OK-SAFE, Inc. ™

Position Paper on Public-Private Partnerships

Aka Government Sanctioned Monopolies

Introduction

Public-Private Partnerships, (PPP's or P3's), and initiatives and legislation supporting them, are a prominent trend in State and Federal government. They are often supported by Big Government advocates as 'innovative financing' and by Crony Capitalism advocates as 'free market solutions.' However, PPPs are a direct threat to the free market and are an incentive for corporatists to engage in unproductive ventures and monopolists to exclude competitors. PPP's are the source of the sort of political corruption that undermines the rule of law and the sort of central planning that is at the heart of the anti-capitalist mentality. Everyone who supports U.S. Free Enterprise should be on their guard against supporters of PPP's.

Executive Order #12803, "Infrastructure Privatization" signed in 1992 by Pres. George H.W. Bush, encouraged the privatization of "U.S. infrastructure assets," such as "roads, tunnels, bridges, electricity supply facilities, mass transit, airports, ports, waterways, water supply facilities, re-cycling and waste water treatment facilities, solid waste disposal, housing, schools, prisons, and hospitals." The supposed 'privatization' leads to violations of private property rights; e.g. the eminent domain clause of the Fifth Amendment to the Constitution has been abused to seize private property for the benefit of private corporations.

UNSUCCESSFUL

Although heralded by legislators as a means to improve safety, reduce congestion, increase capacity, and promote economic growth, there is no credible evidence that Public Private Partnerships for transportation facilities or utilities successfully accomplish their goals, increase competition, or improve quality.

PPP's, whether they are partnerships between minor government bureaucracies and relatively small private entities or major bureaucracies and large domestic or international consortiums, create a dangerous system that favors the politically connected. It fosters an uncompetitive environment that benefits the politically connected and promotes centralized planning and the concentration of power. Moreover, it insulates elected officials and bureaucrats from public scrutiny. This is a system of 'insiders' and 'outsiders' in which elected officials and bureaucrats select winners and losers. It distorts the free market and protects special interests from the rigors of market forces.

PPP's are a politically correct method for the redistribution of assets and wealth; they are a euphemism for corporatism. They benevolently steal assets from the public and grant exclusive license to the politically connected elite; it is a perversion of free markets. The supposed "transportation" infrastructure projects, which the public perceives as projects for roads, highways, and bridges, include funding for unproductive ventures like high speed rail systems and other public transportation systems that the market cannot sustain. Moreover, the exclusive government license to provide energy and other services to a particular community is the cause of monopolies.

Definitions

The following definitions of corporatism, monopolies and PPP terminology will clarify the major concerns with Public Private Partnerships:

Corporatism – the economic policies of repressive governments that, through the process of licensing and regulating private property, seek to control and manipulate private economic, social, and religious organizations. The purpose of controlling and manipulating private organizations is to restrict their ability to challenge the government's authority and legitimacy. It promotes the interests of politically connected private organizations over the interests of the individual and other private organizations.

Monopolies – the coercive process governments use to exclude potential competitors from the market. It is an exclusive privilege granted by government to an individual or private organization to be the sole provider of a good or service. Monopolies are the product of coercive government intervention and are impossible in a free market; they are an anathema to competition and the rule of law.

Public Entity - a city, county, state, or federal government agency, department, or municipality

Private Entity - persons, corporations, general partnerships, limited-liability corporations, limited partnerships, joint ventures, business trusts, non-profit entities, or other voluntary associations supported by private investors and resources.

Public Private Partnership – an exclusive partnership between a public entity and a private entity that uses the financial resources of the private sector to carry out the proper activities or functions of the public sector.

Transportation Facility – "means any, including new and existing highway, road, bridge, tunnel, overpass, ferry, public transportation facility, vehicle parking facility, seaport facility, rail facility, inter-modal facility, or similar facility open to the public and used for the transportation of persons or goods, and any building, structure, parking area, appurtenances, or other property needed to operate such facility…"

Utility – "means a privately, publicly, or cooperatively owned line, facility, or system for producing, transmitting, or distributing communications, cable television, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, storm water not connected with highway drainage, or any other similar commodity, including fire or police signal or street lighting system, which directly or indirectly serves the public."

Public Private Partnership Concerns

The Elimination of Competition

1. Public Private Partnerships distort the free market, which allows and encourages the sort of competition that produces quality products and services at lower prices, by prohibiting open and fair competition.
2. PPP's limit competition and discriminate against small business owners by purposely structuring contracts and bid requirements that suit the capacities of large consortiums or partnerships; e.g., contracts demand that the design, finance, construction, operation, and maintenance of a transportation facility be part of a single agreement.
3. PPP's exploit the concession process to select winners and losers by restricting the number of potential concession-holders through specially-tailored bid packages and through a variety of restrictive licensing processes.
4. PPP's eliminate transparency; they prevent individuals and private organizations, particularly non-profit watchdog groups, from accessing information about contracts and produce an environment of "insider knowledge" that is analogous to "insider trading."
5. PPP's include non-competitive clauses that prevent competitors from entering the market place and offering alternative goods and services; e.g., the construction of private roads or highways or the improvement to other goods or services are perceived as breaches of public policy and, as such, are prohibited by law.

Transfers the Tax Burden to Citizens

6. The normal risks associated with private ventures are offset by an increase in the tax burden of the general public. The PPP's receive special tax exemptions that accrue to the general public.
7. In a public private partnership infrastructure is an asset that is part of an investment package; stockholders expect a profit on a venture that would otherwise be non-profit. Thus, if revenue on the project is less than anticipated or desired, then the fees for the service are increased or the government is assessed surcharges or cost overrun charges for the project.
8. Since the definition of a transportation facility is broad, a PPP agreement can include more than a new or existing highway or road, it can also include utilities, parking facilities, buildings, or any other property or venture associated with a government agency.
9. User fees, for roads or utilities, can be increased by the private entity without the approval of legislators. This prevents the tax paying public from legally disputing the increase in user fees.
10. The tax paying public depends on roads and highways for commerce and for transportation to their jobs. This is the base the state depends upon for its tax revenues. By allowing private entities to set their own fees, the state allows the private entity to decrease economic activity by increasing the

cost of commerce and transportation. This negatively affects tax revenues.

Long Term Concessions

11. Long-term concessions with private corporations, non-profits, or consortiums can last anywhere from 30 years to 99 years; they tie the hands of future elected officials and administrations, as well, as future generations of tax-payers.
12. Comprehensive Development Agreements (CDA) for PPP's may be conducted in secret and beyond the visibility of the general public.

Foreign Influence

13. PPP's open the door to foreign investment in U.S. infrastructure and assets.
14. The interests and influence of business distorts public policy and, as such, subordinates the best interest of the public.

Eminent Domain

15. The use of eminent domain to acquire property for private sector use and revenue is ripe for abuse and is contrary to the intent of the Constitution.
16. PPP's facilitate private sector acquisitions of private property that would otherwise be unavailable, except through the manipulation of condemnation regulations and the abuse of the eminent domain process.

Beyond the Authority of Government

17. PPP's in transportation create a distorted environment of "revenue generating" public assets, such as roads, highways, or bridges, which are beyond the legal authority of government.
18. By allowing the private sector, whether a for-profit or non-profit, to dictate and influence government policy, legislators abdicate their authority and forsake their responsibility to their constituency.

Sources:
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Public/Private Partnerships, The Undermining of Free Enterprise, and the Emergence of 'Soft Fascism', by Dr. Steven Yates, presented to the Austrian Scholars, March 2006; page 2
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OK-SAFE Position

The free market works when the unalienable rights of individuals are protected from government intervention by Constitutional limits on government power. The protection of individual liberty perpetuates the fundamental principles of the free market:

The freedom to pursue happiness
The freedom to engage in voluntary exchange
The freedom to fail or succeed

Business should be governed by the competitive forces of the free market; i.e., the free market should not be hindered or restrained by government intervention, regulation, or subsidies.

OK-SAFE supports the competitive bidding process; a process that is open, fair, and transparent.

OK-SAFE opposes government sanctioned monopolies and cartels and wage and price controls.

OK-SAFE supports the strengthening of private property rights and the promotion of limited governmental interference in those rights.

OK-SAFE believes government activities should be transparent and accountable to the public; PPP's remove transparency and accountability.

OK-SAFE opposes the implementation of any Public Private Partnership legislation in the state of Oklahoma.

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