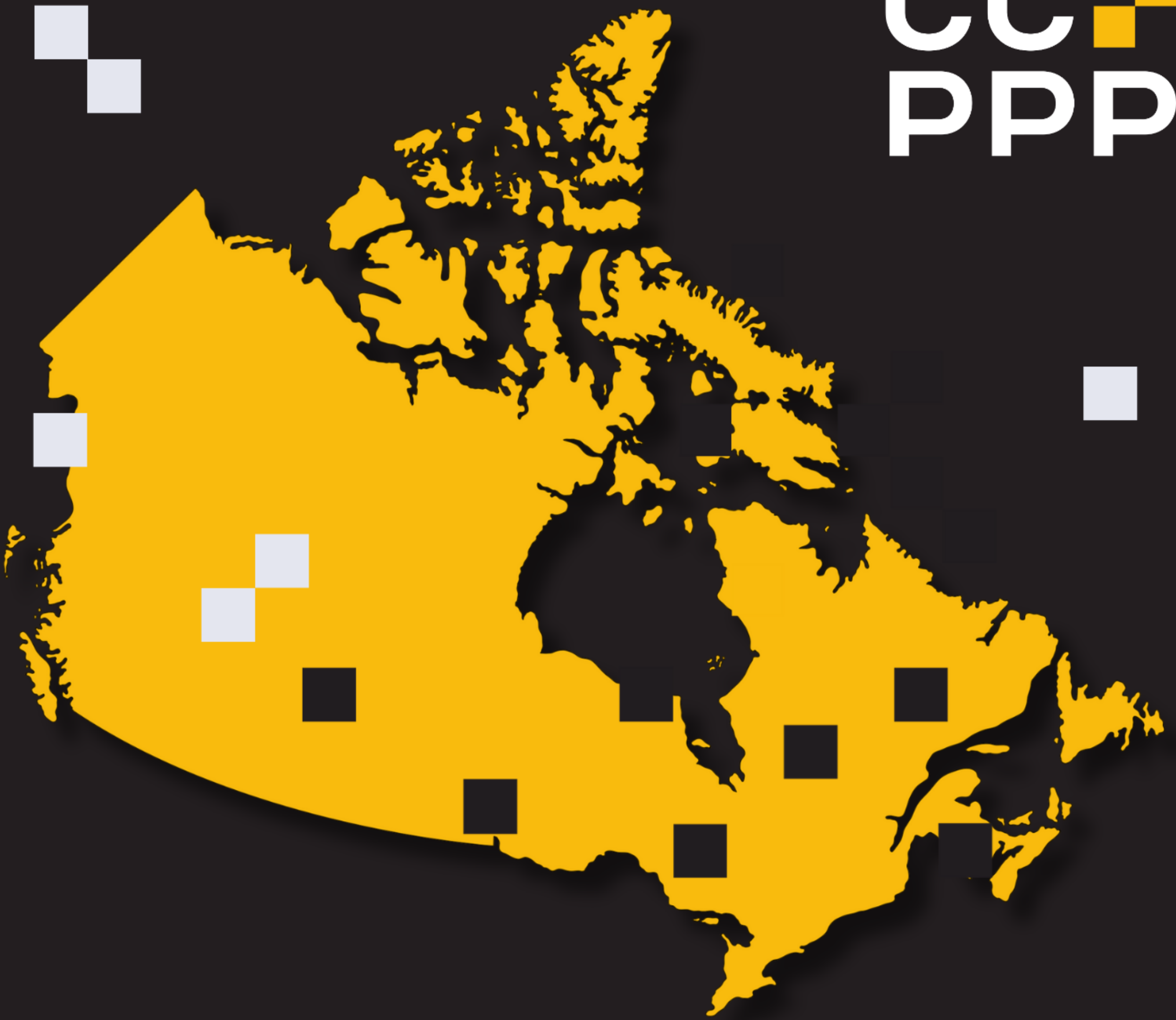

Modernizing Canada's Approach to Public-Private Partnerships (P3s):

CCPPP's New Recommendations

August, 2024

The Canadian Council for Public-Private Partnerships
pppcouncil.ca

Contents

Acknowledgments

We sincerely thank the dedicated members of the CCPPP Board, Communications Committee, and Executive Committee for their support and participation throughout the development of this policy positioning statement. Their extensive knowledge and experience in the P3 and infrastructure industries have been invaluable in shaping the recommendations in this document.

The Council has diligently compiled and analyzed our members' feedback, opinions, and experiences through numerous meetings and surveys. This effort is further enriched by insights from the Council's P3 2023 conference and workshops and our enhanced engagement with government officials and politicians nationwide, significantly contributing to our understanding of current market challenges and opportunities.

We thank our members for their ongoing support and dedication to advancing best practices and knowledge. Their efforts help create an enabling policy environment that will secure and enhance Canada's infrastructure investment landscape.

Executive Summary

The P3 Opportunity: A Renewed Path Forward

P3s offer actionable solutions to complex infrastructure affordability and competition challenges

The landscape of Canadian infrastructure funding has shifted. With ballooning government deficits, the days of depending on government programs, such as the Government of Canada's former *Investing in Canada Infrastructure Program*, for consistent infrastructure grants seem — at least for the foreseeable future — to be behind us. Governments and the private sector must boldly embrace alternative solutions.

Public-Private Partnerships (P3s) offer concrete and actionable approaches, encompassing delivery models like fixed-price, lump sum, Progressive models, alternative financing, concession methods, and pension fund investment strategies. These avenues are particularly relevant for delivering large capital-intensive projects, especially in our current economic climate.

All Canadian P3 projects share these four key attributes:

- Allocate the appropriate risk transfer to the party best suited to manage it,
- Consider the whole life cycle of the asset,
- Drive innovation and efficiencies, and
- **Leverage private capital and expertise.**

Embracing tried-and-tested P3 delivery models that harness the discipline and expertise of private capital is crucial. **This is Canada's moment to redefine how it funds and procures major infrastructure projects, ensuring our assets meet immediate needs and offer sustained, long-term value to our communities.**

Why P3s?

During the 1990s, governments grappling with significant debt and substantial infrastructure challenges like cost overruns and project delays turned to P3s. These partnerships presented a creative solution to safeguard taxpayers' dollars and ensure value for money (VfM) throughout the entire life cycle of an asset.

The use of performance-based contracts, which focus on what an asset *needs to deliver* rather than on *how to build it*, and the inclusion of private capital spurred management discipline and project innovation and helped attract a wider range of private sector expertise. This, in turn, led to a boom in delivering high-quality infrastructure and services to Canadians, reinvigorating an entire generation of assets and driving economic growth and greater living standards.

Over the last 30+ years, we have witnessed the continual evolution of the market and the model to reflect new government priorities and market realities. What has remained consistent, however, is that successful P3s depend on strong partnerships, appropriate risk allocation, and shared benefits. With an ever-increasing demand for investments, growing debt, inflation, trade labour shortages, and other market conditions affecting infrastructure delivery in Canada, governments — more than ever — need tools to ensure maximum value for taxpayers.

For these reasons, the need for P3s in this country has never been greater. The Canadian Council for Public-Private Partnerships (the Council) and its members remain aligned in their firm support of P3s. They laud the model's key attributes for delivering superior results for Canadians when used on the *right* projects. **We also acknowledge that an ongoing evolution is needed** to achieve better project outcomes, drive greater value for tax dollars, and foster a competitive environment while respecting the key principles and attributes of P3s. [1]

It is clear that our industry[2] must work together. This collaboration between the public and private sectors is necessary to preserve the proven strengths of the P3 model in Canada. However, it's important to recognize that new asset classes, different or emerging market conditions, the public interest and the needs of governments at all levels may require an evolution in our approach so that P3s remain a trusted and viable option in the procurement toolbox.

[1] The Council will advocate for procurement models to deliver infrastructure and services to Canadians that provide *efficient solutions* to public sector objectives, offer *value to taxpayers*, and embody *the four essential attributes of the most effective P3s*, which are detailed in the Mission and Vision section of the Council's website at https://www.pppcouncil.ca/who-we-are/mission-and-vision.

[2] The Council's definition of "industry" includes all major infrastructure leaders — from public sector owners to private sector construction and engineering firms, legal and advisory firms, banks and financiers to operators and facilities maintenance firms. A detailed breakdown of Council members can be found here: https://www.pppcouncil.ca/who-we-are/our-members.

Summary of Recommendations: Modernizing Canada's Approach to P3s

It is time to put Canadian communities back at the forefront of how infrastructure is delivered, operated and maintained in Canada. Delivering dependable, resilient and innovative assets — at the best value — that safely and efficiently provide services and goods for all of us every day is what matters most.

To do this, we need to get to the core of some lingering and emerging challenges and share best practices to get solutions enacted now. Since 2022, the Council has spearheaded an exploration of the key pain points affecting the Canadian infrastructure sector and how the P3 model, which has been relied upon to deliver some of the country's most critical projects for more than three decades, should continue to adapt and evolve to address those issues.

The Council has distilled this research into a series of considerations and eight key recommendations for government policy-makers and private sector decision-makers to drive the path forward for a more responsive, agile, and competitive P3 and infrastructure market in Canada that delivers greater value for Canadians.

The Council has diligently compiled and analyzed feedback, opinions, and experiences from our members through numerous meetings and surveys. This effort is combined with insights gathered from the Council's P3 2023 conference and workshops, as well as our enhanced engagement with government officials and politicians nationwide. Additionally, the intelligence gained through our vast membership and working groups has contributed to our understanding and the recommendations in this document.

- **Recommendation 1:** In a time of shrinking government revenues and public reluctance to accept higher taxes, it is an opportune moment to do more with public funds by using private capital to stretch those scarce tax dollars further. This financing brings enhanced oversight by investors since they have "skin in the game" to deliver on time and on budget.

- **Recommendation 2:** Develop resilient infrastructure for a 21st century economy and climate by thinking long term. P3 projects ensure that ongoing maintenance, life cycle renewal, and operations costs are considered and protected against budget cuts. This ensures a longer life for assets and a better quality experience for community members who depend on them.

- **Recommendation 3:** Remember it's a partnership — everyone wins, especially Canadians, when the public and private sectors work together. That's why a nimbler, less rigid approach is needed when it comes to risk allocation throughout the entirety of a project agreement. Taking a renewed, "First Principle-driven" approach to risk management ensures incentives are aligned to reduce risk for both the private and public sectors.

- **Recommendation 4:** Governments need to see themselves not merely as contractors or service providers but as "industrial owners" with a vested interest in a project's long-term success. They must actively oversee P3 contracts and provide centralized support to P3 contract management to minimize disputes and enhance transparency.

- **Recommendation 5:** Governments should investigate using a Progressive P3 (DBFM/DBFOM) approach for exceptionally large and/or complex projects where earlier contractor involvement could provide significant benefit for Canadian communities.

- **Recommendation 6:** Where possible, governments should consider breaking large projects (exceeding $500 million) into phases to attract greater competition, producing greater market tension, greater certainty in execution, and cost savings for taxpayers. Scaling P3 projects back to past levels ($500 million) will also significantly reduce risks for the private sector, which risks having too many eggs in one basket in a $1-billion-plus project.

- **Recommendation 7**: In the spirit of increasing transparency, rebuilding trust, and delivering top-quality infrastructure for Canadians, governments across all levels should collaborate to share best practices and establish new cross-Canada standards to modernize methodologies, cost estimates, and approaches used to select procurement models and judge RFQ and RFP submissions.

- **Recommendation 8:** Governments should evolve procurement approaches to ensure early engagement with private-sector proponents and foster a solutions-oriented procurement environment.

Setting the Stage: The Current Market Challenge

Tackling Risk and Partnership Resilience

In 2024, every corner of Canada's infrastructure sector is grappling with how best to navigate today's many complex market issues while meeting our country's overwhelming need for quality, resilient, and affordable assets in a new age of climate change. A booming population and decreasing government revenues are also contributing to market pressures.

All construction procurement models are struggling to find enough skilled labour at the subcontractor level as retirements rise and demands grow, and both the private and public sectors are struggling to accurately cost volatile commodity prices in projects.

These issues are squeezing procurement agencies and the private sector's ability to deliver projects on time and on budget, **regardless of the procurement model selected.**

Canada's P3 model has successfully delivered projects for more than 30 years because of the willingness of the public and private sectors to work together to find solutions to deliver complex infrastructure. In particular, the positive and successful track record of social infrastructure P3 projects In Canada is well-established.

However, in recent years, our internationally recognized "made in Canada" P3 model, distinguished by its principle focus on value for money, has struggled to find the best path forward.

There have been several significant shifts in the North American P3 market since 2018, including:

- The exit of experienced national and international players from the market, impacting government's ability to attract significant competition for projects;
- A heightened concern over fair allocation of risk in projects;
- A slowing pipeline and the loss of key markets (British Columbia and for a time, Alberta);
- The cancellation of projects well into the procurement process, creating a "chill" in the market;
- A saturation of large projects ($500 million+) and a growing number of mega projects ($1 billion+); and
- The lingering impacts of the COVID-19 pandemic and growing litigation between project partners.

Specifically, for P3s, despite their proven success in delivering projects, some stubborn issues persist. These include:

- A perception that unreasonable risk transfer has been downloaded onto the private sector. These risks include, but are not limited to, utility risk, scheduling risk, permitting issues and undisclosed site conditions (please note that P3 project risks are explored further in recommendation 3);
- A shift towards increasingly prescriptive project specifications;
- Bidders competing solely on price (a race to the bottom) rather than governments rewarding/considering RFPs that offer greater benefits, quality, and innovation results;
- A lack of updated and realistic cost estimates has led to perceptions that projects are over budget. This challenge exists for traditional models as well. However, P3s are the only model consistently tracked across Canada for value-for-money, cost, time, and life cycle performance. Given that the model is held to a high standard of accounting, unrealistic costing further exacerbates misconceptions or biases against P3s; [3] and
- A move away from long-term contracts, destroying the value created by linking the long-term operational performance of an asset to its design and construction.

These issues have sometimes resulted in fraying collaboration, increased litigation, loss of competition, and project delays, tarnishing the reputation of the P3 model and causing significant — and negative — economic and social impacts on our communities.

In these times of rapid change and increasing pressures, market certainty and healthy competition is ever more crucial. Recent P3 project cancellations, after governments issued requests for proposals and received responses, have created a chill in the market.[4] These cancellations have cost project teams time and money, leading to a reluctance to bid on future projects in these jurisdictions. Furthermore, these cancellations are seen as an indicator of the disconnect between budget and scope expectations tied to project funding and approvals. In some cases, this has led to an erosion of trust and reduced competition, as major contractors have since chosen to redirect their attention and potential investment to other opportunities in communities across the country and the United States.

At the same time, the Council has heard significant concerns from the public sector that P3 procurements and the associated risk transfer create a market that is failing to attract enough bidders and price tension, thereby

[3] Challenges to realistic cost estimates include: 1) The estimate has been completed by an inexperienced entity, 2) The owners have an insufficient class of estimates to determine the proper cost, 3) the owner has not updated original cost estimates to reflect current dollars and market realities, 4) commercial/contract risks have not been appropriately included in the estimate.

[4] Recent project cancellations include the 875 Heron Road Rehabilitation Project in Ontario and the Deerfoot Trail in Calgary

causing project delays, added costs and the potential withdrawal of RFPs.

Key Considerations and Recommendations

Maximize Returns: The Benefits of Private Capital and Long-Term Asset Management in P3 Projects

Recommendation 1: In a time of shrinking government revenues and public reluctance to accept higher taxes, it is an opportune moment to do more with public funds by using private capital to stretch those scarce tax dollars further. This financing brings enhanced oversight by investors since they have "skin in the game" to deliver on time and on budget.

The Council remains steadfast in its view that Canadian governments at all levels should be encouraged and supported to explore and assess P3 and alternative finance options for complex and large-scale infrastructure projects.

Private capital is a critical component of P3s, enabling governments to do *more* with taxpayer funds. A well-structured P3 ensures greater alignment between the public sector owners' goal of driving better value for the public dollar and the economic interests of private investors in infrastructure projects.

In an availability-based P3 model, the private sector is responsible for raising the capital for the project, and the government repays the consortium over time against project completion or performance milestones[5] (amortizing project costs) enabling governments to address more immediate needs instead of postponing projects due to existing public funding shortages.

Putting private capital at risk in a P3 project enhances accountability, ensuring the asset is constructed to perform as intended and is delivered on time and on budget. The value of a long-term P3 project also means ongoing maintenance, life cycle renewal and operations costs are considered and protected against budget cuts, ensuring a longer life for assets and a better-quality experience for community members who depend on the asset.

Furthermore, recent research has found that the extra financing cost of P3s is justified compensation for risk transfer, suggesting governments have not overpaid for risk transfer and offering insights applicable to similar international contexts and complex projects.[6]

The private capital component is the key differentiator between the P3 model the Council advocates for and other alternative procurement models, such as Alliance and Integrated Project Delivery (IPD), in which no private capital has been invested to date in Canada.[1]

While these models continue to evolve in Canada, the Council will work closely with members to better understand their application, when and where they may be the optimal

[5] For a detailed overview of why integrating financing risks improves the private sector's performance visit the P3 Consortium Components section of the Council's website: https://www.pppcouncil.ca/why-p3s/p3-components
[6] Researchers from Stanford and universities in Finland and South Korea utilized a lengthy time series of financial data from PPPs to compute the financing cost. They found that the "extra financing cost of the PPPs is a justified compensation for the risk transfer." Read the report here: *Are private investors overcompensated in infrastructure projects?*

procurement model for a project and assess whether integrating private capital is possible to ensure governments are maximizing value for taxpayer dollars.

Recommendation 2: Develop resilient infrastructure for a 21st century economy and climate by thinking long term. P3 projects ensure that ongoing maintenance, life cycle renewal, and operations costs are considered and protected against budget cuts. This ensures a longer life for assets and a better-quality experience for community members who depend on them.

Canada has a well-established P3 model with a proven track record that should continue to be leveraged where suitable, such as the successful Design-Build-Finance-Maintain (DBFM) and Design-Build-Finance-Operate and Maintain (DBFOM) models. These models integrate a whole life cycle approach to assets committing to the requisite long-term maintenance and life cycle investment.

There are multiple examples of successful projects in the market across asset classes, including highways, bridges, schools, hospitals, long-term care facilities, and community-enabling infrastructure projects like social housing, water and wastewater. Additionally, there are opportunities to expand P3s into areas such as energy projects and to support Indigenous community infrastructure and equity investments to help close an infrastructure gap estimated at $425 billion by the federal government's 2030 goal.[7]

The Council maintains that the DBFM and DBFOM P3 models historically used in Canada have proven long-term benefits for our communities. These models foster innovation and achieve value across the asset's life cycle, from design and construction to operations and maintenance renewal phases. This generates additional value by enabling the public sector to focus on delivering the public services supported by the infrastructure asset while incentivizing more strategic use of private capital for asset management.

However, new asset classes, current market conditions and global precedents are expanding our definition of what a Canadian P3 can be while still upholding the core principles of the model and offering non taxpayer dependent ways of raising revenues. For example, some international jurisdictions are exploring asset recycling, which monetizes revenue-generating public assets and reinvests proceeds into existing or new infrastructure such as toll roads, bridges, airports and transit systems.[8]

The Council believes it is crucial to adapt to market conditions and cater to the diverse needs of various asset classes by exploring the appropriate use of other approaches, including revenue-generating concessions and Progressive models while upholding Canada's key P3 model attributes.

[7] *CBC News*, "Indigenous infrastructure gap estimated at more than $425B," published April 16, 2024. https://www.cbc.ca/news/indigenous/indigenous-infrastructure-gap-federal-budget-1.7174362 (Accessed July 18, 2024).

[8] Asset recycling has been used by various countries, including Indonesia, India, Mexico, Uruguay, and more recently, Australia, as an additional tool in combination with P3s. Further insights can be found in this 2018 Marsh Report: INFRASTRUCTURE ASSET RECYCLING: Insights for governments and investors.

Recommendation 3: Remember it's a partnership — everyone wins, especially Canadians, when the public and private sectors work together. That's why a nimbler, less rigid approach is needed when it comes to risk allocation throughout the entirety of a project agreement. Taking a renewed, "First Principle-driven" approach to management ensures incentives are aligned to reduce risk for both the private and public sectors.

The Canadian infrastructure sector is grappling with risk and how to price it. While there are several approaches to rebalancing risk in a project, the Council firmly believes risk should be borne by the partner, whether public or private, best equipped to manage it with due consideration to prevailing market conditions. Ultimately, this approach protects taxpayers and enables better project outcomes.

P3 models work when:

- Pricing is realistic and reflects current dollars and market realities[9],
- The correct model has been selected,
- Competitive procurement is conducted, and
- Clear risk expectations have been established and tailored to the asset class. The risk profile for a linear highway or light rail transit project, for example, differs significantly from that of a health care or justice facility.

In recent years, the Council's private sector members have expressed frustration with what they see as a significant and ultimately untenable shifting of project risk (utility risk, commodity pricing, permitting, site investigations, scheduling risks, etc.). A comprehensive risk assessment is crucial at the onset of a project. But there's always room for enhancement to ensure effective management and allocation of risks between the public and private sectors.

The Council and its members stress the need for a renewed, "First Principle-driven" approach to risk management, with a greater focus on aligning incentives to reduce risk for both the private and public sectors.

The Council sees two approaches to fix risk issues:

1) The first approach requires properly structuring the contract, starting with a fresh risk management approach. The recent release of the *First Principles of Risk Reference Guide* by the Association for the Improvement of American Infrastructure (AIAI) provides valuable insights into how key contractual terms and concepts related to P3 project risk are addressed in the United States. Canada has an opportunity to leverage these insights to enhance transparency and clarity. The Council will publicly explore this guidance further at P3 2024, Canada's Infrastructure Conference, in November.

   Moreover, the Council advocates for the establishment of robust monitoring systems across the project's life cycle to continuously assess the effectiveness of risk management and update the assessment as a project unfolds. Risk registers should function as dynamic project management tools with clear accountability and

[9] As detailed earlier in Footnote 5, Challenges to realistic cost estimates include: 1) The estimate has been completed by an inexperienced entity, 2) The owners have an insufficient class of estimates to determine the proper cost, 3) the owner has not updated original cost estimates to reflect current dollars and market realities, 4) commercial/contract risks have not been appropriately included in the estimate.

governance, reflecting the evolving realities on-site. If unexpected situations occur, there should be ways to adjust how risks are shared.

At the same time project owners must remain aware of the cost of additional risk placed on the private sector due to future adjustments — clear rules and an understanding of such cost-sharing would need to be established from the start to avoid any unintended increase in contingencies.

This ensures fairness and makes it easier for both parties to handle. The Council believes a nimbler approach to risk management will rebuild confidence in the model and lead to a return to hard-bid DBFM/DBFOM projects rooted in value for money.

2) The second approach involves deploying Progressive procurement models, which we explore further in the following recommendations (4 and 5).

Recommendation 4: Governments need to see themselves not merely as contractors or service providers but as "industrial owners" with a vested interest in a project's long-term success. They must actively oversee P3 contracts and provide centralized support to P3 contract management to minimize disputes and enhance transparency.

Although limited government budgets are always a challenge, under-resourcing complex infrastructure contracts is incredibly risky. Public authorities must actively oversee P3 contracts, ensuring performance and compliance through audits.

Owners and private sector partners need to foster collaboration within their contractual arrangement and the confines of their partnership, seeking solutions to issues and escalating matters within the project's framework. Disputes that end up in court tarnish the public's perception of a project and undermine the integrity of the P3 model. All parties' reputations are seldom unharmed, and each partner must recognize that P3 agreements are long-term commitments. The strength of the relationship is paramount.

Government departments and agencies should provide centralized support, aiding contract management for consistency, reducing disputes and enhancing information sharing between comparable projects. For best practices, government and the private sector should take notice of recent recommendations that have come out of the United Kingdom's *White Fraiser Report —Private Finance Initiative* sector.[10]

Among several considerations explored in the report, the authors recommend that private sector partners adopt an "industrial owner" perspective. This entails viewing themselves not merely as contractors or service providers but as partners with a vested interest in the project's long-term success.[11]

[10] Government of United Kingdon. White Fraiser Report - Private Finance Initiative sector. July 20, 2023 https://www.gov.uk/government/publications/white-fraiser-report-private-finance-initiative-sector/white-fraiser-report

[11] Other notable practices outlined in the White Fraiser Report include: 1) Streamlining routine processes, such as managing small variations, can help reduce public sector frustration and enhance efficiency. 2) Monitoring and management of P3 contracts by public authorities is imperative. This includes conducting regular audits and ensuring performance and compliance assurance.3) Centralizing

Expanding the Umbrella:

Progressive P3s

The Council believes enhancing transparency and modernizing procurement approaches for major projects will foster a solutions-oriented delivery environment.

One way to drive competition is to integrate private sector expertise early in the procurement process *before* governments have selected a delivery model. These approaches are referred to as "Progressive" procurement strategies. A handful of jurisdictions,[12] most notably Ontario, are leading the exploration of the Progressive approach in Canada for the construction and long-term maintenance of exceptionally large and/or complex projects.[13]

Recommendation 5: Governments should investigate using a Progressive P3 (DBFM/DBFOM) approach for exceptionally large and/or complex projects where earlier contractor involvement could provide significant benefit for Canadian communities.

Why Go Progressive?

Early collaboration between public procurers and the private sector aims to help mitigate risks, provide more realistic pricing/scoping from project initiation, and yield benefits such as lower transaction costs and the mitigation of overruns and delays. Additionally, predevelopment agreements can aid public agencies in fostering long-term partnerships to advance P3 projects.

The Progressive approach, promoted by some in the contractor industry, envisions a shift towards market-viable solutions, prioritizing the selection and scoping of economically feasible P3 projects. Simultaneously, it aims to protect the private sector from taking on an unreasonable amount of risk. The whole point is that the government picks its partner sooner, and the public and private sectors work together to more adequately define and de-risk the project so that when the government is

resources to assist public authorities in managing P3 contracts. This involves striving for consistency, reducing disputes, and promoting the sharing of information and best practices across networks. 4) Incorporating suitable dispute resolution processes into project agreements to facilitate opportunities for collaboration between the public and private sectors to address challenges.

[12] Other jurisdictions such as British Columbia have successfully used a Progressive approach on non-P3 projects, so this procurement approach is developing a good foundation for future expansion across other regions such as Alberta where such an approach has not yet been utilized.

[13] Notable examples of this approach in Ontario include the Ottawa Hospital Civic Campus Redevelopment Project and the Weeneebayko Area Health Authority (WAHA) Redevelopment where the Progressive model has demonstrated tremendous promise. Progressive P3 procurement strategies have also been adopted federally, with the notable example of the VIA High-Frequency T Rail (HFR) project.

ready to fix the price, the risks have been identified, agreed upon, and allocated appropriately.

However, it is important to note that *not* all "Progressives" are P3s. The Council defines a Progressive as a P3 if it maintains these two core attributes: the whole life cycle of the asset (operations and/ or maintenance) and includes private capital investment and expertise. Again, both are essential to ensuring value for money for tax dollars is achieved.

Solving for Competition: The Canadian Boom in Mega Projects & Other Complex Projects

Recommendation 6: Where possible, governments should consider breaking large projects (exceeding $500 million) into phases to attract greater competition, producing greater market tension, greater certainty in execution, and cost savings for taxpayers. Scaling P3 projects back to past levels ($500 million) will also significantly reduce risks for the private sector, which risks having too many eggs in one basket in a $1-billion-plus project.

Some of our members believe that Progressive P3s help solve problems related to risk transfer and management. This approach may win back companies that had previously stepped back from the P3 market and potentially attract new bidders. However, other members have cautioned that the Progressive model does not address market competition, particularly for social projects like hospitals that exceed $1 billion. The real competition challenge lies in the capacity of contractors and subcontractors to execute such large-scale projects.

Until the market reaches substantial completion on a Progressive P3, we cannot say whether the Progressive model has solved this issue with evidence or certainty. To tackle this, the Council recommends that public owners refocus on planning and scaling projects back to levels seen in previous years, with an emphasis on integrating and managing the interface of such projects from both risk and logistical perspectives. By doing so, we can ensure that more contractors can competently compete and execute projects. This approach will lead to optimal pricing efficiency and greater certainty in execution.

Supporting Transparency: Transforming Public Sector Decision-Making Approaches

While recognizing the confidential nature of government processes, public sector decision-making must be clear and well-understood by the private sector and the public at large to ensure a project's success. A perceived lack of transparency can sow market confusion, destroy trust and negatively impact procurements.

Members of the Council support an independent process that includes all aspects of project development, from procurement and contract management to public communication of project milestones. This process should be free of political and owner interests, focusing solely on achieving the best outcomes for the project and the community residents it is intended to serve.

Over the years, P3 screens, business cases and procurement processes have been well-documented and understood, particularly in Canada's more mature markets. However, with the introduction of new models and challenges associated with established forms of P3s, there remains uncertainty regarding when and how the public sector decides on procurement models and whether and how Value-for-Money (VfM) methodologies are applied in that decision-making process.

Some jurisdictions are moving away from traditional VfM methodologies as they do not quantify the social benefits of P3s. Additionally, there is ambiguity surrounding the application of evaluation criteria and reliance by the public sector on dated or otherwise questionable cost estimates to determine affordability.

The Council believes there is an opportunity for government officials and politicians to explore modernizing their approach to established Value-for-Money (VfM) beyond the conventional "lowest net present value" metric and increasing their focus on qualitative factors from a whole-life cycle project investment.

Recommendation 7: In the spirit of increasing transparency, rebuilding trust, and delivering top-quality infrastructure for Canadians, governments across all levels should collaborate to share best practices and establish new cross-Canada standards to modernize methodologies, cost estimates, and approaches used to select procurement models and judge RFQ and RFP submissions.

The public sector has traditionally relied on Value-for-Money (VfM) analysis as the cornerstone of decision-making for P3s. In Canada, qualitative factors such as project risk, scheduling, budget, market realities and capacity can supplement a purely quantitative VfM analysis when comparing risk-adjusted costs to traditional procurement. However, as the model evolves and new P3 approaches are introduced, so should the public sector's methodologies and approaches.

Canada's established VfM approach enjoys global recognition and has, until recently, been well-understood by the industry. However, recent changes or shifts in approaches have not been documented.

The Council, therefore, recommends the public sector work collaboratively across jurisdictions to update P3 documents to reflect these new approaches. For example, the former Crown Corporation, PPP Canada, developed a suite of procurement tools that could be leveraged if updated to incorporate an industry-wide approach for all Canadian procuring jurisdictions, considering unique regional differences.

The Council is ready and willing to act as a pan-Canadian convener to support jurisdictions in collectively articulating evolved and modern approaches to evaluating project value to improve stakeholder understanding and transparency.

Recommendation 8: Governments should evolve procurement approaches to ensure early engagement with private-sector proponents and foster a solutions-oriented procurement environment.

There is a significant opportunity to enhance transparency and modernize procurement approaches for major projects to foster early engagement with private sector proponents, promote competition, cultivate a pipeline of market-ready projects, share best practices and elevate quality infrastructure solutions, which will foster a solutions-oriented delivery environment. Key areas of evolution include:

- **Early private sector engagement:** Encouraging early industry feedback in planning to ensure the success of projects and implementation plans through early market soundings. Early industry feedback prevents testing project size, scope and price at the RFP stage, reducing the risk of fewer bids and project cancellations. This approach ensures projects do not need to be re-procured, facing even higher escalation costs, as seen in other jurisdictions. P3s offer a unique opportunity for governments to collaborate with the private sector, allowing for flexibility in scaling and exploring opportunities for phasing projects. However, market soundings should always include the government project team, not just their external advisors.

- **Review Evaluation Criteria:** Reevaluate established criteria within procurement processes to encourage the participation of new entrants and restore trust with former market participants. Refine technical criteria to ensure openness to innovative approaches and fresh perspectives. Shift focus from being overly prescriptive about outputs to emphasizing outcomes, aiming to mitigate the 'race to the bottom' mentality often associated with cost-driven decision-making among contractors and developers.

- **Embrace Transparency:** Transparency in project details, contracts and plans is a significant driver for private partners. Limited workforce capacity underscores the importance of transparent communication. Owners who demonstrate flexibility and listen to private partners during the initial phase will likely attract more bids, delivering better results.

- **Market Reflective Cost Estimates:** Regardless of the model used, starting the procurement process with accurate and current cost estimates is essential to build trust and avoid potential issues later. For P3s, which are held to a higher value threshold than other models, more robust public sector estimation tools should be considered. These tools must reflect current dollar and market realities, capture the right class estimates to determine proper costs and ensure commercial/contract costs are appropriately captured and reviewed by an experienced entity.

- **Mitigate Market Risks:** As discussed in recommendation 3, the Council advises a complete refresh of risk management and is exploring how the latest research from AIAI can/should be applied in Canada. In addition, establishing more dynamic project management tools that continuously assess risk management, including quantitative cost risk analysis and adjustments where/when necessary, is an essential consideration. Clear rules and understanding cost-sharing implications due to any adjusted or new risks must be agreed upon at the onset. Project agreements must, therefore, incorporate suitable dispute resolution processes and facilitate opportunities for collaboration between the public and private sectors to address challenges.

Conclusion: Modernizing the Future of Canadian P3 Procurement

The Council is calling on the public and private sectors to work together to adopt the recommendations to ensure a robust and resilient infrastructure market on which Canadians can depend.

The robust discussions the Council has had with its membership, both public and private, have revealed tremendous goodwill and eagerness in the infrastructure sector to work collaboratively to resolve the thorny issues projects across Canada face and embrace new ways of doing business. The industry wants to deliver successful, state-of-the-art projects for Canadians.

However, it is time for all facets of the sector to evolve. If the sector fails to change, our country's capacity to remain competitive and deliver timely and resilient infrastructure for the long-term benefit of Canadians will be severely diminished. This would hamper economic growth and deprive communities of greater social cohesion and safety.

The Council believes these **eight recommendations** provide a path forward by acknowledging the issues head-on and proposing solutions where possible. It is also clear that this is not a "won and done" project. The conversations that have started and resulted in this publication need to continue.

As the only industry association representing virtually all major public and private sector players across the infrastructure sector, the Council will continue to convene thought leadership opportunities, make recommendations to ensure a balanced and proactive enabling policy environment, and advocate for the use of Canada's highly adaptable public-private partnership (P3) model when and where it makes sense. This approach aims to deliver resilient, innovative, and quality infrastructure and services that provide significant value for taxpayers, enhance economic opportunity, and improve the quality of life in our communities.

Again, we thank our Board, Communications Committee and Executive Committee members and our broader membership for their ongoing support and dedication to advancing best practices and knowledge. Their efforts help create an enabling policy environment that will secure and enhance Canada's infrastructure investment landscape.

About the Council

To learn more about the Council's mission and vision, our members and how to get involved, visit: pppcouncil.ca

CCPPP

pppcouncil.ca