A. "What are "Public Private Partnerships (P3s)"?

"Public/Private Partnerships (P3s) are ventures in which the private sector becomes the lead actor in the provision of public services."

The form of P3s vary, but they generally entail private financing, design, construction, operation, maintenance and even ownership of public services, facilities or infrastructure.

Often, P3s involve the private sector lending funds for a public project and the public sector leasing facilities back by providing regular payments for the life of a specified contract. These contracts are generally very lengthy, usually for terms of 25 to 40 years.

P3s are quite different from normal design and build construction contracts between a public sector owner and a private sector constructor because they use the private sector for provision of operating services, financing and key decision making about issues such as cost.

Any public service or infrastructure is a candidate for P3s, including health care, education, water, electricity, transportation, municipal services and more.

Examples of recent P3 proposals in Canada include: the Abbotsford Hospital P3; the Richmond/Airport/Vancouver rapid transit P3; the Brampton and Royal Ottawa Hospital P3s in Ontario; a proposed new hospital in south Calgary; the Moncton to Fredericton toll highway; P3 schools in Nova Scotia, the proposed Seymour water treatment plant P3; the sale of the Coquihalla highway; the privatisation deal just announced for BC Rail and many more.

P3s are a form of privatisation.

B. "Why is there debate about pension fund investments in P3s – especially as we gain joint trusteeship and unionists join pension fund boards?"

Arguments in favour:

(i) Some pension fund managers argue there is a shortage in Canada of opportunities for high return/acceptable risk investments.

(ii) Some money managers argue investment in P3s can generate very favourable returns with a reasonable level of risk.

(iii) Governments are increasingly supportive of P3s and conveying a sense that many future infrastructure projects will be P3s.

(iv) Governments are pressuring public sector pension plans to invest a portion of their money in P3s.

(v) Canada needs new infrastructure investment, so some managers argue pension funds should do their part through investment in P3s.

(vi) New infrastructure creates construction employment. Some trustees and managers support investment in projects that will create construction jobs, even if operation of the projects is privatised.

(vii) Some pension fund managers and trustees simply support the ideology of privatisation.

Arguments against:

(i) There are untapped investment opportunities in Canada, for example in real estate

(ii) P3s actually involve considerable risk

(iii) Governments may be supportive of P3s, but many unionists and community partners are strongly opposed to them

(iv) Pension trustees must make independent judgements about what's good for their pension plans. They should resist pressure from governments

(v) There are many options for pension fund investment in bonds and other instruments which support public infrastructure

(vi) Public pension funds can choose to invest in public projects and can thereby contribute to construction employment. There's no reason why the operations, financing or ownership of public assets need to be privatised.

(vii) P3s are bad public policy and wrong in principle.

C. "Why so much opposition to P3s? What's wrong with them?"

(i) There is a common misconception that P3s are primarily a way to finance capital construction. This is not true. Most P3s involve *multi-decade* contracts for privatised *operation and maintenance.*

(ii) Because P3s usually have such lengthy terms, they limit policy options for elected decision makers. A child in Grade 8 today will be 50 years old by the time the proposed R.A.V. P3 contract has concluded.

(iii) One reason P3s are bad public policy is that they are often more expensive to finance than regular government borrowing. This is because governments almost always have a better credit rating than private firms and therefore pay much lower interest costs.

(iv) Inflated borrowing costs of P3s leave an enormous – and unnecessary – burden for future generations.

(v) P3s must provide profit for investors meaning that less of the funds spent actually go to providing services for the public.

(vi) The commercial secrecy normally demanded by private investors undermines public accountability (for example: even the newly elected Government of Ontario is reluctant to release contract documents related to the Ontario hospital P3s and - here in the Lower Mainland - the Directors of TransLink were denied an opportunity to review the financial feasibility study for the R.A.V. P3)

(vii) The new, or increased, user fees which accompany P3 proposals such as the New Brunswick toll highway, the proposed sale of the Coquihalla or private clinics create inequities, forcing some citizens to pay more for public services than others or allowing those with more money to gain privileged access

(viii) Inclusion of the private sector in the planning and funding of public projects can distort the planning process and undermine the public benefits of the projects. Sometimes, concerns about protecting private profits can outweigh concerns about quality of public service.

(ix) P3s are subject to challenge under international trade treaties. Once public services are brought into the market place, the disciplines of trade agreements can be brought to bear against them.

(x) P3s may hide, but do not reduce public debt. Private financing is debt financing. It is a source of borrowing which must be repaid.

(xi) P3s do not transfer nearly so much risk as their proponents claim.

D. "How risky are P3 investments? Should a pension fund trustee be concerned about P3 risk?"

(i) Proponents of P3s argue that they transfer considerable risk away from taxpayers and on to the shoulders of private investors. In reality, this is seldom the case but if a P3 is successfully structured from a government perspective it should transfer major amounts of budget; planning and design; environmental; schedule; labour dispute; insolvency; construction claim; system integration; legal; operating performance; and customer usage risk away from the public owner and towards the private investor. Pension trustees need to closely analyse the fine print of P3 proposals to gain a good sense of the extent to which risk has been transferred to investors as well as the extent to which projected investment returns warrant the risk taken on.

(ii) Many P3s follow drastic changes to public policies which in themselves create risk. The best example is the chaotic investment climate in the electrical energy sector following deregulation and privatisation of electric systems in the United States. Some advocate pension investment in so-called "independent power projects" but Enron, the Northeast U.S. and Ontario power blackout, California energy crisis, failed Hydro One privatisation and the junk bond status of numerous power projects should discourage any prudent pension investor from getting involved in electricity P3s.

(iii) P3s increasingly entail "political" and "legal" risk. They are subject to challenge from a wide range of sources – such as unions, consumer groups, opposition political parties, the media, advocacy groups and others. Recent examples include the successful court challenge by C.U.P.E. and the C.E.P. of the privatisation of Hydro One in Ontario, the recent court challenges by C.U.P.E. and O.P.S.E.U. against the Ontario P3 hospitals, the successful community challenges against the Halifax Harbour water treatment P3, the successful legal challenge against the Maple Ridge downtown redevelopment P3, the class action lawsuit filed against the Highway 407 P3, the successful community campaigns against the Seymour and Kamloops water treatment P3s and many more.

(iv) "Election risk" is an increasing problem for Canadian P3s. For example, in New Brunswick the tolls on the Trans Canada highway project became a big election issue and contributed to the defeat of the Liberal government. The new Tory government replaced them with "shadow tolls" which are not as certain a source of revenue for the company as they depend on the Government's willingness and ability to pay. The P3 hospitals in Ontario became a big issue in the recent election there and the new Liberal government is adjusting the P3 arrangements in a way which is not completely clear right now. One thing that's definitely clear is that investors looking for "certainty" will not find it in P3s. Changes in Ministers responsible, changes in the legislative environment and changes in government after elections can all impact the profitability and security of these investments.

(v) P3s are increasingly the subject of critical reports by provincial Auditors General, which can in turn lead governments to revise or abandon them. The failed P3 schools in Nova Scotia are one example. Similarly, the New Brunswick Auditor General was critical of the Trans Canada Highway P3.

(vi) P3s are political "hot potatoes" and are inherently risky.

E. "What is a good perspective on P3s for pension trustees who are unionists? How should P3s be seen within overall investment policies?"

(i) Because the Ontario Municipal Employees Retirement System (O.M.E.R.S.) does not have joint trusteeship, OMERS decided to create a subsidiary company (in partnership with the Canada Pension Plan Investment Board) called Borealis for the primary purpose of investing in P3s. Borealis is providing the financing for both of the Ontario hospital P3s, is part of one of the four consortia shortlisted for the Abbotsford hospital P3 and provided financing for the Nova Scotia school P3s. Many Ontario unionists are very concerned to see their pension contributions invested in the privatisation of health care and education. It has been embarrassing for OMERS administrators to face information pickets at their office and other continuing pressure from the union representatives of plan members.

(ii) While both publicly financed infrastructure and P3s can create construction employment, P3s often result in job losses or worsening job conditions for public employees. If a public sector pension plan invests in P3s, it can actually mean plan members lose their jobs or – in some cases – that there are reduced opportunities for promotion or transfer. No pension plan should provide investment capital or loans to a P3 consortium which worsens employment opportunities for plan members.

(iii) A legitimate objective of pension investments is the promotion of socially beneficial projects (such as public housing or environmental technologies), so long as those projects generate a rate of return that's acceptable. In the same vein, pension plans are increasingly adopting socially responsible investment policies to discourage investment in areas such as tobacco or military production. An ethical investment policy should discourage P3 investments which reduce public service quality, promote de-unionisation or reduce employment levels.

(iv) An important distinction must be made by trustees between infrastructure investments in areas which are traditionally the purview of the private sector (eg. gas pipelines) and infrastructure that is at the core of the public sector (such as schools, hospitals and highways).

(v) Basic trade union values should inform the decisions of unionists who participate in pension fund management. This is one of the key reasons why unions have fought so hard for joint trusteeship of pension funds.

F. ”What is the Canadian labour movement’s policy on P3s?”

* June 2002 Constitutional Convention of the Canadian Labour Congress in Vancouver passed a number of resolutions on this topic

(i) the health care composite resolution called on the C.L.C. to coordinate a national campaign to, among other things:

“…stop all forms of private public partnership and Private Finance Initiative in the health care sector…”, and

“…return privatised health care services to public control…”

(ii) the composite resolution on water called on the C.L.C. to:

“…vigourously oppose privatisation and commercialization of fresh water resources…”

(iii) the composite resolution on energy called on the C.L.C. to:

“…organize to halt the deregulation and privatisation of electricity and other forms of energy and support the creation of improved publicly owned electricity systems.”

There are many active proposals in Canada right now for P3s in health care, water and electricity.

G. "Are there reasonable alternatives to P3s? Can pension funds support infrastructure without supporting P3s?"

(i) Despite what some fund mangers are asserting, pension funds are not running short of private sector investment opportunities. The corollary of that argument is that the Canadian private sector economy has ground to a halt! But of course, we know there are actually many opportunities such as real estate, oil sands, retail, diamond mines, gas pipelines, housing, film, tourism, technology and more. There are many private sector choices available other than investment in privatisation of public services.

(ii) Pension funds are appropriate sources of capital for public infrastructure, but should only be used if the infrastructure remains totally in public hands. Public bonds have always been an important area of pension fund investment.

(iii) Recent research by Enid Slack of York University has shown that Canadian municipalities actually have considerable capacity to borrow and debt charges as a percentage of local government revenues have been in significant decline since 1988. Likewise, the proportion of debt to GDP is low and decreasing at the federal and provincial levels. Governments in Canada have a strong capacity to borrow for needed public infrastructure.

(iv) Risk pooling mechanisms such as municipal financing authorities should be expanded across Canada.

(v) The federal and provincial governments could create dedicated funds or crown agencies to pool government finance with pension fund investment to increase the money available for public infrastructure renewal.

(vi) The mandate of the Canada Pension Plan investment board should be changed to encourage investment in publicly owned and operated infrastructure.

P3s are costly and risky. They are not appropriate for pension fund investment.

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