

OREGON INFRASTRUCTURE INTEGRATION AND INNOVATION PROGRAM

Frequently Asked Questions

General

1. What is the Oregon Infrastructure integration and innovation program?

The state of Oregon has begun a process to integrate the Governor, Treasurer and agency efforts around infrastructure acceleration and capital facilities planning.

2. What is the rationale for the Oregon program?

Recent studies indicate that there is a \$1 trillion need for infrastructure on the west coast in the next 30 years and declining federal support. A 2008 study on infrastructure for the Portland area alone found a gap of over \$20 billion. Experts note that there is substantial private capital available to close the infrastructure financing gap, if states and cities can create the right conditions to attract such investment. Oregon's integration and innovation infrastructure program aims to do just that.

3. What are the key elements of the Oregon program?

There are three major parts to the Oregon program.

First is an effort to stretch taxpayer investment in infrastructure through a new, ten-year capital facilities program, expressed in the Governor's Executive Order (12-17) issued November 14, 2012.

Second, the state is partnering with California, Washington, and British Columbia to create a regional infrastructure exchange (www.westcoastinfrastructure.org) to effectively engage outside capital and realize regional efficiencies through project bundling.

Third, the Governor's office is working with the Oregon state legislature to explore the creation of a dedicated center of infrastructure expertise with a primary mission of advancing innovation in infrastructure development throughout the state. The project is called Partnerships Oregon.

4. What is the primary purpose of the proposed center of infrastructure expertise?

Oregon has inadequate and deteriorating infrastructure, a factor that is interfering with its economic stability and resiliency. The gap between Oregon's procurement capacity using traditional methods, and Oregon's needs, is in the billions. To access private capital, protect Oregon taxpayers against investment risk and create jobs, innovative "performance-based" approaches for infrastructure development are necessary.

Structuring transactions to leverage taxpayer investment in public infrastructure in this manner requires a unique skill set not currently available in Oregon and most other U.S. jurisdictions.

Private service providers—designers, constructors, financiers, and those who preserve the operating condition of infrastructure projects—are willing to participate in projects if the public sponsor is knowledgeable about structuring transactions, has predictable business and political decision-making, and has the sophistication to enter a transaction that meets the needs of the private participants. Studies have made clear that the method for accomplishing this is through a dedicated center of expertise that supports procurement efforts in the jurisdiction, and that has some public and some private attributes.

5. How does performance-based infrastructure (PBI) work?

Oregon's performance-based strategy is seeking to emulate the characteristics and capacity of Partnerships BC, a center of infrastructure expertise created by British Columbia about ten years ago. Partnerships BC uses several methods of innovative procurement, with its highest focus on performance-based, life-cycle infrastructure transactions. Also referred to as Design-Build-Finance-Maintain or DBFM, the hallmarks of this method are:

- Infrastructure is not privatized: The public sponsor owns the project.
- Risks of effective design, cost of construction, some cost of financing, and cost of maintenance and capital replacement are transferred from the public owner to the private DBFM team in exchange for a schedule of agreed-upon payments.
- DBFM team bears the risk of performance because penalty deductions are imposed for failure to perform.
- DBFM projects do not necessarily depend on revenue from fees or tolls, though the project sponsor may choose to use fee or toll revenue to make contract payments.
- Project RFP is based on performance characteristics,(for installation and operations) over an extended period for a fully negotiated cost of construction and assured performance.
- Procurement is for highest life-cycle value for money, not just least cost of construction.
- Performance-based RFP optimizes private innovation and transfers project risk away from public owners.

6. Will performance-based infrastructure (PBI) lead to the privatization of public assets?

No. The Governor strongly supports public infrastructure and the state is working closely with national and labor stakeholders to ensure that the development of any new performance-based approaches for building public infrastructure increases the importance, funding and visibility for funding -- rather than deferring -- project maintenance and strengthens high road contracting standards, prevailing wage and project quality.

7. Why is the creation of a center of infrastructure expertise necessary?

Performance-based and other innovative procurements require multidisciplinary and financial expertise not typically found in every single state agency or local government that sponsors capital investment in infrastructure. Private participants require a capable public sector partner with reliable skills, consistent practices, and sophistication because participation in PBI projects is costly

and time-consuming. A jurisdiction's technical expertise and reputation for fair, effective delivery of projects is essential, and best obtained through a single source of entry with a full complement of skills.

Benefits to the Field

1. How can other states benefit from the work that Oregon is doing to build new innovation infrastructure systems?

As Oregon moves to develop a PBI model distinct from PPPs as practiced in the past in the US, it is expected that there will be: (1) important learning about how to adapt the Canadian experience to the US; (2) model language to overcome important concerns about PBI approaches among key labor stakeholders; (3) model business planning documents and project documentation and (4) regional experience through The West Coast Infrastructure Exchange partnership between Oregon, California, Washington and British Columbia. All of this will be available to other interested jurisdictions.

Governance

1. What will the proposed center of infrastructure expertise do?

If the center is created, it will most likely be a technical assistance provider, not a funder or project sponsor. Its accountability will be through reporting to the Treasurer and Department of Administrative Services, and to the public entity clients it serves on a fee-for-services basis. Refining the final characteristics of the Partnerships Oregon proposal will be the work of an interim legislative task force, which is expected to prepare a proposal for Oregon's 2014 legislature.

2. Where will it reside within State government and how will it be accountable to the citizens of Oregon?

The structure of the entity will be determined by the legislative task force that is expected to be created under HB 2345. The recommended practice would likely be the creation of a dedicated, semi-autonomous unit because it will provide services not just to state agencies but also interested county, local, and intergovernmental project sponsors. Partnerships BC is a successful model in this regard. That organization is a Crown corporation (private entity) with the Minister of Finance as its sole shareholder—offering attributes of private agility and public accountability that are desirable for such a center of expertise.

3. What type of entity will the center be?

That will be determined by the legislative task force authorized by HB 2345. Alternatives include a unit of state government, a public corporation, or a private entity that provides services through contracts with the state and clients.

4. What about governance structure?

The task force will recommend a final governance structure. Partnerships BC's board of directors is made up of persons with relevant substantive skills, not elected officials. Because the center of expertise is a service provider and not a funder or project sponsor, it is probably not appropriate for it to be governed by a majority of elected officials.

Operations

1. What is the size of the operating budget for Oregon's center of infrastructure expertise?

That depends on the scale of its operations and its period of ramp-up to full function. Partnerships BC's starting capital was dedicated to support operations for its first five years as fee revenue built over time. Its proposed budget is over \$5 million annually with 45 staffers; it has completed over \$10 billion in deals.

2. How will the proposed center be funded now and in the future?

Again, this will depend on the task force and the 2014 legislature. Ultimately, it is likely that a dedicated initial source of start-up operating funds will be required in order to attract employees with suitable skills and abilities. It is not possible to capitalize its operations with private funds when its only customers are public agencies, so an initial retainer or consulting agreement sufficient to allow a start-up period is appropriate. Over time, the center will be self-sufficient on fees generated.

3. Who will be the primary customers of the center?

Its only customers will be public entities.

4. What kind of transactions will the center engage in?

The center for infrastructure expertise is proposed to provide services on a model similar to that of Partnerships BC, which is an advisor to project sponsors. Staff members from the center of expertise support the project staff by developing business case analysis, publishing and evaluating responses to RFI and RFPs for projects, modeling and negotiating risk allocation, and negotiating and structuring contracts. If the sponsor needs project oversight, the center of infrastructure expertise should be able to provide or oversee those services.

5. What role will it play in these transactions?

The center for infrastructure expertise is proposed to augment the staff of the project sponsor and integrate into its team, providing the services needed to assure the project and sponsor are fully prepared.

6. Will the center address infrastructure in a comprehensive manner or simply as projects come to its attention?

Executive Order 12-17 requires that projects in which the state provides more than \$20 million be screened for innovative procurement.

7. How do projects get in the queue for consideration?

Project sponsors will bring projects, or they will be referred by the Department of Administrative Services, for screening. If the screening report prepared by the center demonstrates that higher value for money is likely to be obtained through performance-based or other innovative procurement, the sponsor may request a full business case analysis to compare traditional and innovative approaches in a thorough analysis.

8. Are there any minimum or maximum size requirements for the projects that the center will undertake?

There is no maximum. The criteria for projects likely to benefit from innovative procurement include complexity, need for innovation, time considerations, and others in addition to scale. Generally, projects likely to benefit from innovative procurement have scale of approximately \$50 million. Oregon is also considering bundling smaller, like-type projects when they can benefit from innovation. An example is smaller municipal wastewater systems that need innovative, green-infrastructure solutions to be economically feasible. By grouping these into a single procurement, the costs of innovation and regulatory approval become reasonable.

9. How will projects be evaluated and underwritten?

Partnerships BC's practice is that the business case analysis for each project compares a "shadow bid" of traditional procurement against a performance-based or other innovative approach. In each analysis, the risks of the project, opportunities for costs savings through innovation, optimization of public and private capital, costs and predictability of assuring long-term performance, and related factors would be considered to arrive at a final recommended procurement method.

10. What is the decision-making process regarding individual projects?

The sponsor retains decision-making. The center of infrastructure expertise is an advisor, and acts as supplementary staff for the project sponsor in negotiating contracts.

11. How will the center address issues of climate change and environmental sustainability in its work?

The Governor's Executive Order specifically instructs the state to include climate risk in capital facilities planning of this type. Public agencies and sponsors may also include additional factors as part of the project performance requirements. When they do, they will be reflected in the RFP. The overall process of performance-based contracting encourages life-cycle cost management, not just

least cost of construction, and so it encourages efficient long-term solutions and highest value for money over the life of the project, including the cost of capital replacements.

12. Will the center place a priority on green infrastructure solutions?

As in the case of the wastewater treatment issue, green solutions are frequently more cost-effective. When life-cycle best value is at the core of the procurement method, green solutions will frequently be required to achieve the most effective project design and construction method.

13. Will the center work on projects in both urban and rural communities?

Yes. Part of Oregon's goal is to make innovative solutions and access to private capital available to smaller communities when possible. This will probably be achieved through bundling practices because of scale.

14. How will the center work with local government?

The center of infrastructure expertise is proposed to be an advisor to government project sponsors. In addition, there is a vision that the center will be able to provide advice and support on other types of relationships between local government and private sector developers.

15. Will it have authority over local government decision-making regarding infrastructure?

No.

16. How will the private sector work with the center?

It is anticipated that the center will publish RFPs that will be responded to by private sector teams made up of designers, constructors, financiers, and building integrity providers. Private stakeholders will work with the center in ongoing development of best practices and methods to achieve transactions at the highest economic efficiency for both public and private participants.

17. Will the center directly fund infrastructure projects? If so, where will it get the funds?

No.

18. Will the center have any power to levy taxes or issue bonds?

No.

19. How will the center be evaluated to measure its success and efficacy?

The legislative task force will recommend performance outcomes and measures for the center of infrastructure expertise. Well-structured performance-based contracting results in projects delivered on time and on budget, with higher value for money. Over time, the success of the projects will reflect the quality of the center's work.