Re-Building Strong Communities With Public Infrastructure

A Submission To The Ontario Ministry Of Public Infrastructure Renewal

In Response To The Discussion Paper On Infrastructure Financing And Procurement –

"Building A Better Tomorrow – Investing In Ontario's Infrastructure To Deliver Real, Positive Change"

CANADIAN UNION OF PUBLIC EMPLOYEES
– ONTARIO DIVISION

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Introduction

The Canadian Union of Public Employees (CUPE) represents 200,000 public sector employees in the province of Ontario. Our members work on the front lines in the provinces' hospitals, long-term care facilities, schools, universities, municipal services, electrical utilities and social services. Ontario's public infrastructure is our workplaces, as well as the underpinning of our communities. CUPE members work in or with over half of the provinces $240 billion stock of public infrastructure.

CUPE welcomes the opportunity to participate in this important discussion on a long-term plan for Ontario's infrastructure financing and procurement. In this submission we explain our position on the critical importance of public financing for public infrastructure and offer some ideas about how Ontario's infrastructure needs can be met.

We submit that only publicly financed, publicly owned, publicly operated services can meet the guidelines that Minister Caplan establishes in the consultation paper presented by the Ministry of Public Infrastructure Renewal. Models of infrastructure funding which involve private financing, ownership and delivery of services offer poorer service, increased expense, reduced accountability and poorer jobs to Ontario's communities.

In this submission we review the experience and evidence that demonstrates that publicly funded infrastructure is best for the province's taxpayers and the best model for rebuilding strong communities in Ontario. We also offer alternative suggestions for publicly funded models, rather than alternatives involving private financing.

We look forward to working with Minister Caplan and Premier McGuinty's government on rebuilding public services and public infrastructure in Ontario.

The Consultation Process

We have not addressed each of the questions posed in the discussion paper "*Building a Better Tomorrow – Investing in Ontario's Infrastructure to Deliver Real, Positive Change"* in this submission. We are concerned that the discussion paper, the questions that the Minister has posed in it and in public consultation sessions, and the list of stakeholders consulted presupposes that Ontario will be shifting radically toward public-private partnerships (P3s) and the privatization of public infrastructure financing and service provision.

Premier McGuinty and the Honourable David Caplan, Minister of Public Infrastructure Renewal, are well aware that CUPE and tens of thousands of Ontarians oppose a shift to P3s and privatization of public infrastructure and public services. Our experience of the public consultations held by the Ministry in the past month is that a disproportionate number of the "stakeholders" consulted were the very same corporate lawyers, accountants and consultants whose firms aspire to making hefty profits out of acting as lobbyists, brokers and intermediaries for P3s and private financing of public infrastructure. Price-Waterhouse Coopers, KPMG, Borden-Ladner Gervais, Gowling Lafleur Henderson and Bennett Jones are only a few such companies that attended the consultations.

CUPE recommends that the Ministry of Public Infrastructure Renewal give careful and appropriate weight to the views and recommendations of merchants of public financing and operations of public infrastructure. The government needs to be cautious about formulating policy based on the recommendations of those who stand to profit directly from it.

We also caution that the process of the various general and sector-specific consultation meetings in which invited "stakeholders" were required to debate each other in small group discussions and then report back on supposed "agreements" does not allow any stakeholder to properly present their best advice or clearly present their full position. The areas of agreement reported so pleasantly in these meetings do not represent our point of view. CUPE wants to be very clear that our position and advice is spelled out in this document as it has been in our private meetings with the Premier and his Ministers, and in other CUPE documents concerning P3's that we have presented to your government.

The Critical Importance of Public Infrastructure

The Ministry of Public Infrastructure Renewal's discussion paper, "Building a Better Tomorrow", identifies the critical importance of public infrastructure.

- Ontario's public infrastructure is the platform for the delivery of high-quality, accessible public services – education, health care, safe water, breathable air, roads, social services, and more.
- Public services fundamentally underpin our quality of life, which is second to none.
- Ontario's economic competitiveness and economic growth rest on the pillars of our public services.

Two recent studies by Statistics Canada quantify the positive impact that Canada's publicly-owned infrastructure – our roads, mass transit, water supplies, wastewater treatment facilities, power plants, bridges, ports, telecommunications and airports – has on the productivity and economic performance of Canadian business.[1] Public infrastructure, or "public capital" lowers the cost of producing a given level of output in almost every Canadian industrial sector. The two studies demonstrated every $1 increase spent on infrastructure generated, on average, approximately 17 cents of cost-savings for business each year from 1961 to 2000.

We also want to remind the Ministry that it is not capriciousness that has resulted in certain services being in the public domain. Governments provide services, not because of some economic mistake or some historical fluke, but because those services are necessary to ensure a certain quality of life in our communities. Services were brought into the public domain in order to meet basic human needs, to protect public health and safety, and to advance other significant social policy objectives because the private sector would not or could not do so. They became public services because the private sector couldn't or wouldn't deliver the service at a high enough quality to all who needed it at a price they could afford. It is misguided to simply assume that the private sector now can and will meet basic human needs and protect public health and safety.

Everyone agrees that growth and maintenance of public infrastructure has lagged in the past years and that we are faced with a problem that requires dramatically increased investment in the short term. There isn't unanimity on the underlying causes of this problem and increasing divergence on the immediacy of the infrastructure "crisis".

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[1] Public Infrastructure and the Performance of the Canadian Economy, 1961 – 2000, a summary of 2 research papers available on the Statistics Canada web-site: www.statcan.ca/Daily/English/031112/d031112a.htm

Public capital investment has not kept pace with economic growth or population increase. Stats Canada's study highlights the relative decline of provincial and federal government shares and the increased shares and responsibility of municipalities for infrastructure across the country. In 2002, local government accounted for more than 50% of total public infrastructure, compared to 40.8% for the provincial government and a mere 6.8%for the federal government. The provincial government's share has declined from more than 51% in 1979.

The share of GDP invested in public infrastructure has declined over that same period.

As the Ministry notes, Ontario's infrastructure needs are large, both for new construction to meet new demand, and for maintenance and rehabilitation and refurbishment of existing infrastructure.

It is not possible to calculate exactly how much capital spending is needed over what period of time to meet the province's needs. For instance, we are somewhat skeptical of the OHA's calculations that hospitals need $7 billion to $10 billion in the next 3 to 5 years. Are adequate facilities being closed and new ones built, as in Brampton, because that approach attracts private investment rather than being the most rational allocation of resources? Ontario's own study of water and wastewater infrastructure indicates that municipalities are not able to estimate the state of repair of their underground infrastructure or the cost of repairing or replacing it with any assurance. In any case, the need is great.

The current value of Ontario's stock of public infrastructure is $240 billion. The Ministry estimates that keeping it in good repair costs between 1% and 3% of the current value of the capital stock annually - between $2.5 and $7.5 billion. The Ministry also estimates that the population will grow at 2% per year for the next 20 years - which provides some basis for calculating demand for new construction.

Not all of costs building, repairing and maintaining the infrastructure stock are the responsibility of the province. Twelve per cent (12) is federally owned and 42% is municipally owned. The province has responsibility for spending in the municipal sector, but not on federal assets. If we say that the province should contribute 50% of the cost of municipal capital spending (the other half being shared by municipalities and the federal government), then we conclude that province is responsible for good repair and new construction on a base of $158 billion or 66% of the total current stock.

We can use these numbers to estimate the annual budget for capital spending. Acknowledging the pent-up demand for both new construction and maintenance and repair, Ontario could allocate 3% of current value for each in next year's budget – $4.8 billion for repair and refurbishment and $4.8 billion for new construction – if there is actually the capacity to carry out that much work in the next fiscal year. $9.6 billion is 12.4% of the Ontario government's projected spending for 2004/05. The need for infrastructure funding is great but not totally overwhelming or impossible.

Infrastructure Financing Models

We agree with the Ministry "no single level of government, acting alone, can meet all of our investment needs". We have taken the same position with the federal government as we are taking with the government of Ontario. We can even agree that, "no single approach can successfully address all of our infrastructure issues". We begin to disagree when the discussion paper says, "a full range of infrastructure financing and procurement models must be considered". Not all financing models are good ones for funding public infrastructure.

The Minister sets out a framework for establishing clear guidelines for financing and procuring public infrastructure. With only one revision, CUPE agrees with these principles.

- The public interest is paramount.
- Value for money must be demonstrable.
- Public control and ownership must be preserved.[2]
- Accountability must be maintained.
- Processes must be fair, transparent and efficient.

Financing models, which include private financing, private ownership and operation, or public-private partnerships, will not meet those principles. The Ministry's own discussion paper admits that the public sector is superior to the private sector in clear lines of accountability to and control by the public as well as lower-cost. Only publicly financed, publicly owned, publicly operated services will meet the principles set out by Minister Caplan.

We need to clear up questions of language at this point. Proponents of public-private partnerships and privatization of public services – such as the consultants who crowded the Ministry's consultations – have developed the specious contention that only outright ownership of assets is privatization and that the nature of the service deliverer – whether private or public sector – does not determine whether the service is public or private. The current Liberal government has tried to pass this fiction on to the public with its claim that it cancelled the Tory deal for P3 hospitals – claiming that the hospitals will be publicly owned, even though the financial arrangement is the almost identical to

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[2] This is the one CUPE revised. The Honourable David Caplan, Minister of Public Infrastructure Renewal, actually proposed the following principle: "Appropriate public control/ownership must be preserved".

the lease-back arrangement set up by the former Tory government and services integral to health care will be provided by private, for-profit operators in the hospitals. CUPE does not accept this fanciful distinction and the public is not fooled by it. More than 75% of Canadians want their public services publicly owned and publicly delivered.[3]

As the Ministry's discussion paper notes, there is a continuum of infrastructure and financing models, from completely public to completely private, with variations in financing, design and build work, operations and ownership.

In traditional public sector models, government finances the project, owns the asset and operates the service. The private sector designs and builds the infrastructure and provides some specialized services on a fee-for-service basis. CUPE contends this model is the best way to provide high-quality, accessible public services and the only way to achieve the principles listed above – putting the public interest first, accountability, transparency and best value.

The other models put forward for consideration include private financing, long-term lease-backs, private operation of or in public assets, private ownership with public operators, and possibly others. In the current jargon, these are all referred to as public-private partnerships – P3s.

There is a push for P3s at every level of government, with the suggestion that P3s are a means of building and maintaining infrastructure that will relieve the cost to the public. With the pervasive ideology of the 90's of smaller government, smaller taxes and smaller deficits, politicians have looked to P3s as a way of moving infrastructure costs off of the governments' books and out of the public's view. P3s cost the public more, not less; they simply shift accounting for the debt from one place to another. But the same people pay – pay more and get less from P3s than from the traditional capital procurement financing and processes.

The Problems with Public Private Partnerships and Private Financing

A critical analysis of P3s in Canada and around the world shows their benefits are largely theoretical while the costs are all too real. For all the spin about efficiencies, innovation and transferring risk, the cold hard reality is that P3s inflate costs, reduce service and confound accountability. Whether we look at the sorry history of P3 schools in Nova Scotia, the current tussle over tolls on Highway 407 or the looming nightmare of P3 hospitals, we see the same pattern.

[3] IPSOS Reid poll, April 8, 2004, http://www.cupe.ca/updir/FACTUM.PDF.

The primary advantages of public financing, ownership and operation of public services over private financing and P3s are:

- Public services have public service as their paramount objective. Private operations have profit as their primary goal. Service suffers.
- P3's and private financing cost more.
- Accountability and transparency are best achieved through public ownership and control.
- Public services provide more and better jobs in local communities.

Poorer Service

Public services deliver more and better service and are accessible to more people. That is their objective. Private companies have profit as their ultimate goal. Services are curtailed and access to services is reduced in order to enhance profits.

There are dozens of examples of profit trumping service in P3 ventures in all sectors – health care, education, municipal services, water treatment and transportation.

The Ontario Council of Hospital Unions (OCHU) and the Ontario Health Coalition have provided your government with voluminous information about PFI disasters in health care in Britain. The latest story out of the UK health sector is that the private landlords have levied huge penalties against the National Health Service because the hospital is full![4] Evidently it's more profitable to treat fewer sick people.

In the education sector we can point to the example of Nova Scotia P3 schools that don't allow teachers to put anything on the walls because it would harm the paint job (read, increase maintenance costs), leaving public school children to learn without any visual stimulation. Those schools were not built where they were most needed because it was more financially advantageous to the private business partner to build them where land was less expensive. Five years after one of the Halifax P3 schools was built, children are still drinking bottled water because there is arsenic in the school's well-water.

Numerous P3 ice rinks and arenas in Ontario have been abandoned by the private sector when they lost money because the community couldn't afford to

[4] http://observer.guardian.co.uk/print/0,3858,4889986-102285,00.html

pay the charges for ice time that were required by the operator to make a profit. In the meantime, higher charges reduced access to the service.

We are fortunate to have very few examples of disasters in private water and wastewater operations – because we have so few private operations. The biggest private operation is in Hamilton, and the private operator refused to take responsibility for a massive sewage spill from the plant it operated into Hamilton Bay. There are lots of other examples around the world.

And there are lots of other examples in all sectors of public service. Rather than list them all in this paper, CUPE has provided the Ontario government with an inventory of available information and research.

P3s invariably result in reduced quality of service and/or reduced access to service. Reductions in staff are almost certain when a service is transferred from public to private operations, and reductions in staff lead to reductions in service. Higher turnover is common with P3s because of lower rates of pay than public services. High turnover in turn reduces quality of service.

The recent report from the Expert Panel on SARS reminds us of the critical importance of being clear about the primary objective of public services.

> Ultimately, the core faith of Ontarians, and indeed Canadians, in government rests on performing certain essential functions well…. Therefore, basic public health and core infection control need to be thought of in this light as functions that reflect part of the social contract between the public and its government, and not simply as another fiscal pressure on a burdened health system. Even in an era of fiscal restraint, we must remind ourselves and others of the cost of ignoring the essentials.[5]

Higher Cost

P3 and private financing arrangements are more costly than public sector funding for infrastructure projects for a number of reasons.

Capital costs for P3s and private financing are sharply higher because of higher private borrowing costs. Governments of all stripes pay less to borrow than private companies do, generally in the range of 2% to 3% less. The Ministry's own consultation paper recognizes that fact. The public sector always has a better credit rating because there is much more certainty governments will repay debt and because governments borrow in such large amounts that they can

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[5]http://www.health.gov.on.ca/english/public/pub/ministry_reports/walker04/walker04_2.html

warehouse their overall debt and get good rates. They can also cross-subsidize smaller projects with their larger borrowing.

Economist Armine Yalnizian has demonstrated the dollar impact of higher borrowing costs for building the new Royal Ottawa Hospital. To use P3 financing on just that one billion dollar project would cost Ontario taxpayers almost $7 million a year over and above what they would pay in new borrowing costs if the government was the source of financing for building the needed facility.[6] That same $7 million would pay for 117 new full-time nursing jobs, which would contribute a great deal more to health care services than paying higher interest rates will. The totally unnecessary expense to Ontario's taxpayers, over the life of these agreements (up to 30 years) would be more than $200 million just to finance one billion-dollar project.

If the same difference in the rate were applied to the entire $9.6 billion in infrastructure spending that we estimate should be invested in Ontario this year, the amount that could be saved by public financing would be $67.2 million.

The Auditor General of New Brunswick estimated the additional cost to taxpayers of building one new school through a lease-back arrangement at more than $400,000 in 1998.[7] In June 2000, the Nova Scotia government scrapped all future public-private partnerships for school construction because it proved too costly. The over 30 schools built under the PPP arrangements cost taxpayers an additional $32 million above and beyond the original estimate of $350 million. Cost overruns were attributed to lax building standards, lack of accountability, last minute design changes and unmanaged development costs. The government said that the $32 million cost overrun could have built an additional three more schools.[8]

The Auditor General for Canada estimated that the additional costs incurred through private borrowing for the construction of the Confederation Bridge were in the region of $45 million.[9]

Lewis Auerbach formerly served as Director in the Audit Operations Branch of the Auditor General of Canada. In analyzing the Ontario governments plans for P3 hospitals he pointed out that governments can publicly fund infrastructure projects but choose not to.

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[6] Yalnizian, Armine, Toronto Health Coalition, "Submission to the Ontario Budget Consultations February 2004".

[7] Auditor General of New Brunswick, *Special Report for the Public Accounts Committee: Evergreen and Wackenhut Leases, 1998.*

[8] Government of Nova Scotia, Department of Education, *New Plan for School Construction, News Release, June 21, 2000*

[9] http://www.cupe.ca/www/p3cs/4325

> "It is a choice especially difficult to comprehend when it leads to higher, rather than lower cost to taxpayers".[10]

P3 arrangements must include the cost of private profit within their budgets. The anticipated rate of return is at least 15% on capital investment. Private operations have to include a margin of profit as well, for middle-men" and ancillary services as well as the primary corporation.

In the case of Andersen Consulting (now Accenture) and the Business Transformation Project in Ontario social services, the Provincial Auditor found financial benefits to Andersen of $13 million in excess of what could clearly be attributable to the company's work.

The MFP debacle provides ample instruction in private financing and lease-backs in at least 4 major Ontario cities and in their dealings with the government of Ontario. The Toronto Star reported on the additional costs to the City of Toronto.

> "An analysis done last year shows that the city's total lease costs were $101.8 million, while debenture financing of the same equipment over five years would have totalled $95.9 million, a difference of $5.9 million. When the deal was first approved in 1999, the staff report said debenture financing would be more expensive."[11]

Governments pay more for P3 lease-back arrangements than if they borrow the money directly.

Private financiers and operators often use "low ball" or "loss leader" bids to get the first contract or to gain greater market share, then raise their price at the next opportunity. MFP again provides an example. They initially offered lease rate financing at a rate of 4.6%, but failed to mention until some time later that the rate was good for only 90 days, after which it could change, and did, to 6.5%

In negotiating P3 schemes, lawyers and accountants pocket princely sums drafting contracts of thousands of pages that are not open to scrutiny by the public, legislators or the press. If the federal Auditor General was stymied in her efforts to access information from Crown corporations, imagine what will be required to pry secrets from the multinationals that benefit from these schemes.

P3s are promoted as somehow transferring debt from the public sector to the private sector. P3s might hide but do not reduce public debt. Governments enter into P3s in order to keep debt off the books. A number of provincial Auditors General in Canada and some abroad have questioned the accounting

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[10] Issues Raised by Public Private Partnerships in Ontario's hospital sector, by Lewis Auerbach, written for CUPE, 2002

[11] Jack Lakey, "Inquiry begins into MFP lease deal; Probe will call 35 witnesses, including top city staff who plugged company", The Toronto Star, Mon 30 Sep 2002. Page: B05.

practices behind particular P3s and the extent to which these arrangements endeavor to obscure or hide real public liabilities. P3s are not neutral financing mechanisms – private financing is debt financing. Funds are borrowed and have to be repaid – either out of public funds or through other charges to users, as in toll roads. Whether it is a 30-year debt or 30-year mortgage, both are long-term financial obligations. However public debt costs less to repay and retains public ownership and control of the asset.

Experience has shown that substantive risk is not actually transferred to the private sector in most of these arrangements. Public agencies pay most of the private partner's risk premium to the extent that higher financing costs are passed back through ongoing lease payments. If interest rates are reduced by a government loan guarantee, then the public sector has taken on the risk in any event. As well, the public sector generally has no choice but to assume many risks in order to protect or deliver the public services. For example, it was the regional government in Hamilton that picked up the legal and clean-up costs after 180 million litres of sewage poured into the harbour and backed up into 70 homes and businesses. Other private operators have walked away from recycling operations and arena operations in Hamilton when profit margins collapsed, leaving the city to pick up the cost of providing the services

P3s are promoted in the name of competition. The private sector claims that by breaking the public sector monopoly on service delivery, service will be improved and costs reduced. But their real objective is to secure a profitable monopoly for themselves. P3 contracts usually assure the developer a stable, captive market and guarantee that the price of its services may be increased over time

Public-private partnerships are being promoted across Canada, in the U.S. and in many other countries. Auditors and Auditors General are consistently raising concerns with P3s in Canada. In recent reports even organizations such as the World Bank and, more locally, the C.D. Howe Institute support the principle of P3s but cannot point to any outright successes in terms of public benefit or even public perception. If "success" however, is measured by how many major corporations or consortia have profited from these ventures, that is a different matter.

Loss of Public Accountability and Transparency

In 2002 the North Shore News reported on a very instructive presentation to North Vancouver District Council that explained the private sector's perspective on P3s.

> "Lawyers … made a presentation to council that outlined a corporate wish list of procedural, policy and legal changes that would encourage the development and expansion of P3's.

> Among the obstacles to P3s presently in place are policies and practices that require public consultation and approval. In particular one slide, entitled Inherent Diseases, outlined some of the areas that the private sector finds problematic in dealing with the public sector -- including the fact that with the public sector the "emphasis is on 'process', 'stakeholders', 'transparency', and 'public justification." The slide explained that these things are "often a threat to the success of the project... "[12]

Public accountability, transparency, public consultation and approval are not "diseases" of the public sector. They are hallmarks of democratic government. They may well, however, be a threat to P3's – not because they are diseases, but because when the full facts of a P3 project are known and transparent to the public, citizens will choose publicly financed and delivered services.

Justice O'Connor, in his report on the Walkerton Inquiry, didn't take a stand against private operation of water systems, but he did insist that any consideration of turning operations over to private operators had to have public input and that all such contracts be public. Just last week Justice Archie Campbell emphasized the importance of transparency and accountability in improving the province's public health care system.

Secrecy is built into P3 arrangements on the grounds of commercial confidentiality. Contracts for the Royal Ottawa Hospital remain secret even though millions of dollars of public funds will be spent on the new facility. The residents of Hamilton have never seen the contract between American Water Services and the City of Hamilton (or any of the predecessor contracts), nor have they seen any reports from the operator to the Council in the last 6 years. A city councillor in Hamilton who asked for an accounting of maintenance expenses during the life of the contract has been told that he will have submit a request under Freedom of Information and pay $2,800 for the privilege.

When P3 contracts are secret the public and their elected representatives have no opportunity to influence how services are delivered and how tax dollars are spent. Government financial transactions are required to be transparent. The public can know whether their elected representatives are spending their money well or foolishly. The new government of Ontario has recently discovered and reacted to the wasteful spending that went on when OPG and Hydro One were told to act like corporations and were allowed to hide their books from public scrutiny. The public has still not been allowed to examine detailed financial information for the William Osler Hospital project in Brampton.

This secrecy provides the breeding ground for corruption.

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[12] Sherry Peters, " *Public/private partnerships pitched to NVD*", North Shore News Wednesday, P. 3,October 2, 2002.

When the ownership and operation of public institutions is handed over to private companies the issue of who is responsible for what becomes confused. In a P3 school the province may be responsible for curriculum, the board for hiring teachers, the parent council responsible for extracurricular programs, and a multinational company based in the United States for the building itself, and custodial/maintenance and administrative services. In Nova Scotia's P3 schools principals didn't know who was responsible for heat and lights while parents reported a lot of "buck-passing" when they asked for improvements in school programs.

Unlike design and build contracts, P3s erode public control over vital public services such as health care, education, water and electricity, through allowing the private sector to determine the quality and quantity of service delivery and in some cases the cost to the user of the service.

One example that should have a great deal of influence in the current discussion is Ontario's own privately owned but publicly built toll highway. The Ontario government has 407 International Inc. in court in a battle over who has control of toll rates on Highway 407.

The length of P3 contracts themselves make accountability next to impossible. The shorter ones are 10 years, allowing the public and their elected representative only one chance every decade to influence an important service such as waste management, water treatment or public transit. It was recently revealed with the contract for the BC Rail P3 is structured so that there are 900 years of renewal options in the "90-year" contract**!**[13]

Public service is immensely more flexible that a long-term P3 contract. A change in public policy or the introduction of new technology can lead to a change in service delivery or infrastructure when it is appropriate and without huge penalties levied by a private corporation for re-opening a contract.

Fewer Poorer Jobs

The MPIR's consultation paper asks how "fair treatment of workers" can be assured in non-public models of infrastructure funding. The net effect of P3s is to reduce the number of jobs and slash wages and benefits. Decent jobs that pay a living wage are replaced by low-wage, casual labour as funding intended for front line services is diverted to overhead and profits. This downward shift has a negative effect on the whole community. The way to build strong communities is with good jobs, and that includes protecting public sector jobs.

[13] Michael Smyth, "Not being straight with the public comes back to haunt B.C's Liberals". The Province, April 22, 2004, p. A4.

CUPE was assured by Premier McGuinty at our first meeting that his government will not pursue a low-wage strategy and we will hold him to that.

Better Contracts Won't Solve the Problems

Lawyers and consultants, who stand to gain even more from brokering P3 arrangements if the contracts are bigger, claim that they can write contracts that would mitigate all of the problems critics raise about P3s and private financing. The MPIR consultation document asks what should be included in P3 contracts. It is our contention that no contract which can shift private for-profit corporations' priorities and motivations from profit to public service, so public ownership, funding and delivery of public services will always be better for the people using those services.

P3 contracts range from 10 years to 40 years in order to ensure that private investors have time to make their profits. No contract can anticipate every eventuality over that period. Extra claims and changes are inevitable.

The negotiations and contracts involved in P3s just add to the expenses of the project. The first 18 PFI hospital projects in Britain spent £53 million (over $110 million) on consultants. The lawyers alone got £24 million. Incredibly, the contract for Coventry's Walsgrave Hospital was 17,000 pages. Reportedly, the two consortia vying for the deal asked for government cash to pay lawyers to read it all.

What has it already cost the public for the 6-foot high stack of contracts between William Osler Hospital and the Healthcare Infrastructure Company of Canada.

The British Treasury has reached the same conclusion:

> "A PFI transaction is one of the most complex commercial and financial arrangements, which a procurer is likely to face. It involves negotiations with a range of commercial practitioners and financial institutions, all of whom are likely to have their own legal and financial advisers. Consequently, procurement timetables and other transaction costs will be significantly in excess of those normally incurred with other procurement options."[14]

[14] HM Treasury, "Public Private Partnerships – Draft Value for Money Appraisal Guide", February 2004. p.23.
www.hm-treasury.gov.uk/media//8C232/draft_%20vfm_%20assessment_%20guidance.pdf

User Fees

In the discussion paper and in subsequent public pronouncements the Ontario government is proposing to increase the cost and range of user fees and institute full-cost-pricing for more services rather than raising taxes. This is the wrong approach to funding public services and public infrastructure. It is regressive, putting more of a burden on residents with lower incomes who have greater need of access to public services. In many cases, it will result in a deterioration of service because "full-cost pricing" won't be able to cover all of the costs or pay for all of the benefits.

Enid Slack discusses these approaches in a paper on alternative infrastructure funding:

> "There are cases where charging full user fees may not be appropriate, however. Where a good or service exhibits externalities, pricing at the marginal cost may not be appropriate. Externalities are benefits or costs of services that are not priced and may therefore not be taken into account by the user. Education is often used as an example of a positive externality where the benefits go beyond the individual to society at large. Recreation programs for at risk youth have significant external benefits in terms of success in school, lower crime rates, etc. When society puts a high value on these positive externalities, then below-cost provision or subsidies are warranted.
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> The most important general public concern with user fees is that they have adverse distributional effects: low-income families cannot afford to pay user fees and will either not use the services or will have to reduce their consumption of other services. User fees may deter public use, especially in cases where the use of the service is desirable from a public policy perspective."[15]

The people of Ontario have consistently told the McGuinty government that they want public services rebuilt and they are willing to pay. In our pre-budget submission CUPE called for a number of tax measures that would meet this demand in a fair and just way. Ontario Confederation of University Faculty Associations just released a study showing that increases in user fees outstripped tax cuts during the last two terms of the Ontario government.[16] Public services should be funded through an adequate and progressive tax system, not user fees.

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[15] Slack, Enid. "Alternative Methods of Public Financing of Infrastructure in Canada", unpublished paper prepared for the Canadian Union of Public Employees, Toronto, June 2003.

[16] http://www.ocufa.on.ca/press/040419.asp

Public Alternatives for Funding Infrastructure

The good news for Ontario is that there are cost-effective alternative to P3s that protect the public interest. But there is no magic bullet. At times the promotion of P3's and private financing seems to resort to a fantasy that if the private sector takes on the project there won't be a cost to the public. Other than contributions from reserves and current revenue, infrastructure construction and refurbishment will be funded through debt financing. The question is how to arrange the debt financing that maximizes benefits and services to the public and minimizes costs. We have shown above that public financing can meet those objectives and private financing cannot.

Despite debt hysteria, the ratio of debt to GDP is low and falling at the federal and provincial levels. Debt charges in Ontario for municipalities in Ontario were at 3.5 percent of revenues in 2001, well below provincial guidelines. Municipal debt charges have declined over the past 10 years. Grants from upper levels of government to municipalities have declined over the same period.[17] Both the provincial government and municipal governments have the ability and the "room" for significantly more borrowing to finance infrastructure.

There are some innovative variations as well as straightforward, tried-and-true government borrowing. We outline some of our suggestions below.

Pooling Municipal Debt

Small municipalities, who do not receive the same high credit ratings resulting in the same low interest rates that larger governments do, can reduce the costs of borrowing by pooling their debt.

> "When municipal debt is pooled, local governments issue bonds that are purchased by a bond bank which is usually an independent authority established by provincial statute. The bank can pool the issues and sell the larger, combined issue on the national bond market at a lower cost than can some individual municipalities."[18]

Municipal finance authorities have been established in most provinces – the Municipal Finance Authority in British Columbia, the Municipal Capital Borrowing Board in New Brunswick, Municipal Finance Corporation in Nova Scotia, and the Newfoundland Municipal Financing Corporation. Some provinces, such as Nova Scotia and New Brunswick, require all municipalities to borrow through the provincial authority. In other provinces, larger cities issue their own debt.

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[17] Ibid.
[18] Ibid.

Ontario recently established the Ontario Municipal Economic Infrastructure Financing Authority (OMEIFA) with $1 billion to provide financing for municipalities and other public bodies starting in the 2003 budget year.

Municipalities may prefer a pooled financing authority without provincial participation.

> "The purpose of financing authorities is to gain greater access to national and international capital markets and to benefit from lower credit ratings. In this way, the credit risk of all municipalities combined is almost always less than that for each individual municipality.
>
> Municipal finance authorities generally issue bonds on a regular basis; some only for municipal units but others include schools, hospitals, utilities, and other municipal bodies. The administration costs are funded by the provincial government or by earnings on reserve funds, participants, or a combination.[19] In most provinces, loans are directly guaranteed by the provincial governments."[20]

Pooled borrowing lowers the cost of capital and can reduce the cost of administering the debt as well.

Public Bonds

There are several variations on public bonds that can be used to raise funds for financing infrastructure.

Governments could be persuaded to issue special bonds to fund infrastructure projects to develop their own funds or financing vehicles in order to do so. Federal, provincial and municipal bonds are generally considered risk-free, simply because they are issued by governments and guaranteed by them.

Real return bonds, with interest rates adjusted for inflation, may attract more investment from large pension funds than regular government bonds.

Senior levels of government could create bonds to create a pool of funds specifically for infrastructure based on environmental principles – a Green Infrastructure Fund – that offered attractive interest rates. As economist Monica Townson explained,

> "It could be viewed as a way of organizing the debt that is generated from public infrastructure investment and renewal,

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[19] See Gilbert, M. and R. Pike.1999. "Financing local government debt in Canada: pooled versus stand-alone issues – an empirical study." *Canadian Public Administration*, Vol. 42, p. 531.
[20] Slack, Enid. Op cit.

> which may assist not only in attracting investment capital from public sector pension funds in particular but also in drawing attention to the positive commitments that actually are undertaken by governments that use it".[21]

In the U.S. municipalities issue tax-exempt bonds. Following September 11, 2001, New York State developed incentives to rebuild New York, which included triple tax-exempt bonds, and taxable reconstruction bonds, which could be purchased by public employee pension funds.

Tax-exempt bonds offering preferential tax treatment could be directed at funding public infrastructure. Ontario opportunity bonds that went on sale in April 2003 benefit from lower provincial but not federal taxes. The proceeds from these bonds are available for municipalities to borrow at reduced interest rates to finance local infrastructure.

Subsidies from Senior Levels of Government

We cannot forget straightforward subsidies from senior levels of government for infrastructure funding. Both the Ontario government and the federal government have reduced subsidies to municipalities and off-loaded responsibility for other public services, such as social housing, over the past decade. At the same time, the provincial government is imposing new (and often positive) regulations on municipalities, such as requirements for water and wastewater treatment, without providing the millions of dollars of funds that will be required to meet them. As we have done elsewhere, we call for both the federal and provincial government to restore and enhance infrastructure grants to municipalities, public housing, public transportation, public health care and public education.

CUPE looks forward to working with all levels of government on a new deal for cities.

Crown Corporations to Channel Public Investments in Infrastructure

Canada Mortgage and Housing Corporation (CMHC) is a crown corporation, wholly owned by the federal government, which issues bond and mortgage-backed securities and uses its borrowing proceeds to provide mortgage loan financing to social housing project sponsors. Its bond issues are fully guaranteed by the federal government and in fact, offer a higher yield than Government of Canada bonds. CMHC bonds are available to individuals and institutional investors. It administered loans to municipalities in previous years for projects

[21] Monica Townson, "The Role of Pension Funds in Financing Investment in Public Infrastructure", unpublished paper written for CUPE, October 2003, p. 38.

related to municipal water and sewage systems, neighbourhood improvements and urban renewal.

The B.C. government created the B.C. Transportation Financing Authority, which received dedicated fuel tax and auto rental tax revenue to help it pay for its debt.

Public corporations are already used widely in Canada, the U.S. and Britain for the delivery of public services. This model can be examined for infrastructure funding as well.

OMERS

For CUPE one of the most important sources of capital for publicly owned and controlled infrastructure should be and could be OMERS. Money managers of pension funds are telling us they would love to buy government bonds, but governments who worry more about (declining) debt levels than public infrastructure renewal just are not issuing them.

We are seeking your government's cooperation in transferring OMERS out of the hands of the Ministry of Municipal Affairs and Housing and into the hands of the stakeholders in a mutually acceptable arrangement. We urge you to establish a table at which the employer and union stakeholders of the OMERS pension plan can negotiate genuine joint-trusteeship as soon as possible.

Conclusion

In his introduction to the Ministry of Public Infrastructure Renewal's consultation paper, Minister Caplan set out the criteria for infrastructure funding that is acceptable to the current Ontario government for infrastructure funding. We have presented evidence and experience from across Canada that only publicly financed, publicly owned, publicly operated services can meet these guidelines. Private financing, private ownership, private service delivery and P3's will deliver poorer service, increased expense, reduced accountability and poorer jobs to the people of Ontario.

We have much more evidence of the superiority of public infrastructure financing over private financing from around the world than we have been able to include in this submission. Some of it has been presented to Premier McGuinty, Minister Caplan and other ministers in private meetings. We are more than happy to supply additional information whenever it is helpful.

We look forward to working with your government to rebuild strong communities in Ontario with publicly owned, publicly operated and publicly financed infrastructure that meets the challenges of today and tomorrow. We are committed to the quality of health care, education, transportation, water and roads in Ontario as parents, as taxpayers, as community members and as the workers on the front lines in these critical public services.

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