

# The Hidden Risks of P3s: Fiscal Challenges and Opportunities

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# What is a Public-Private Partnership (P3)?



- No universal definition of P3
- P3 generally refers to any number of contracting arrangements that involve the leveraging of a private sector's skills and assets and a sharing of risk and rewards in the delivery of a service or facility for use by the public
- P3s are defined by the National Council for Public-Private Partnerships (NCP3P) as:  
*"a contractual arrangement between a public agency (federal, state or local) and a private sector entity. Through this agreement, the skills and assets of each sector (public and private) are shared in delivering a service or facility for the use of the general public. In addition to the sharing of resources, each party shares in the risks and rewards potential in the delivery of the service and/or facility."*

# P3 Industry Sectors



## > Transportation

- Roads
- Bridges
- Rail
- Airports
- Ports

## > Social Infrastructure

- Education
- Social Housing
- Public Buildings / Facilities
- Healthcare
- Civil / Convention Centers

## > Environment & Energy

- Solid waste
- Water, wastewater & stormwater
- Power generation and transmission
- Energy efficiency

## > Other

- Defense
- Telecommunications
- IT

# P3 Examples

## > Virginia Express Lanes



Image: Virginia Department of Transportation

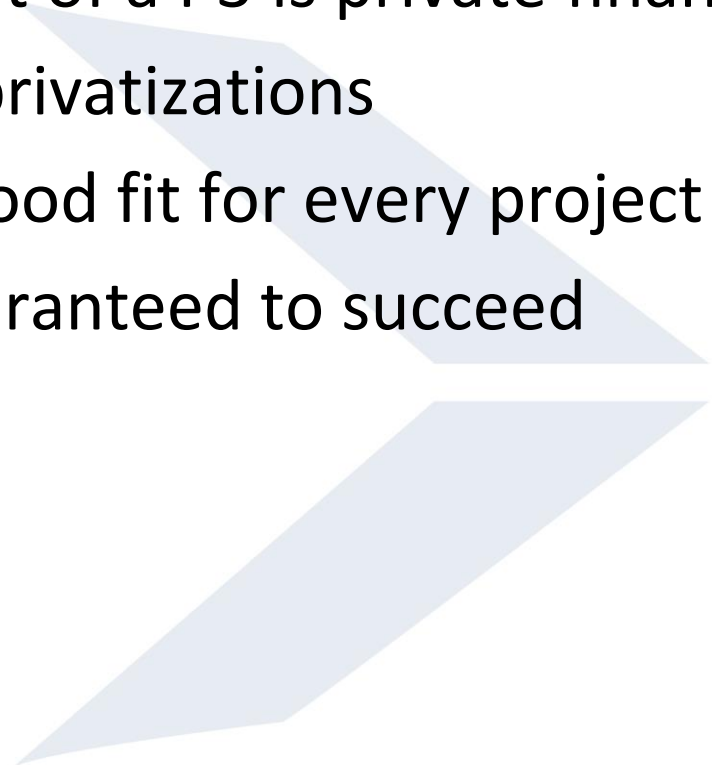
## > Governor George Deukmejian Courthouse (Long Beach, CA)



Image: Clark Construction Group

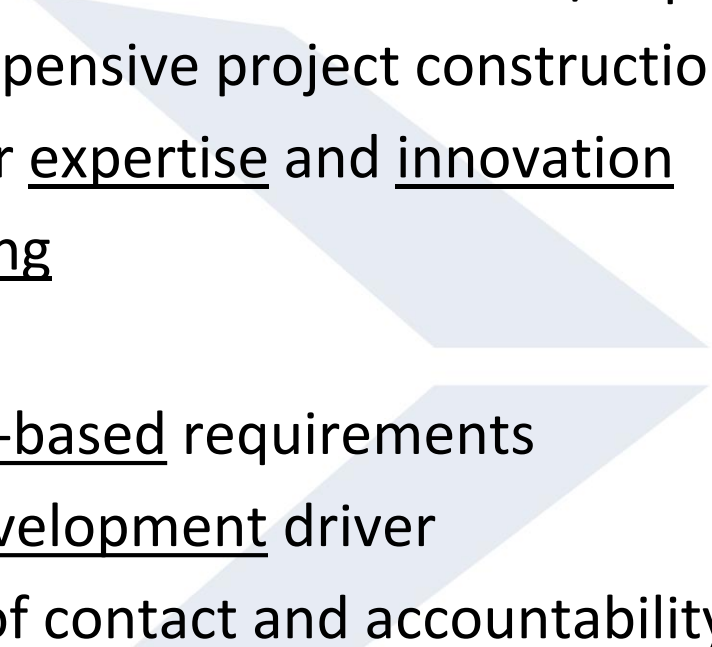
# Common P3 Misconceptions



1. Only benefit of a P3 is private financing
  2. P3s mean privatizations
  3. P3s are a good fit for every project
  4. P3s are guaranteed to succeed
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## Potential P3 Benefits



1. Speed – Efficiencies in construction/implementation
  2. Cost - Less expensive project construction/implementation
  3. Private sector expertise and innovation
  4. Private funding
  5. Risk-Sharing
  6. Performance-based requirements
  7. Economic development driver
  8. Single point of contact and accountability
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# Risks in Using P3 Approach



## Indiana's P3 takeover underscores risks, Moody's says

By  
Nora Colomer



Published  
June 3, 2015

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### Virginia Discovers P3 Projects Might Not Always Save Money

After a few high-profile setbacks, the state that's been a model for others interested in public-private partnerships is tempering its enthusiasm for them.

BY DANIEL C. VOCK | JUNE 3, 2015



Since Virginia passed a law 20 years ago authorizing public-private the state, it's been a model for other states interested in tapping private help deliver state services. Virginia officials frequently testify on Capitol Hill at international conferences about their efforts.

Both Democratic and Republican governors have used the partnership approach. The most well-known examples are toll roads and tolled lanes on highways in Washington, D.C., suburbs.

So it was significant when Aubrey Layne, Virginia's transportation secretary, suggested recently that Virginia may be able to save taxpayer money on a \$2.1 billion interstate widening project itself, rather than relying on partnership (P3) to finance, design and build the project.

### EDITORIALS

## Local taxpayers at risk from P3



Economists call it a moral hazard when one party enters into a partnership knowing that the other bears most or all of the risk.

Following legislative action in Frankfort put Kentucky's local governments and the state Chamber of Commerce, the public-private partnership (P3) bills

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## Report blasts Indy justice center costs

Brian Eason, [brian.eason@indystar.com](mailto:brian.eason@indystar.com)

Published 6:04 a.m. ET April 1, 2015 | Updated 12:29 p.m. ET



(Photo: Provided by Skidmore)

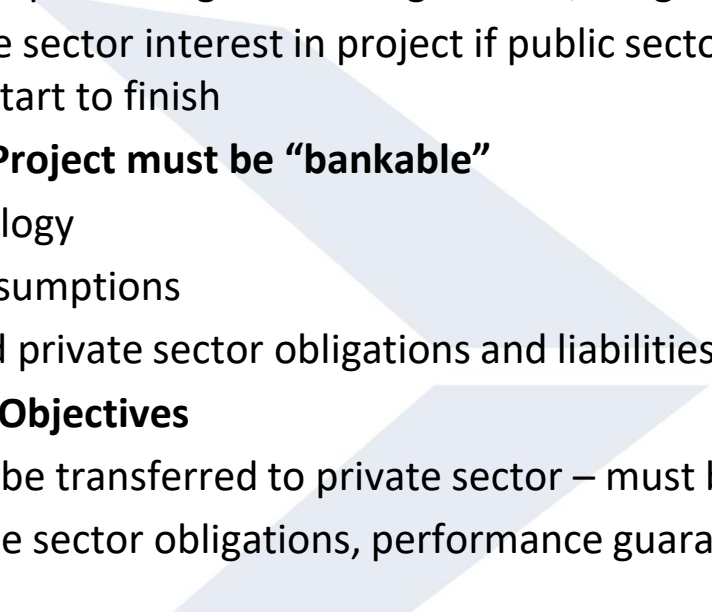


A new report commissioned by the City-County Council argues that Marion County can build and maintain the proposed criminal justice center for substantially less with traditional financing than under the public-private partnership advocated by Mayor Greg Ballard.

The report also challenges the administration's claim that the contract would effectively pay for itself through savings and new revenue, raising new questions about whether the county can truly afford the \$1.75 billion, 35-year deal without new taxes.

# Risks in Using P3 Approach

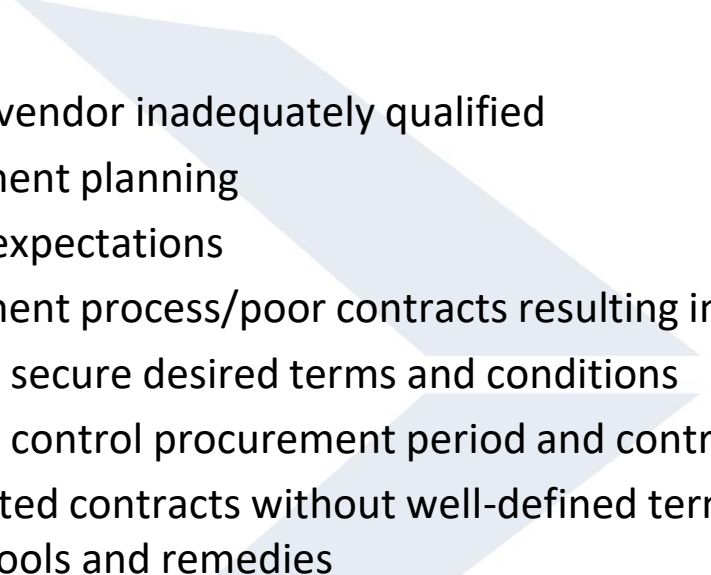


- **Political Risk in supporting P3 project from conception to completion**
    - Need a P3 champion at high level – a governor, a legislator or a mayor
    - Greater private sector interest in project if public sector committed to P3 process from start to finish
  - **Financing Risk – P3 Project must be “bankable”**
    - Proven technology
    - Reasonable assumptions
    - Clearly defined private sector obligations and liabilities
  - **Unrealistic Goals or Objectives**
    - All risk cannot be transferred to private sector – must be commercially balanced
    - Realistic private sector obligations, performance guarantees and other requirements
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# Risks in Using P3 Approach



- **Poor Private Sector Performance -- below public sector's envisioned expectations or stated requirements**
  - **Result of:**
    - Private sector vendor inadequately qualified
    - Poor procurement planning
    - Overreaching expectations
    - Poor procurement process/poor contracts resulting in:
      - Failure to secure desired terms and conditions
      - Failure to control procurement period and contract development leverage
    - Poorly negotiated contracts without well-defined terms, lack of detail and strong enforcement tools and remedies
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# What to Consider for a P3?



- In considering P3s, the following (among others) should be considered:
  1. What are the **project objectives**?
  2. Who should **own the asset** – public or private?
  3. Compare **project delivery models** (is P3 an appropriate delivery model for the project?)
  4. **Regulatory or other legal restrictions** to using P3 delivery approach
  5. **Financial modeling** to determine (i) appropriate funding and financing options and (ii) anticipated costs of the project
  6. Can the public sector **manage, operate and maintain** the asset as well or better than the private sector?
  7. Is the public sector prepared to transfer some **level of control** over the public asset to the private sector?
  8. Impact on **public employees**

# P3 Takeaways



1. P3s are increasingly being considered and used in the U.S. to develop a **wide spectrum of projects**
2. P3s are not limited to privately-financed deals only – but include range of construction and long-term O&M projects
3. Well planned and implemented P3 projects can bring:
  - **Cost reductions**
  - **Substantial risk sharing/transfer**
  - **Enforceable performance requirements**
  - **Private sector efficiencies and innovations**
4. P3s are only as good as **well-drawn and detailed contracts** secured through **strong, competitive procurements** – and this all begins with careful analysis, planning and implementation



# Questions?



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