

Private Public Partnership Committee
Pre-read
May 2016

In a series of meetings collaborating among representatives of public bodies, private industry, labor, and others, the CPARB Public-Private Partnership (P3) Committee has developed proposed legislation, for implementation in RCW Ch. 39.10, to make this delivery method available to Washington public bodies. In developing the proposed legislation for CPARB's consideration, the Committee evaluated the existing Washington Innovative Transportation Partnerships law (RCW Ch. 47.29), discussed the purposes and current uses of P3 project delivery in Washington and elsewhere, evaluated other jurisdictions' existing statutes and model legislation, analyzed a study commissioned by the Washington Transportation Commission, and received input from various industry experts. After multiple rounds of drafting, review, and comment, the Committee is presenting draft legislation that it believes will provide the flexibility needed for public bodies to more successfully leverage private industry expertise and resources, while protecting and promoting vital public interests in competition, value, high labor standards, and participation by underrepresented firms.

Under the proposed legislation, a public body may implement a Public-Private project, after providing detailed project development for approval by a proposed new subcommittee of the Project Review Committee, through a competitive RFP or RFQ-RFP process. The essence of a Public-Private project is private participation beyond design and construction, potentially including financing, operation of the facility, and/or maintenance, often on a long-term basis. The public body's competitive solicitation package defines the required private financing arrangements, performance standards, incentives, and other terms, with the flexibility to control such issues as any fees or tolls to be collected by the private firm from facility users, accessibility and availability, and other aspects of the facility that the public body desires to provide the facility's intended public benefits.

The intention is that a Public-Private facility developed under the legislation remains publicly owned. A P3 project under this legislation is implemented as a public works project, and subject to Washington's prevailing wage and payment bonding requirements.

The legislation details a number of terms that must be addressed in the competitive procurement and contract, and offers public bodies discretion in others to maximize their ability to leverage private industry expertise and resources including, where desired, financing. The legislation clarifies that it does not affect public bodies' existing statutory rights, abilities, or contracts; that is, the fact that a project or contract that could be procured under this legislation does not mean it *must* be procured using the specified process if the public body has another lawful process to implement the project or contract.

The draft legislation is attached for CPARB's consideration, and comment or endorsement to the Legislature.