

CPARB Public-Private Partnership Committee Update

CPARB Pre-Reads for November 10, 2016

I. P3 COMMITTEE SUMMARY

- Representatives of public owners (Ports, WSDOT, Sound Transit, Counties, City), contractors, trades/labor, academia, including CPARB and PRC members.
- Series of meetings and exchanges from early 2015 to present. Discussed suitability of existing law (Transportation Innovative Partnerships, RCW 47.29), demand and opportunity for P3 in Washington, challenges and drawbacks, lessons learned from other jurisdictions. Consensus: propose new enabling legislation.
- Multiple drafts of legislation from June 2015 to reach consensus for initial presentation to CPARB in May 2016.
- Provided P3 Update to CPARB on September 8, 2016; Currently planning P3 Committee Meeting for November 28th /29th /30th in advance of the December 8th CPARB Meeting.

II. KEY FEATURES OF COMMITTEE DRAFT LEGISLATION

Purpose: Provide public owners an efficient vehicle to deliver public works where P3 principles—consolidated design, build, finance, operate, and/or maintain—provide public benefit.

Goals: Provide owners flexibility to maximize public value across a wide spectrum of potential projects. Balance owner flexibility with safeguards for competition, value for money, high labor standards, and opportunities for participation by disadvantaged and underrepresented business groups.

What the Proposed P3 Legislation IS: A flexible, competitive, public procurement and delivery process that consolidates elements of project design, construction, operations, maintenance, and/or financing by private entities, allowing public owners to efficiently utilize specialized private sector expertise and resources, provide performance-based incentives and compensation to maximize value, and allocate risk on projects with a long-term operating component.

What the Proposed P3 Legislation is NOT: A toll road statute. Limited to “megaprojects.” Limited to heavy civil projects. A limit on any existing public contracting methods.

III. PARTICULAR TERMS INCLUDED

P3 Definition: Contract that relates to development, financing, maintenance, and/or operation. May implement Design-Build-Operate-Maintain, Design-Build-Finance, or Design-Build-Finance-Operate-Maintain, or other delivery method.

Procurement: Competitive, structured, RFQ-RFP or RFP process.

Ownership: Any property involved reverts to the public body after the contract term.

Financing: Owner may combine public and private financing and funding sources.

Labor Standards: P3 projects are public works, subject to payment bonds, prevailing wages, and mandatory plans for labor harmony.

CPARB Public-Private Partnership Committee

Equity: Owner may designate standards for outreach to small, disadvantaged, veteran-owned, minority and women owned, and other underutilized businesses.

Review: Approval from proposed new PRC subcommittee with expertise specific to P3.

IV. COMMITTEE UPDATES AFTER 9/8/2016 CPARB MEETING

In follow-up to the September 8, 2016, CPARB meeting, the PPP Committee convened on October 13. Participants included representatives of various public owners, contractors / concessionaires, design professionals, PPP project management professionals, and others, including CPARB members and Senator Bob Hasegawa.

The Committee discussed high-level priorities, opportunities, and open questions regarding PPP generally, as well as various details regarding specific provisions of the current draft legislation.

The consensus was to edit the existing legislation to address several items raised, and to solicit and incorporate additional subject matter expertise, including budgetary/financial details and legislative staff input. The Committee will then reconvene to evaluate the updated draft in anticipation of further presentation to CPARB.

The Board will not be asked to take action in the November 10 meeting.

Following the Committee meeting, individual members met with legislative staff Steve Masse upon the recommendation of Representative Vincent Buys and with assistance of DES. Mr. Masse offered a valuable independent third party perspective on various items, as well as questions for additional Committee consideration.

The current plan is to convene a follow-up Committee meeting to review an updated draft of the legislation in the second half of November, for presentation to CPARB on December 8, along with a discussion of pros, cons, and lessons learned regarding the P3 process in other jurisdictions to inform the Board's discussions and decision-making.