

# OK-SAFE, Inc.

(Oklahomans for Sovereignty and Free Enterprise, Inc., at [www.ok-safe.com](http://www.ok-safe.com))

## Position Paper on Public-Private Partnerships, aka *Government Sanctioned Monopolies*

---

### Brief PPP Overview

---

Public-Private Partnerships, (PPPs or P3s), and initiatives supporting them, are a recent trend in the United States, often touted as ‘innovative financing’, and are of great concern to conservatives and those who support the U.S. Free Enterprise system.

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.”<sup>i</sup>

PPPs, whether between relatively small public and private entities, or large units of government partnered with domestic or international consortiums, have created a dangerous system: *an un-level playing field for U.S. businesses, centralized planning and the concentration of powers, and insulation from Public accountability. This is a system of insiders and outsiders, of government selected winners and losers.*

PPPs are really a mechanism for the redistribution of assets and wealth – away from the public. This is the opposite of the U.S. Free Enterprise system.

The word ‘transportation’ brings to mind ‘roads’ – ‘transportation’ is much more than that. Listed below are a few definitions of PPP terms, as well as major concerns with this funding mechanism.

---

### Definitions

---

**Public entity** – city, county, state, or federal unit of government; municipality; agency

**Private entity** – “means any natural person, corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, non-profit entity, or other business entity”<sup>ii</sup>

**Public/Private Partnership** – “PPPs use the financial resources of business (the private sector) to carry out activities or functions of government (the public sector) has assumed for itself.”<sup>iii</sup>

**Transportation Facility** – “means any, including new and existing highway, road, bridge, tunnel, overpass, ferry, public transportation facility, vehicle parking facility, seaport facility, rail facility, intermodal 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...”<sup>iv</sup>

---

**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”<sup>v</sup>

---

### PPP Concerns

---

#### Competition

1. Public-Private Partnerships (PPPs) work in opposition to the free enterprise system, which allows and encourages competition, by disallowing open and fair competition.
2. PPPs create an atmosphere of limited competition and hurt small business owners by structuring bid packages in such a manner that only large consortiums or partnerships can fulfill the contract. In the case of transportation – the design, finance, construction, operation, and maintenance of a transportation facility can all be in one agreement.
3. PPPs ‘*concessions*’ pick winners and losers, as the field of potential concession-holders is narrowed to accommodate this specially-tailored bid package.
4. The private sector has rights to ‘insider knowledge,’ much like ‘insider trading’.
5. Many PPPs concessions include ‘*non-compete*’ clauses, meaning no new competing roads or highways may be built, nor improvements made to ‘competing’ structures, i.e. free roads.

#### Transfers the Tax Burden to Citizens

6. The tax benefits to the private sector for the public responsibility increases the tax burden for the general public.
7. In a public-private partnership *infrastructure* is an asset that is part of an investment package - an investment with stockholders for who invest to make a profit. If revenue on the asset, i.e. a tolled highway, is less than anticipated or desired, *toll rates increase*. This amounts to double taxation.
8. Because the definition of transportation facility is so broad, a PPP agreement could ultimately include not just a new or existing highway or road, but also **the utilities, parking facilities, buildings, or any other property associated with that highway or road project.**
9. User fees, for the road or utility, can be increased at the will of the private sector entity, with no recourse by the tax-paying citizen.

# OK-SAFE, Inc.

(Oklahomans for Sovereignty and Free Enterprise, Inc., at [www.ok-safe.com](http://www.ok-safe.com))

## Position Paper on Public-Private Partnerships, aka *Government Sanctioned Monopolies*

- 
10. The tax-paying public depends on roads both for commerce, and to transport them to their jobs which the state depends upon for its tax base. By allowing private-sector tolling for profit, the state is allowing the private entity to *decrease economic* activity by increasing the cost of doing business for commerce and transportation, ultimately affecting the tax base.

### Long Term Concessions

11. Long-term concessions with a private sector corporation or non-profit can extend from 30 years to 99 years, which ties the hands of future elected officials and administrations, as well as future generations of tax-paying citizens.
12. Comprehensive Development Agreements (CDA) for PPPs may be conducted in secret and beyond the visibility of the general public.

### Outside Influence

13. PPPs open the doorway for *foreign investment* in U.S. infrastructure and U.S. assets.
14. Whether foreign or domestic, *investors control the U.S. infrastructure asset*, not the citizen tax-payer who is at the mercy of the private sector desires for *profit*.
15. PPPs emphasize business' interests over the public's interests.
16. **Business' purpose is profit, not service.**
17. The *interests* and *influence* of business then affects/directs public policy, rather than what is in the best interest of the tax-paying public or Constitutional mandate.

### Eminent Domain

18. 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.
19. PPPs are an open door for private sector acquisition of private property that would otherwise have been unavailable, except through manipulation of the condemnation and eminent domain process.

### Beyond the Scope of Government

20. PPPs in transportation create an atmosphere of 'revenue making' for a public asset such as a road, highway, or bridge, which is beyond the scope of government.

### Beyond the Scope of Business

21. By allowing the private sector, whether a for-profit or non-profit, to dictate and influence Government policy, citizen freedom evaporates and elected representation becomes obsolete.

---

## No Credible Proof of Success

---

**Although touted 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 has successfully accomplished any of this.**

---

## OK-SAFE Position

---

1. The United States Free Enterprise system only works when the Constitutional Structure of the Nation Provides and Perpetuates Four Fundamental Economic Freedoms:
- The Freedom to Try
  - The Freedom to Buy
  - The Freedom to Sell
  - The Freedom to Fail<sup>vi</sup>
2. Business should be governed by the laws of supply and demand, and not restrained by government interference, regulation, or subsidy.
3. OK-SAFE *supports* the competitive bidding process, one that is open, fair, and transparent.
4. OK-SAFE *opposes* government sponsored or condoned monopolies, cartels, or price manipulations.
5. OK-SAFE *supports* the strengthening of private property rights and the promotion of limited governmental interference in those rights.
6. OK-SAFE *believes* governmental functions should be accountable to the Public; PPPs remove this accountability.
7. OK-SAFE *opposes* the implementation of any Public-Private Partnership legislation in the state of Oklahoma.



Endnotes:

---

<sup>i</sup> <http://www.waterindustry.org/12803.htm>

<sup>ii</sup> Federal Highway Administration, [www.fhwa.dot.gov/ppp/legislation.htm](http://www.fhwa.dot.gov/ppp/legislation.htm)

<sup>iii</sup> *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

<sup>iv</sup> Federal Highway Administration, [www.fhwa.dot.gov/ppp/legislation.htm](http://www.fhwa.dot.gov/ppp/legislation.htm), page 2

<sup>v</sup> *Ibid*, page 2

<sup>vi</sup> *The Making of America, the Substance and Meaning of the Constitution*, by Cleon Skousen, Copyright 1985, 2001, 2007; p. 207