AFSCME
We Make America Happen

Privatizing Transportation Networks: Bad Deals, Higher Costs and Failed Accountability

As Congress debates federal funding priorities, state and local governments are forced to grapple with pressing transportation needs. Privatization advocates tout public-private partnerships (P3s) as a means to attract private capital to circumvent funding shortfalls. P3s are less common in the United States than elsewhere due to the ease of access and low cost of borrowing on US municipal debt markets. Nevertheless, proponents of P3s inaccurately cite access to capital as a primary basis for such financing. The effect is to privatize valuable public assets such as roads and bridges to guarantee long-term returns at the expense of taxpayers

Complex and opaque financial arrangements that bilk taxpayers for generations

Typically, the public is ill-informed of the risks, cost, and benefits of P3s.[1] Giant conglomerates that specialize in infrastructure often design complex financial arrangements that – despite claiming to transfer all or most construction and maintenance risk to the private sector – end up costing far more to both taxpayers and users. Other forms of risk (long term traffic projections, for example) are even harder for governments to predict and price accurately. Investors seek to avoid the assumption of such risk and much of it remains with the taxpayer.[2]

Loss of accountability and control over public assets

While the degree of public control varies widely, P3s generally transfer operational control to private companies and oversight away from elected officials. For example, in 2006, the Indiana Toll Road contractor installed barriers to prevent drivers from using turnarounds on the Toll Road. The contractor failed to notify state and local officials, who required use of the turnarounds to respond to emergencies. The barriers remained in place for months and presented significant delays for first responders traveling on the Toll Road.[3]

The savings claimed by private operators come at the expense of local workers

P3 advocates claim that greater efficiencies and economies of scale bring project costs down, but often those savings come from only one source: workers. In two of the most high profile highway privatization projects – the Chicago Skyway and the Indiana Toll Road – operating costs declined by approximately 10 percent. The Congressional Budget Office found that "most of the savings" can be attributed to lower labor costs; workers were replaced by new employees earning 25 percent to 40 percent less.[4]

Produced by AFSCME Union Labor 328-15 #4

Non-compete clauses can hamstring future governments

While non-compete clauses are less popular now, "compensation" or "stabilization" clauses currently in vogue have a similar effect. In 2007, several Colorado counties partnered with a foreign-owned consortium to lease a toll road once operated by a public agency. The $500 million lease entitled the private operator to collect toll revenue for 99 years. In July, 2008 Colorado state legislators were shocked when the private operator called planned improvements to a nearby public road an "adverse action" that entitled the private operator to compensation from the public. The operator viewed the public road as competition to the private road and pointed to a section of the lease that referred to a "competing transportation facility."[5]

Governments may hold asset fire sales and conglomerates can offer significant upfront payments

Some states and local governments, facing difficult budgetary choices, sought to monetize existing assets by leasing existing services or facilities for immediate cash assistance. One of the most high-profile privatization disasters of the last fifteen years unfolded in Chicago. In 2008, the city leased collection rights for public parking meters for 75 years in exchange for a lump sum payment of $1.1 billion. Later estimates pegged the actual value of collection rights at over $11.6 billion for the life of the lease at a total profit of $9.58 billion for the private investors.[6]

Private financing is an attractive vehicle to skirt borrowing caps

The US public-private partnership market is relatively immature, and regulators are still catching up. The availability payment model, where governments pledge to make regular payments to a private contractor through a P3 arrangement, is indistinguishable from conventional debt but is often not yet counted as such by ratings agencies.[7] Legislation that would encourage P3s, passed in January, 2015 in the District of Columbia, cited a 12 percent debt cap as an important motivation.[8] Such off balance sheet transactions are a significant factor in municipal financial distress, and a precipitating factor in Detroit's bankruptcy.

---

1 "Public-Private Partnerships Are Popular, But Are They Practical?" Ryan Holeywell, *Governing Magazine,* November 2013.

2 "The Political Economics of Private Infrastructure Finance: The New Sub-Prime," Elliot Sclar, Paper Prepared for Association of Collegiate Schools of Planning, October 1, 2009.

3 "Crumbling Infrastructure, Crumbling Democracy: Infrastructure Privatization Contracts and Their Effects on State and Local Governance," Ellen Dannin, *Northwestern Journal of Law and Social Policy*, Volume 6 Issue 1.

4 "Using Public-Private Partnerships to Carry Out Highway Projects," *Congressional Budget Office,* January 2012.

5 "Toll firm objects to work on W. 160th," Jeffrey Leib, *The Denver Post,* July 24, 2008.

6 "Morgan Stanley Group's $11 Billion Makes Chicago Taxpayers Cry," Darrell Preston, *Bloomberg Business*, August 9, 2010.

7 "Taxpayers vs. Private Investors: Shifting the Risk of Funding Public Projects," Rachel Dovey, *Next City*, October 3, 2014.

8 "Mayor-Elect Bowser's Public-Private Partnership Bill Unanimously Approved," Executive Office of the Mayor, www.mayor.dc.gov.