



Comments on the Exposure Draft of Section PS 3160, Public Private Partnerships

February 2020

The National Union of Public and General Employees (NUPGE) represents 390,000 people in 9 provinces.

We represent workers in both the public and private sectors. Many of our members work in buildings, or on other infrastructure, built using public-private partnerships (P3s). These include correctional facilities, hospitals, colleges, courthouses, and highways. We have also heard from members who, as part of the public, rely on public services delivered through P3s.

Our perspective on P3s is informed by our members' extensive experience with them. Of particular concern is the huge gap between the theories about how P3s are supposed to operate and how our members see them work in practice.

Recognition of infrastructure and initial measurement

As originally designed, P3s were a way for governments to borrow money for infrastructure while keeping the debt *offbook*. This was seen to be a significant factor in the rapid adoption of P3s by different governments.

The situation in the United Kingdom, where P3s were pioneered, illustrates the consequences of liabilities from P3s being treated differently than liabilities from publicly delivered infrastructure. For current P3s projects, as of March 2018, total payments over the life of the projects will be £296.8 billion.¹ Some hospital trusts are spending up to 1/6 of their funds on Private Finance Initiative (PFI) payments, and there are concerns about the consequences for patients.²

For this reason, the PSAB's efforts to create accounting standards for P3s are very welcome. What concerns us, however, is that unless those standards are strong enough, they will not address the problem of governments using P3s as a means of "deferring costs to future politicians, future voters or users."³

To address this problem, the standards need to ensure the control provisions for recognition of infrastructure assets are interpreted in the broadest possible manner. For similar reasons, the *risk profile* of infrastructure assets should not be considered when measuring the fair value of the asset.

Both of these recommendations reflect the fact that the public sector will be ultimately responsible for costs related to P3s.

These recommendations also reflect the fact that claims that P3s transfer risk to the private sector are shaky at best. Auditors General in 5 provinces have questioned the calculations of the value of the risk that P3s transfer to the private sector.⁴ There are numerous examples of governments having to assume the costs of failed P3s. These range from an Ottawa recreation complex, to 2 projects to upgrade the London Underground.⁵

Recommendations

1. Standards need to ensure the control provisions for recognition of infrastructure assets are interpreted in the broadest possible manner.
2. The *risk profile* of infrastructure assets should not be considered when measuring the fair value of the asset.

Discount rate

We strongly support using the government's rate of borrowing as the discount rate. This is what was suggested by Auditors General from both Alberta and Ontario in their comments on the Statement of Principles. It is an important step towards ensuring that the public has an accurate picture of the real cost of using P3s.

Using the government's rate of borrowing reduces the problem of P3 liabilities being understated. It would also lead to greater transparency and accountability.. In the past, the use of a discount rate that was far higher than government borrowing costs in some of the value-for-money reports used to justify the use of P3s was seen as a way to manipulate the costs to make P3s appear better value than they really were.⁶

Recommendation

1. Use the government's rate of borrowing as the discount rate.

Concerns about process

Privatization of public services, including the use of P3s, has become a major source of revenue for many companies. The companies profiting from privatization go beyond those operating or financing privatization schemes and include law firms and large accounting firms. This has led to situations where accounting or law firms are being asked to help judge if P3s, or other forms of privatization, are an appropriate course of action, when companies they have represented stand to profit if the privatization scheme goes ahead.⁷

Within the public sector, there are agencies and Crown corporations whose existence is dependent on the continued use of P3s. This was acknowledged in a 2014 review of Partnerships BC by the BC Ministry of Finance, which stated that "there is a concern that Partnerships BC is potentially biased towards certain procurement methodologies because it is mandated to be both a self-sustaining organization and an advisor to government."⁸

It is safe to assume that many of the companies and organizations that have a financial interest in P3s will be making presentations. It is also safe to assume that they will be asking for the proposals to be changed in ways that would reduce the amounts that have to be reported as P3 liabilities.

We recognize that this puts some members on the PSAB P3 task force in an awkward position. While you may want to do what is best for the public, your employers may well be among those calling for weaker standards.

At the same time, the potential for conflict that task force members face if their employers will benefit from what is decided also has the potential to undermine the confidence of the public in your recommendations.

It is our hope that in the future more attention will be paid to the potential for even the perception of conflict of interest and how it can undermine confidence in the work done by the PSAB. At a minimum, people should not be put in a position where they are asked to make decisions on matters in which their employers have a financial interest.

¹ HM Treasury and Infrastructure and Projects Authority, “Current projects as at 31 March 2018” at Private Finance Initiative and Private Finance 2 projects: 2018 summary data, May 30, 2019, <https://www.gov.uk/government/publications/private-finance-initiative-and-private-finance-2-projects-2018-summary-data>.

² Chris Thomas, Harry Quilter-Pinner, Robin Harvey and David Wastell, “NHS hospitals under strain over £80bn PFI bill for just £13bn of actual investment, finds IPPR,” IPPR, September 18, 2019, <https://www.ippr.org/news-and-media/press-releases/nhs-hospitals-under-strain-over-80bn-pfi-bill-for-just-13bn-of-actual-investment-finds-ippr>.

³ Anthony E. Boardman, Matti Siemiatycki and Aidan R. Vining, summary in “The Theory and Evidence Concerning Public-Private Partnerships in Canada and Elsewhere,” *SPP Research Paper Volume 9, Issue 12, 2016*, <https://www.policyschool.ca/wp-content/uploads/2016/05/p3-boardman-siemiatycki-vining.pdf>.

⁴ Auditor General of Ontario, “Public-private Infrastructure Projects Can Be Expensive, Auditor General Says,” December 9, 2014, http://www.auditor.on.ca/en/content/news/14_newsreleases/2014news_3.05.pdf; Auditor General of Ontario, “2012 Annual Report Section 3.09 Metrolinx—Regional Transportation Planning,” 214, 2012, <http://www.auditor.on.ca/en/content/annualreports/arreports/en12/309en12.pdf>; Auditor General of Alberta, “Report of the Auditor General - April 2010,” 23, 2010, <https://www.oag.ab.ca/reports/report-auditor-general-april-2010/>; Provincial Auditor of Saskatchewan, “2015 Report – Volume 1”, 199, 2015, https://auditor.sk.ca/pub/publications/public_reports/2015/Volume_1/2015v1fr.pdf; Auditor General of Québec, “Report of the Auditor General of Québec to the National Assembly for 2010-2011, Special report dealing with the watch over the projects to modernize Montréal’s University Health Centers,” 3, 2010, https://www.vgq.qc.ca/Fichiers/Publications/rapport-annuel/2010-2011-CHU/en_Rapport2010-2011-CHU.pdf; Auditor General of New Brunswick, “Report of the Auditor General – 2011 Chapter 2 Department of Supply and Services Public-Private Partnership: Eleanor W. Graham Middle School and Moncton North School,” 11, 2011, <https://www.agnb-vgnb.ca/content/dam/agnb-vgnb/pdf/Reports-Rapports/2011V3/Chap2e.pdf>.

⁵ “RAY FRIEL RECREATION COMPLEX – TERMINATION AGREEMENT WITH SERCO FACILITIES MANAGEMENT INC. AND FUTURE OPERATING MODEL – IN CAMERA – THE RECEIVING OF ADVICE THAT IS SUBJECT TO SOLICITOR-CLIENT PRIVILEGE, AND, SECURITY OF THE PROPERTY OF THE CITY – REPORTING OUT DATE: NOVEMBER 28, 2007” in Ottawa City Council Minutes, November 28, 2007, <https://app06.ottawa.ca/calendar/ottawa/citycouncil/occ/2007/11-28/minutes25.htm>; National Audit Office, “The Department for Transport: The failure of Metronet,” June 5, 2009, <https://www.nao.org.uk/report/the-department-for-transport-the-failure-of-metronet/>; Bruna Alves, “London tube PPP ends in public buyout,” Infrastructure Investor, May 10, 2010, <https://www.infrastructureinvestor.com/london-tube-ppp-ends-in-public-buyout/>.

⁶ Ronald H. Parks and Rosanne E. Terhart, Evaluation of Public Private Partnerships, Costing and Evaluation Methodology, January 5, 2009, http://d3n8a8pro7vhmx.cloudfront.net/cupebcvotes2014/legacy_url/1044/bw-final-report_0.pdf?1460990529; Keith Reynolds, “Public Private Partnerships in British Columbia, Update 2018,” 20, Columbia Institute, 2018, <https://www.columbiainstitute.ca/sites/default/files/resources/Columbia%20Institute%20P3s%20in%20BC%2018%20June%207%20WEB.pdf>.

⁷ Jon Willing, “City not concerned Stage 2 legal adviser also represents SNC-Lavalin,” Ottawa Citizen, August 12, 2019, <https://ottawacitizen.com/news/local-news/city-not-concerned-stage-2-legal-adviser-also-represents-snc-lavalin>.

⁸ British Columbia Minister of Finance, “Review of Partnerships BC,” 2, July 2014, <https://www2.gov.bc.ca/assets/gov/british-columbians-our-governments/services-policies-for-government/internal-corporate-services/internal-audits/partnerships-bc-review.pdf>.



NATIONAL UNION OF PUBLIC AND GENERAL EMPLOYEES

- B. C. Government and Service Employees' Union (BCGEU)
- Health Sciences Association of British Columbia (HSABC)
- Health Sciences Association of Alberta (HSAA)
- Saskatchewan Government and General Employees' Union (SGEU)
- Manitoba Government and General Employees' Union (MGEU)
- Ontario Public Service Employees Union (OPSEU)
- Canadian Union of Brewery and General Workers (CUBGW)
- New Brunswick Union of Public and Private Employees (NBU)
- Nova Scotia Government and General Employees Union (NSGEU)
- PEI Union of Public Sector Employees (PEI UPSE)
- Newfoundland & Labrador Association of Public and Private Employees (NAPE)

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