribute what, and in what role?
- What data–driven products or services will be offered that give partners value?
- How do we build in flexibility to adapt to emergent needs?
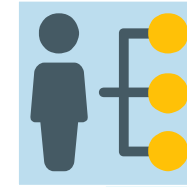
Governance
- Who decides what, how, and when?
- How will partners work together and manage equities (what agreements are needed)?
- What role should a Trusted Third Party play?

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Accelerating PPPs
Proven Practices for PPP Success

Focus on Value

- Make it a central goal to maximize value for all partners
- Collaboratively define the problem space and establish clear goals and success measures that cannot be accomplished by others alone
- Create and articulate clear and compelling incentives for partners to participate
- Decide early how/when to evaluate outcomes

Build Trust and Sustainability

- Focus first on building trust among participants
- Ensure participative decision–making and transparency
- Consider enlisting a conflict-free trusted third party
- Invest in a collaborative infrastructure and lay the groundwork for long-term sustainability – including funding
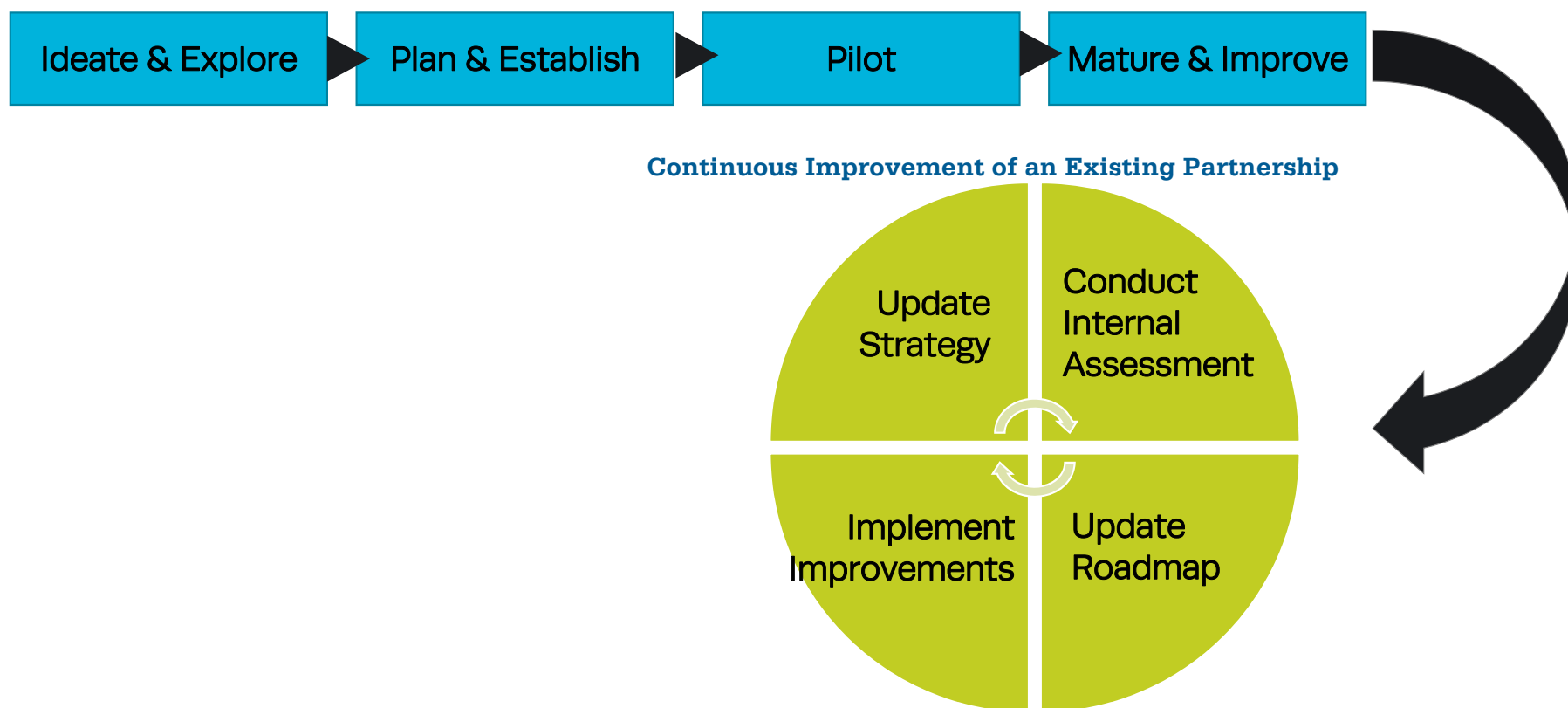
Manage Expectations

- Provide clarity of roles, responsibilities, and decision–making rules
- Establish agreements based on partner needs and input
- Set clear parameters for data use/sharing
- Communicate and seek feedback early and often—actively manage partner engagement

Start Smart

- Don't wait—Move out with early adopters and industry champions
- Provide early results to demonstrate the value
- Demonstrate early how the PPP protects equities and keeps partners' data secure/private
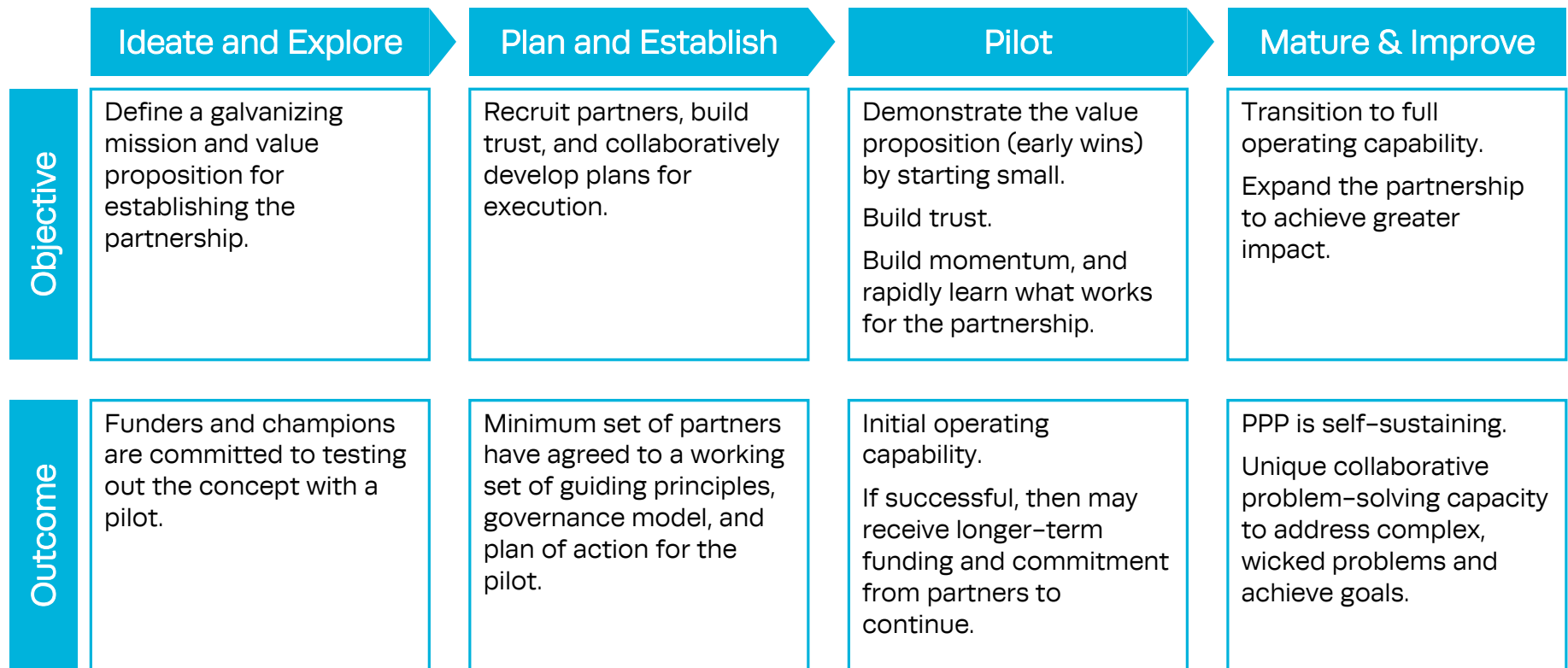- Apply agile approaches to problem identification, analysis, interventions, etc.

Accelerating PPPs
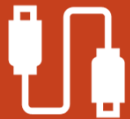## Developing a New Partnership

Ideate & Explore → Plan & Establish → Pilot → Mature & Improve

Continuous Improvement of an Existing Partnership

Update Strategy

Conduct Internal Assessment

Implement Improvements

Update Roadmap

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Accelerating PPPs
Phases of Development of a New PPP

|	Ideate and Explore	Plan and Establish	Pilot	Mature & Improve
Objective	Define a galvanizing mission and value proposition for establishing the partnership.	Recruit partners, build trust, and collaboratively develop plans for execution.	Demonstrate the value proposition (early wins) by starting small. Build trust. Build momentum, and rapidly learn what works for the partnership.	Transition to full operating capability. Expand the partnership to achieve greater impact.
Outcome	Funders and champions are committed to testing out the concept with a pilot.	Minimum set of partners have agreed to a working set of guiding principles, governance model, and plan of action for the pilot.	Initial operating capability. If successful, then may receive longer-term funding and commitment from partners to continue.	PPP is self-sustaining. Unique collaborative problem-solving capacity to address complex, wicked problems and achieve goals.

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Accelerating PPPs

Managing Workstreams and Enabling Capabilities for PPPs

What we do and why

Ensure PPP creates value for partners, is sustainable long-term, and accomplishes specific outcomes/goals.
- Develop strategy, shared goals, initial and long-term funding streams, and measures/metrics
- Define product/service delivery model, partner experience, and business case/ROI
- Measure the value of outputs and outcomes

How we decide

Shape proper decision making and balance partners' equities and legal obligations, aligned to PPP strategy.
- Define the operating model, structure, plans, and agreements the partnership puts in place
- Curate roles, responsibilities, bylaws, policies, procedures
- Develop and manage charters for governance boards

How we engage

Build the partnership, develop and maintain trust among partners and with the broader ecosystem.
- Understand stakeholders' and partners' needs/concerns, recruit partners, manage membership
- Manage events and meetings, shape agendas, collaborate in person and virtually via many channels
- Define and execute collaboration, outreach, and communication strategies as well as PPP branding

Our tools & methods

Obtain the needed supporting technologies, business capabilities, and methods to deliver PPP-specific value.
- Identify tool and method requirements, inform wise selection decisions given tradeoffs
- Understand available and pre-approved tools and platforms, balance reuse with effective tailoring
- Implement and evolve supporting processes including meeting partner expectations for security and privacy.

How we manage

Provide service leadership to the team and partners through traditional and PPP-unique management
- Clarify role of an independent third party and organize a team effectively orchestrating the many moving parts
- Resource/staff PPPs, develop schedules/roadmaps, manage cost, scope, risk etc.
- Write SOWs/contracts that allow for appropriate flexibility

On-demand Expertise

Provide experienced PPP experts when needed to guide tailoring and implementation

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Accelerating PPPs
Notional PPP Startup Schedule

Ideate and Explore
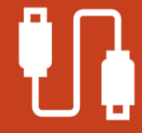
Strategy & Value Delivery
- Define the problem space, identify a shared aim ("galvanizing mission") that cannot be done elsewhere or independently, and clearly define how a collaborative partnership model will create value for each partner
- Begin to build out a high-level PPP Concept of Operations
- Develop business case and consider options for funding over short-, medium- and long-term

Partner Engagement
- Strategically identify, stratify, select, and prioritize stakeholders that align to the aim/mission; analyze stakeholder interests/barriers and begin to define incentives
- Conduct 1-on-1 and large exploratory meetings with potential partners/members
- Define partner-specific value propositions
- Develop and iterate effective communications materials

Project Management
- Conduct feasibility assessment – go/no-go?

Plan and Establish

Strategy & Value Delivery
- Collaboratively define goals for the pilot, success criteria, and metrics to evaluate success of the pilot
- Agree on objectives and scope of PPP products/services; if analysis, agree on data that partners would contribute

Partner Engagement
- Develop and execute plan for recruiting partners (or "tiers" or partners) from industry to pilot & build broader support long-term
- Refine and continuously update communications materials to support recruiting and outreach efforts

Governance & Protocols
- Collaboratively define guiding principles and governance model, structure, rules and draft proposed charters/agreements
- Draft, negotiate, and coordinate legal agreements
- Establish initial executive board; select and meet with executive board members; communicate with those not selected

Enabling Capabilities
- Define needs for content, membership, document mgt etc.
- Begin to acquire necessary enabling technical/analytic capabilities

Project Management
- Identify and acquire MITRE and external talent required to execute the pilot (make strategic decisions on where/when to outsource)
- Develop processes for pilot operations (e.g., data mgt plans)
- Establish contracts with funder/sponsor and set role expectations

Pilot

Strategy & Value Delivery
- Conduct kick-off meeting
- Operate the partnership and deliver value!
- Assess progress and evaluate the pilot

Governance & Protocols
- Execute all legal/data/etc. agreements

Enabling Capabilities
- Establish infrastructure
- Communicate/engage with stakeholders

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Accelerating PPPs
Structural Alternatives for Partnerships

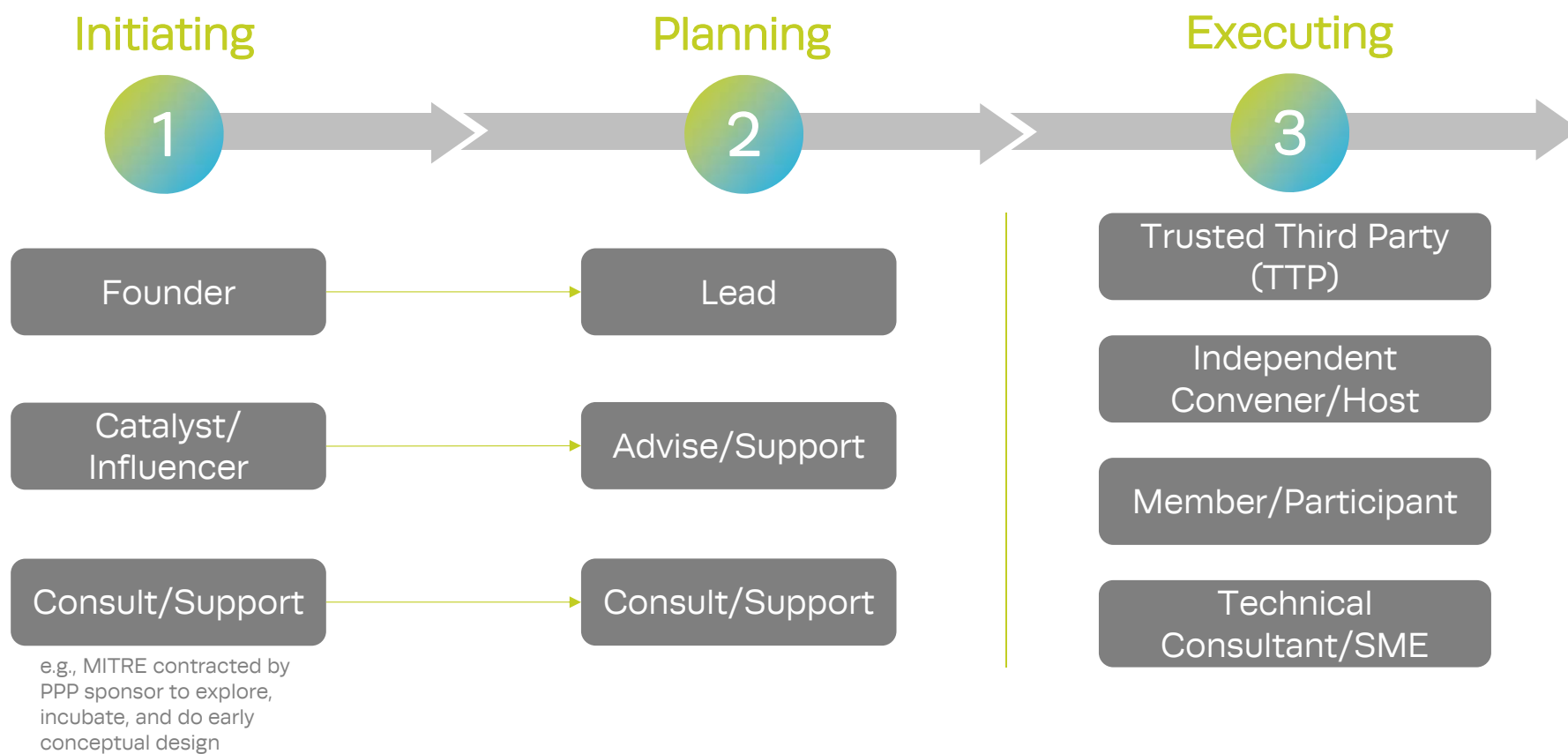| Topic	Consortium (Unincorporated)	Non-Profit (Incorporated)
Who Forms	• Any entity can form, including MITRE, federal or state government, industry, university, trade association.	• Usually formed by non-governmental organizations. • Formed to benefit the public – details depend on state laws. • Can apply for 501(c)(3) status if comply with relevant IRS laws.
How Formed	• By agreement among the members. • Agreement(s) and codified expectations depend on partners' needs.	• Formal incorporation paperwork filed in chosen state. • Execution of certain documents required by state corporation laws. Required documents often include charter, bylaws, etc.
Oversight	• As determined by the members. • Recommend including a governing body or committee. Formal responsibilities set forth in foundational documents.	• In manner consistent with state law. • May also be determined by relevant governing body, bylaws, etc.
Implications / Risks	• Participating agencies will need to ensure that the expenditure of their appropriated funds further the purpose for which the funds were appropriated; different agencies may have differing rules and policies. • Can involve cooperation among competitors thus antitrust issues must be mitigated.	• More rigid structure and operations. • Mandatory compliance with state corporate law – must perform required meetings and adhere to formalities; restrictions on using funds; penalties for improper actions. • Initial and ongoing funding must be secured.
Expiration or Termination	• Contract/agreement terms between the partners.	• Requires formal dissolution consistent with applicable laws. Can be triggered by predetermined events set forth in Charter or Bylaws, or by board action, etc.
Examples	• MITRE as TTP: ASIAS, PARTS, HFPP, IDTTRF-ISAC. • Government-Run: OSHA's Strategic Partnership Agreements; State Department's Diplomacy Lab.	• Automotive ISAC and Healthcare Ready ISACs are 501(c)(3); • Aviation ISAC, Financial Services ISAC, and IT ISAC are 501(c)(6).
Notes	• Most common type of PPP.	• If filing for tax exemption with the IRS under specific code, such as a 501(c)(3) or 501 (c)(6), must comply with rules/restrictions to avoid losing tax exempt status.

Accelerating PPPs
Funding Alternatives for Partnerships

Funding Option	Source	Description	Considerations
Appropriations of Public Funds	• Federal or State-Level Agency	• Funding appropriated by Congress or State legislature for specific agency programs. • PPP mission must align with agency's programs. • Each agency or state may have different rules on the use of funds and if/how they can be combined with external sources.	• Often PPPs are funded by a single federal agency, but costs can be shared across agencies via interagency contracting.
Participant/Member Contributions	• Private and non-profit PPP participants and members	• Partners/members can pay "fees" or "tiered dues" (in-kind/other contributions also expected). • Fees can be differentiated based on level of service, ability to pay, type of partner, etc.	• To accept member contributions, a new nonprofit entity is sometimes created. • Use of participant/member funds has significant implications for the PPP's business and governance model.
Donations	• Foundations and other donors	• Agencies may accept monetary gifts pursuant to its gift policy as authorized by law, and in accordance with the conflict of interest policies; may be difficult in practice.	• Typically many restrictions and may therefore be used in a supplemental capacity in PPPs (e.g., to fund specific projects vs. operational infrastructure). • Risk of sustainability – no guarantee of successful award of grants.
Grants	• Foundations and other donors	• Competitive awards allocated to specific research or projects. Some agencies may accept grants as conditional gifts if the funds advance the mission and there is no legal objection (policies differ across agencies).	• Stakeholders may have restrictions on competing for grants.

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Accelerating PPPs

MITRE's Role in PPPs: Options Throughout Lifecycle

Initiating

1

Planning

2

Executing

3

Initiating	Planning
Founder	Lead
Catalyst/Influencer	Advise/Support
Consult/Support	Consult/Support

e.g., MITRE contracted by PPP sponsor to explore, incubate, and do early conceptual design

Executing

Trusted Third Party (TTP)

Independent Convener/Host

Member/Participant

Technical Consultant/SME

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Accelerating PPPs
Resources and Experienced Practitioners Available

- Case studies, guidance, and general PPP information available from MITRE
  - For example, https://www.mitre.org/publications/technical-papers/public-private-partnerships-advancing-public-service-in-partnership
- Ted Sienknecht (teds@mitre.org) and Amy Aukema (aaukema@mitre.org) co-lead MITRE's Public-Private Partnership community of practice
  - Expert practitioners provide advice, support, and leadership as needed

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Examples of PPPs
MITRE's PPP Experience Across Missions

	PPP	Mission	Stakeholders	Outcomes
	Aviation Safety Information Analysis and Sharing (ASIAS) (Oct 2007–present)	Share critical information and proactively analyze safety data to discover common, systemic safety problems that inform safety mitigations	FAA sponsor; commercial, corporate, business, and recreational aircraft operators; aircraft manufacturers; labor groups; trade associations; and flight training universities	• 23 Commercial Aviation Safety Team (CAST) Safety Enhancements adopted • 3 FAA Safety Alert for Operator notices • Contributed to the reduced risk of accidents by 80% over 10 years
	Healthcare Payment Learning & Action Network (HCPLAN) (Mar 2015–present)	Accelerate the health care system's transition to alternative payment models (APMs) to improve health outcomes and reduce costs	CMS sponsor, states, health providers, insurers, employers, patient and consumer groups	• Recommendations for payment models used across public and private sector • HCPLAN APM Framework increasingly seen as industry standard with over 75 commercial payers and CMS using it
	Identity Theft Tax Refund Fraud & Information Sharing and Analysis Center (IDTTRF-ISAC) (Feb 2016–present)	Facilitate information sharing and analytics necessary to detect, prevent, and deter activities related to stolen identity refund fraud; and provide a forum for participants to discuss real-time responses to fraud schemes	IRS sponsor, states, and industry (tax return industry, financial tax products, etc.)	• All states and virtually all major stakeholders in private industry are participating (>400% increase since inception) • Provided over 135 fraud alerts during 2019 for near real-time action by partners
	Partnership for Analytics Research in Traffic Safety (PARTS) (2018–Jan 2019; Phase II Fall 2019)	Convene the traffic safety community to share information, analyze disparate and complex data to gain insights and apply results that inform safety mitigations	National Highway and Traffic Safety Administration (NHTSA) sponsor and automobile manufacturers	• Prototype effort successfully demonstrated value: Partners agreed this model offers an improved ability to gain real-world insights into the performance of safety technologies
	Healthcare Fraud Prevention Partnership (HFPP) (Aug 2012–Sep 2016*) *with MITRE as TTP	Provide analyses, broadcast alerts, and recommend actionable & innovative measures for partners to detect and prevent healthcare fraud and abuse	CMS sponsor, other federal agencies, private health insurance companies, and other healthcare and anti-fraud groups and associations	• Partnership with over 60 members identifying hundreds of millions of dollars of fraud exposure across the ecosystem • Generated $300 million of reported savings in two years of operation

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MITRE's mission–driven teams are dedicated to solving problems for a safer world. Through our federally funded R&D centers and public–private partnerships, we work across government to tackle challenges to the safety, stability, and well–being of our nation.

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