CUPE
On the front line

A Brief to Ottawa City Council

on the City of Ottawa's P3 Proposals

from Ottawa District CUPE Council

and endorsed by the

Ottawa District Labour Council

October 22nd, 2002

Last week the City of Ottawa's Corporate Services and Economic Development Committee considered, amended, and adopted a report from Bruce Thom, City Manager, recommending four public private partnership (PPP or P3) projects for earliest implementation. The report will be considered by Ottawa City Council at its meeting on October 23, 2002.

The Ottawa District Council of the Canadian Union of Public Employees (CUPE), with the endorsement of the Ottawa District Labour Council, respectfully submit our comments on these proposed P3 projects in advance of that City Council meeting in the hope that Council will make the most prudent decisions for the people of Ottawa.

Balancing the View of P3's

We are very concerned that Council is not receiving the full story or considering the full range of issues that surround the adoption and implementation of P3 projects. Councillors have been presented with a very rosy picture and one that completely downplays all potential risks and disadvantages of such endeavours.

We have an article from the October 2nd, North Shore News that explains some of the issues very well (a copy of the full article is attached).

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> 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." [i]

Ottawa City Council must take very seriously the "inherent diseases" listed by Haythorne and Carter. Public accountability, transparency, public consultation and approval are not "diseases" of the public sector. They are hallmarks of democratic municipal government. We can agree however, that they may 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.

The term "public private partnership" is disarming. P3's are ventures where the private sector becomes a lead actor in the provision of public services. They may involve the private sector in financing, designing, building, operating, and owning public services, facilities and infrastructure. P3's are one big step toward the privatization of public services, another way of contracting out public services.

Last June City Council adopted a report endorsing a policy of pursuing P3's for capital projects. In that report, City staff gave Council a long list of perceived "benefits" of P3's. We question some of these and will return to them in our specific examination of the proposals in front of Council this week. We want to counter with a list of the benefits of publicly delivered and financed services.

The benefits of publicly controlled, delivered and financed services are:

- Quality of Life

  Public services meet basic human needs, protect public health and safety and meet other important social needs – clean water, sewer systems, safe roads, safe buildings, transit, police, libraries, parks, recreation, housing, hostels and public health.

- Accessibility

  Public services are for everyone. Government delivers public services because the private sector can't or won't deliver the service at a high enough quality to all who need it at a price they can afford. Private companies sell services to make a profit. User fees and cutbacks are already restricting services. Privatization will only make services less accessible, especially to those who need them most and can't afford to pay.

- Local Control and Public Accountability

  City Councillors are elected to be responsible for spending tax dollars on public services. Company executives are not elected by the public and accountable only to their shareholders. When there's a problem with a city service, people expect to be able to phone their City Councillor and get action. Private companies are not accountable to the public. Elected Councillors and public employees are.

- Transparency and Democracy

  City government is the most open and transparent level of government. Every detail of publicly delivered service can be examined by the public and elected officials. Any change in a public service must go through the democratic process of committees, public input and council. This not only allows the public to be informed about decisions affecting them, but also allows municipal politicians to hear directly from the public about what they want and how proposed changes might impact them.

  Contracts with private companies are usually negotiated in secret and kept confidential. Confirming our fears, secrecy is built into the proposed "Ottawa Option" for unsolicited P3 proposals where it assures private parties that proprietary information would not be disclosed. This secrecy excludes the public, and even elected Councillors, from information about how their services are delivered and their tax dollars are spent. Secrecy makes corruption more likely.

- Public Health and Safety

  Municipalities and other levels of government are charged with maintaining public health and public safety. Private corporations are not. Municipalities have to have public safety and health as primary criteria for all their actions. Private corporations have maximum return on profit as their primary criterion. Corporations sometimes take and make public health and safety risks in order to maximize profit. The lack of accountability and control and lack of transparency in the privatization of public services add up to a huge public health and safety risk.

- Lower Costs

  Public financing is less costly than private financing. The public sector can borrow money at a rate of interest that is usually at least half a percent lower than the rate available to private companies because governments and public sector bodies have a better credit rating. Leases cost more than debt repayment. P3's do not lower or avoid public debt. They simply hide it on someone else's books or defer it. This is convenient for politicians who need to be re-elected every 3 years, but not in the long-term interest of the taxpayers.

We are not opposed to the private sector doing business with the City of Ottawa. Corporations have designed and constructed public infrastructure including recreation facilities, health care facilities, city offices, schools, roads and bridges. On the other hand, we are opposed to giving control of public infrastructure and services over to the private sector.

In order to make responsible decisions about P3 policy or particular P3 projects, Council has to undertake serious public consultation and weigh the benefits of more than one approach. For Council to simply accept a sketchy list of benefits of private involvement that extols the virtues of P3s to the public would be a dangerous and imprudent act.

Other Considerations for P3 Policy Proposal Criteria

The report to the Corporate Services and Economic Development committee discusses criteria for both solicited and unsolicited P3 proposals.

The criteria suggested by City staff for selecting potential P3 projects from the capital budget are far too sketchy to provide guidance or allow serious evaluation. How will City departments or Council or the public assess whether the private sector adds "value" to a project, or whether a project leverages city "abilities", or what an acceptable risk is.

Unsolicited Proposals

It appears that the reason so little attention is given to solicited proposals is that all of the projects currently proposed as "priorities" arise from unsolicited proposals. Rejean Chartrand, director of the City's Strategic Delivery Unit (SDU) which is mandated with pursuing P3's, told the Ottawa Sun last week that there have already been "expressions of interest from the private sector" for each of the four proposals, and that money is already "set aside" for them. The report to City Councillors does not make it so clear that proposals for Ottawa's first four P3 proposals are being driven by unsolicited private sector schemes.

The staff report to Council points out that there are "many problems associated with traditional unsolicited bids", and that ordinarily "it is recommended that governments should not consider unsolicited bids". Yet, in the next breath, Council is asked to approve the "Ottawa Option", a procedure for dealing with unsolicited bids that staff claims will overcome the issues of lack of competition, bias and unfair procurement procedures.

We suggest that Council should think very carefully about going down this road.
The first requirement in the "Ottawa Option" is that unsolicited proposals must be for projects, which the City has not yet planned to undertake! Now, if the City has not yet planned to undertake a project, is it needed? Why would Council decide to spend tax dollars on that project in response to the private sector seeing an opportunity for profit rather than as part of a rationally determined planning and priority setting process undertaken with public input? Nowhere in the "Ottawa Option" is there any criterion for evaluating whether an unsolicited P3 proposal is for something the people of Ottawa want and need, or for something that has been determined to be a priority for municipal capital spending. Is the municipality abandoning its planning process and democratic determination of capital spending priorities?

Hidden Costs

The report to Council also notes that implementing the P3 policy will require additional spending on "external advisors/consultants, and specific financial, legal, and technical expertise relating to the various projects recommended for implementation". The Committee added an amendment requiring that staff report annually on the full cost of all activities on the P3 initiative. That is good, but not enough. Council needs to know all of the associated costs of a project from the outset, not after the fact.

P3's have many hidden costs. Profit is the most obvious "cost" that a private partner has that the public partner does not.

The processes of developing and evaluating RFQ's and RFP's and drawing up and negotiating complex legal arrangements are all very expensive on the City side. Even when a P3 is up and running, the public partner has legal, supervisory, insurance and risk costs. Those costs are rarely factored in.

There are indirect costs to the community at large. The private sector invariably intends to reduce project costs by reducing labour costs through lowering the actual wages and the number of workers. Local jobs and decent wages are threatened; employment income is taken out of the local economy.

Many of the private partners with the assets and experience to take on significant public sector projects are large corporations with headquarters and shareholders far from the community in which the profits are generated. Economic benefits of a project may be transferred out of the community. Public sector economic benefits stay within the community.

P3's bring the additional risk of exposing public services and infrastructure to international trade regulation. Many trade experts claim that once a private party is involved in the project, NAFTA and GATTS will apply. These would further erode public control over public services.

Ottawa Council should not proceed with any P3s, especially not unsolicited ones, without policies which clearly protect the municipality and local taxpayers from any hidden or unacknowledged costs and risks.

Ice Surfaces and Recreational Facilities

As reported in the Ottawa Citizen, there have already been expressions of interest from the private sector for building ice rinks in the east and west ends of the city and for larger multi-sport recreational facilities. Unfortunately, the interested private sector parties are not identified. The names of these parties need to be made public so their record can be examined.

There are plenty of examples from across Canada of PPP's in the recreation field that have been disasters for the municipalities involved. City Council must insist that they and the public be fully informed about these instances before proceeding with a PPP ice rink or larger facility.

Several Canadian cities contracted a British multinational, first known as RSI, and then as SERCO, to run their recreation programs but have had to bring management of the services back in house. Weyburn and Kindersley in Saskatchewan, Ingersoll in Ontario, and the Cape Breton Regional Municipality all learned an expensive lesson.[ii]

> In … Weyburn, recreation services suffered under the management of private companies… Staff was cut through attrition and user fees went up. The free skates and free swims were cancelled and ice time for minor hockey went from $22 to $34 an hour. In 1999, after four years of private management, the city returned control of recreation services to public managers.[iii]

The story was similar in each of the other communities. Nepean was one of many communities that ended up paying off RSI debts.

Moncton and Guelph are both having problems with recreation P3's.

> The arena project, known as the Moncton four-plex, is expensive and unneeded. The new complex, slated to open in October [2002] is being built and managed by the Moncton Area Partners consortium. The City will pay MAP $1.4 million a year over 20 years for the $15 million facility – far more than if the city undertook the project itself – plus $150,000 a year to run the facility, which will be owned by a private non-profit organization.
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> … at least one of the corporations in the Moncton Area Partnership is having trouble with a recreation P3 in Guelph, Ontario, where the city is bailing out the troubled project. The City of Guelph guaranteed a $9 million loan to Nustadia Developments to build an arena-mall complex, and invested another $10.5 million of its own money. The corporation put up $1.5 million. The 35-year deal hasn't started on the right foot, with revenue from events and concessions lower than the corporation projected. Last summer, the city took over Nustadia's

> $750,000 mortgage payments for the next 4 years, after the corporation missed a payment. In addition, … the city is also paying Nustadia's federal and corporate taxes.[iv]

Waterloo decided to use the P3 approach for private financing of a new recreation facility.

> A public inquiry into Waterloo's MFP dealings will cost $600,000 — in addition to an estimated $1 million city legal bill. The city financed a recreation complex by borrowing $48.3 million from MFP. Waterloo officials thought they were getting a 4.73 per cent interest rate when they signed the deal, for a total payout of $112.9 million over 31 years. City officials later discovered the true cost of the debt was $227 million, and the interest rate was more than nine per cent. The city sued MFP and the two insurance companies who had bought the debt, and reached a settlement that brought the price tag down by $82 million.[v]

Who is making unsolicited P3 proposals for Ottawa ice rinks and recreation facilities? What is their record?

The Ottawa Citizen reported on April 2nd this year that "Outside the Crease, Inc., a new Ottawa company focused on developing recreational ice sport venues", hoped to have its fifth and sixth ice rinks built in Kanata by next spring. The article notes that registration for minor league hockey would increase to $275 for house leagues and $325 for competitive leagues. Ice time charges for minor hockey would increase 80%, from $100 to $180 per hour, right away.

> Public private partnerships such as this one are key to the development of future recreational facilities in our new city of Ottawa," said Cyril Leeder, chief operating officer of the Corel Centre and a minor hockey coach in Kanata.[vi]

We have no doubt that the Councillors who approved the recreational P3's described above were well-intentioned, but not very well informed about problems and risks, and they may well have been slightly mislead by all the positive propaganda around P3's. Ottawa City Council needs to learn from the P3 experiences of other cities. How will the policies and projects that Ottawa is set to pursue prevent us from ending up in those same situations?

Garry J. Armstrong Long Term Care Centre

The proposal to give away a surplus long term care facility in exchange for a promise of "lower construction costs" brings to mind the old jokes about selling a bridge in Brooklyn or a nice piece of land in Florida. We are sure that there are plenty of builders happy to make such a promise – and clearly one already has. Lower than what? Let's see the contract on this one!

How can this be more beneficial than:

a) engaging a reputable builder under a straight-forward contract that includes guarantees of quality, time-lines, sub-contractors' work, etc. to build the new long-term care facility;
b) seeing construction through to satisfactory completion;
c) occupying the new facility, and then;
d) selling the surplus property and facility to the highest bidder instead of giving it away?

Or is there more to it? According to the <u>2002 City of Ottawa – Draft Operating Budget</u> the City plans "a continued reduction in municipal funding through initiatives including redevelopment of Island Lodge facility" in 2002/03. The *Report of Corporate Services and Economic Development Committee* dated September 30th, 2002 confirms the City's commitment to funding reductions to its long-term care facilities. Given that the need for adequate care for seniors in Ontario has never been greater, this is a disgrace in and of itself. But how is it related to the current P3 proposal?

Is the proposed trade of a surplus facility for "lower construction costs" actually the transfer of a municipal long term care facility to the private sector? Is this trade intended to reduce municipal funding by paving the way for private ownership of a municipal Home for the Aged? The public needs to know and needs to have input.

Emergency Medical Services Facility

The proposal for a "design/build/finance/operate/transfer partnership" for the new emergency medical services facility is a P3 arrangement that hides the City's debt for the new building (finance), and possibly takes some jobs out of the public sector (operate). The City, the taxpayers, end up paying more for the new facility than if the municipality borrowed the money itself and paid someone from the private sector to design and build it.

As mentioned above, it costs the private sector more to borrow money than it does the municipality. But the taxpayers end up paying off the loan and the interest whether it's at the higher rate (private financing) or the lower rate (municipal borrowing). In addition, private financing is usually repaid over longer periods than municipal financing, again increasing the amount of interest paid on the same amount of debt. The private financer is in the business to make money. Therefore, the taxpayer also shoulders the additional costs associated with the profit factor.

Over the long term it is more expensive to lease a car or a computer than to pay off the debt for purchasing it. The same is true for leasing through a P3 arrangement.

The P3 report makes no convincing argument about how the citizens of Ottawa will benefit from having the new EMS facility built in a P3 arrangement. Council cannot take for granted, or simply on the grounds of ideology, that this would be a better option than financing the new facility itself. These proposals have to be very closely examined.

There are almost daily reports in Ontario's papers this fall about private financing arrangements that have turned into very bad deals for several municipalities. Toronto, Windsor and Waterloo are all currently involved in very expensive legal proceedings, after finding themselves in very expensive private financing arrangements with a company called MFP. They also find themselves having to investigate allegations of corruption amongst senior staff and Councillors. I think we can reasonably argue that these City councils did not examine their private financing arrangement closely enough in the first place.

Consultation and Financial Implications

The final two sections of the report address consultation and financial implications.

In the first instance, staff suggest that "public consultation will be undertaken as necessary". We would argue that it is necessary to undertake public consultation before proceeding with any of these, or any other, P3's. But, as the consultants pointed out in British Columbia, that kind of democracy and openness is a "disease" to P3's.

The Corporate Services and Economic Development Committee adopted an amendment to the report which will require that public meetings be held in communities in which P3 capital projects are to be built. That's a step in the right direction. But we think that there should be a much broader public debate about the whole direction of using P3's for capital projects before Council proceeds with any individual projects.

Finally, in an amazing over-simplification, the report suggests that there are no financial implications in pressing ahead with these four P3 proposals and suggests that SDU proceed immediately with each of them.

As we have pointed out throughout our report, each has major financial implications for the taxpayers of Ottawa and the citizens of Ottawa who use these services.

The Committee amendments requiring additional financial information and Council approvals are good ones. Council also needs to insist that all P3 proposals need to be compared to undertaking capital projects in ways that keep them wholly in the public sector.

Summary

Let us summarize the implications of proceeding with P3s instead of keeping public services public:

- Quality is compromised
- Public accountability is reduced
- Taxpayers pay more
- Communities suffer
- Jobs, wages and benefits are threatened
- Hidden costs escalate after the P3s are arranged
- Governments bear the risks
- P3s lead to full privatization
- Control over public services may be lost through international trade agreements

We haven't expanded on all of those points in this brief comment. We point out that there needs to be much more public debate before Ottawa proceeds with P3's in order that Council and the citizens of our city all fully informed. Citizens of Ottawa have the right to know what P3s are, and to know what the consequences of moving ahead on these initiatives will be in terms of the quality of the services they receive, the democratic process they cherish, and ultimately to their tax rates.

We call on City Council to:

- fully inform themselves about the potential disadvantages and risks of P3s;
- hold a broader public discussion about the P3 approach and its long term implications with meetings in different areas of the City;
- to make a greater effort to obtain assistance with infrastructure funding from senior levels of government.

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[i] Sherry Peters, " *Public/private partnerships pitched to NVD*"**,** North Shore News Wednesday, P3,October 2, 2002.
[ii] Weyburn Review, 1999; CUPE, Annual Report on Privatization 2001.
[iii] Presentation to the City of Estevan Regarding Proposals to Contract-out City Services by CUPE Local 726, May 29, 2001.
[iv] Canadian Union of Public Employees, "Arena P3 skates on thin ice", www.cupe.ca, May 27, 2002.
[v] Canadian Union of Public Employees, www.cupe.ca.
[vi] Martin Cleary, "40M sports school planned for Orleans: Multiple rinks, gyms, play fields envisioned", The Ottawa Citizen, October 4, 2002, Page: A1.

Public Private Partnerships Pitched to NVD

North Shore News Wednesday, October 2, 2002
Sherry Peters, P3

North Vancouver District council was treated to a presentation that explained the private sector's perspective on public/private partnerships (P3s) Monday.

Lawyers John Haythorne and Sandra Carter from Bull, Housser and Tupper 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."

North Shore resident and national researcher for CUPE, Keith Reynolds, also attended the meeting. He told the North Shore News that while he had real concerns about the fact that only one side of the debate on P3s was presented, "the one thing they were particularly honest about is the complete contempt they had for any public participation."

Said Reynolds, "these guys make money off of public-private partnerships. It is very difficult to find neutral parties on this topic, so I think it is very important that any presentation include representatives from both sides of the debate."

At Monday's meeting, the public was not permitted to ask questions and the two lawyers were the only presenters at the meeting. Mayor Don Bell said that council intends to have more meetings to learn about P3s from experts, and that later council will hold meetings in which the public can express their views to council.

Haythorne told the meeting that local government needs to consider what project or "opportunities" it puts out to the private sector since many are "inherently uneconomic. That is why the private sector has not undertaken the projects on its own." At the same time, he said some projects do allow for making a profit and the private sector is "attracted to the public sector access to resources."

While much of Carter and Haythorne's presentation focused on the need for the public sector to acknowledge the difficulties incurred by the private sector, Reynolds suggested that in fact it is the public sector that may end up with the short end of the deal.

They cited the example of Maple Ridge and the problem the private sector had experienced there, and what a hardship it had been for the private sector when the court ruled that the agreement was illegal. "We have a copy of that contract and it has a clause in it that says that if this scheme turns out to be illegal, the private sector partner will get paid anyway."

Carter outlined a recommended process for "selling P3s to the public." Carter stated that the Public Sector Comparator (PSC), a formula for assessing all the potential costs of a project if done by the public sector, is helpful for "selling it to the public," but emphasized that it was also necessary to have someone to do this selling job. "You need to have a champion if your P3 is going to be successful." Carter explained that the PSC includes factoring in the "hidden costs such as insurance risks. What are the risks of something going wrong and what would the costs resulting from that be?"

Carter warned council that when selling a P3 to the public "you want to be careful about how your employees feel about" services being delivered from outside.

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