JOINT TRANSPORTATION COMMITTEE

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Public-Private Partnerships (P3s) in Transportation

The Legislature directed the JTC to study public-private partnerships in transportation. The study was to identify the provisions in P3 agreements that best protect the public interest. The study evaluated five transportation projects, using a screening tool and a comparative finance model developed in the course of the study and tailored to Washington State. The study also includes recommended statutory changes, and a conceptual P3 implementation plan.

The P3 study was primarily one of education, intended to educate legislators, members of the executive branch, and stakeholders about this alternative method of developing projects where the public and private sector share the risks and rewards of projects and services traditionally delivered by the public sector. In most P3s, private capital is used to help finance the project. Typically, the private sector also has a greater role over the life of the project including operations, maintenance, and preservation.

The consulting team conducting the study was headed by AECOM, and included the financial advisory firm KPMG, and the Nossaman law firm in Los Angeles, one of the nation's leading public sector advisors on P3s. They began work on July 1, 2011.

The study was guided by a Policy Workgroup of legislators, the Secretary of Transportation, the Chair of the Transportation Commission, the Assistant State Treasurer, and representatives from the construction trades and an association representing general contractors.

Key study themes and outcomes include the following:

Public interest protections. Tools developed in the study to evaluate a project's potential suitability for P3 delivery were designed to include public interest protections. In addition, the study recommends the State adopt a policy framework of public interest protections that are binding on all P3 projects; these include state ownership of assets; a requirement that P3 delivery provide better value to the public than public sector delivery; prevailing wage and apprenticeship requirements; and contract provisions ensuring long-term quality of service, with clear termination provisions for failure to deliver according to performance specifications.

Value for Money. Despite the higher cost of private capital, it is sometimes the case that P3 delivery can be a better value to the public. Transferring construction and long-term operating, maintenance and preservation risks to the private sector can sometimes result in significant cost savings to the public. A Value for Money analysis is used to evaluate the cost-benefit of P3 delivery as compared with traditional public sector delivery. In this study, the analysis considered a 50-year project life-cycle.

It is also sometimes the case that traditional public sector delivery is the better value. Examples may include when a project fully funded, so there's no need for private capital; or a project is not sufficiently complex to generate savings by transferring risks; or where the private sector considers the project too risky due to substantial regulatory hurdles or strong public opposition.

Analysis of the five projects. The study evaluated five projects for their potential P3 suitability. This was not an investment-grade analysis, but rather an illustrative analysis using the best-available data, designed to educate study participants about the elements considered in P3 vs. traditional delivery. The results illustrate that some of the projects may have potential as P3 projects, and may warrant further analysis.

- <u>I-405/SR 167 Express Toll Lanes</u>. P3 delivery provided a 15% reduction in construction costs, primarily due to more rapid project completion. P3 preservation costs were 10% lower. P3 operating and maintenance (O&M) costs were 34% lower primarily due to lower credit card fees and tolling costs per transaction. Initial analysis showed the project may generate an up-front payment of around $1 billion by the private developer to the State.

- <u>SR 509 Extension</u>. P3 delivery provided a 4% reduction in construction costs due to more rapid project completion. P3 preservation costs were 25% lower, due to savings in tolling and ITS (tolling) equipment costs. P3 O&M costs were 45% lower due primarily to lower credit card fees and tolling costs per transaction. The analysis showed the project becomes viable as a P3, whereas a significant funding gap remains under traditional delivery.

- <u>SR 167 Extension</u>. While P3 delivery showed construction, preservation and O&M savings, the project has a significant funding gap under both P3 and traditional delivery, and as a result is not currently financially viable. The estimated $1 billion project has $157 million allocated to it to-date.

- <u>Columbia River Crossing</u>. This project has very high funding gaps under all scenarios tested, which include two public finance options (GO bonds and toll revenue bonds) and two P3 options. The project is estimated to cost $3.1 - $3.5 billion, of which $153 million has been allocated to-date. The analysis showed relatively little difference in the Value for Money analysis between P3 and traditional delivery.

- <u>Monroe Bypass</u>. This project failed the initial screening assessment, and was therefore not evaluated for P3 vs. traditional delivery. It suffered two critical flaws; with no viable revenue stream, it is not financially self-supporting and no other funding sources have been identified. Also, the project's EIS is out-of-date and must be redone. The assessment did reveal project elements that must be addressed for the project to move forward under either P3 or traditional delivery.

Other study recommendations.

- **Statutory changes.** The study includes recommendations on changes to current law needed to implement a viable P3 program that protects the public interest while encouraging private sector involvement.

- **Administrative structure.** The study recommends the State create a new administrative structure to enable a P3 program, including a significant new role for a WSDOT P3 Office that is responsible for upholding public interest concerns and facilitating projects in the best interest of the public and private sector. Recommendations also address roles for the Legislature, WSDOT, the State Treasurer and the Transportation Commission.

- **Screening tool.** The study recommends that the State use the screening tool developed for Washington in this study to evaluate if a project is suitable to be considered as a P3.

- **Comparative finance model**. The study recommends that the State use the financial model developed in this study to determine whether Value for Money is better for P3 or traditional delivery.

Study materials are available at http://www.leg.wa.gov/JTC/Pages/PublicPrivatePartnershipsStudy.aspx

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