

CPARB Public-Private Partnership (P3) Committee

Executive Summary and Update

CPARB Pre-Reads for November 16, 2017

I. P3 COMMITTEE SUMMARY

- Representatives of public owners (Ports, WSDOT, Sound Transit, Counties, City), contractors, trades/labor, academia, including CPARB and PRC members. 30+ Participants.
- Numerous meetings over 2 years. 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, model legislation and best practice guidance from industry and government associations. Consensus: propose new enabling legislation.
- Multiple drafts of legislation from June 2015 through May 2017, with extensive Committee discussions and broad input.
- May 11, 2017 CPARB Motion & Vote: Move P3 Committee draft to legislature through CPARB legislative membership, with P3 Committee available to provide support.

II. STATUS UPDATE FOR CPARB 11/16/2017

- Rep. Vincent Buys has facilitated review by Legislative Staff and Code Reviser to prepare a Bill Request: **HB 3117 Concerning Public Private Partnerships for Public Works Projects**
- Senate Transportation Committee working on a report for a comparative analysis of RCW 47.29, SB 5033 (Senator Zeiger) and Bill Request HB 3117.
- Rep. Buys is currently coordinating additional Treasurer's Office review for House introduction in 2018 legislative session.
 - During additional "stakeholdering" efforts, interested parties have included individual legislators, Senate Transportation Committee, Joint Transportation Committee, WSDOT and various public bodies and private industry groups (e.g. U.S. Highway 2 stakeholders, AGC, WCIC, and AWB).

Current Public Private Partnership and Alternative Financing Studies

1. Public Private Partnership Alternative Study for the Coleman Dock due *November 15th, 2017*
2. US2 Highway Trestle Study including financing with Public Private Partnership due *January 8, 2018*
3. Outreach effort to assess interest in a public-private partnership to rebuild the Anacortes Ferry Terminal through a letter of interest process similar to 2009.

III. KEY FEATURES OF DRAFT P3 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 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 businesses.

What the Proposed P3 Legislation IS: A flexible, competitive, public procurement and delivery process that consolidates 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.

IV. 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.

Procurement: Competitive, structured, RFQ-RFP or RFP process. Honorarium disclosed in solicitation. If honorarium is to be awarded, amount must mirror current Design-Build standard.

Ownership: Property remains public and control reverts to the public body after 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.

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

Project Review: Substantive review and recommendation by proposed new PRC Subcommittee with specified subject matter expertise. CPARB approves/disapproves.

Initial Implementation: A maximum of four projects per year may be approved during initial implementation period. In recommending projects for approval (if more than four apply), PRC Subcommittee is to make reasonable efforts to balance the types of projects approved (e.g. vertical vs. civil/horizontal, size, nature).

Honorarium: Generally mirrors Design-Build honorarium standards. If an honorarium is to be provided, it must be sufficient to generate meaningful competition and consider effort required to meet selection criteria. An owner electing not to provide an honorarium must disclose in the RFQ.

Public Hearing: Early public hearing requirement echoing existing GC/CM hearing provisions.