

My name is Louis Coletti and I am the President & CEO of the Building Trades Employers' Association, an organization representing 27 union trade contractor associations and over 1,700 construction managers, general contractors, and specialty trade contractors doing business in New York City.

I strongly support Public-Private Partnerships and believe these models can benefit the State of New York for two primary reasons.

First, it is a more effective and efficient way to build badly needed infrastructure projects. Examples of successful projects exist all over the nation in Denver, Philadelphia, San Francisco, and Dallas.ⁱ

Why are they successful?

Public-Private Partnerships have more flexibility in the procurement methods it can use like pre-qualification and Design-Build, often methods that public agencies cannot take advantage of.

Too often public agencies must rely upon the lowest responsible bidder. Public agencies are required to overcome too many significant legal hurdles to prove a

firm is “non-responsible”. Too often government agencies must settle for the lowest bidder and hope the firm can complete the project on time and on budget, or they must rebid the whole project.

It is well documented that the typical public procurement process often reduces competition, is time consuming and costly. Estimates show that the public bureaucratic process from design to the award of construction contracts can add 20% to 30% to the total project cost.

Public-Private Partnerships can also help reduce total project costs.

With Public-Private Partnership, one method that can be used is Design-Build. Depending on the size and scope of a project, Design-Build can save about 15% to 20% on a project’s total cost.ⁱⁱ

A study performed by the Construction Industry Institute and Pennsylvania State University showed that projects using the Design-Build method had their costs increase by 2.17% over initial project budget estimates. Projects that used the traditional Design-Bid-Build method experienced a 4.8% increase over the initial project budget estimate.

In addition, Design-Bid-Build, the traditional method, showed that 4.5% of these projects were delivered later than the anticipated completion date. Projects using the Design-Build method caused no delays on projects as well as reducing the final project costs.

There are additional reasons to use Private-Public Partnerships. Hopefully, contract documents in these Partnerships would not include the No Damage for Delays clause that currently exists in all public contracts. That clause means that the contractor is held liable for any and all delays on the project, even if it is caused by the public agency.

The No Damage for Delays clause in public construction contracts causes 3 problems: 1) It is the cause for many of New York's best contractors to no longer compete for city capital projects, 2) Contractors are forced to add 25% to 30% to their bids because of the uncertain risks to their businesses, and 3) it limits minority and women owned contractors from competing for public capital construction projects.

Public-Private Partnerships also can use what is called early project scoping.

Without this process, too often costs end up being higher than the original budget estimates. The reason for this is because the original budget was never a real number.

Why is that? Because it was based on preliminary design drawings and project scopes without sufficient detailed drawings in which to accurately estimate a project budget. When the project scope is further developed, projected cost estimates are more likely to reflect a realistic budget.

Finally, Cash Flow is the blood line of every business especially in the construction industry and especially in these uncertain economic times. When change orders take over 300 days to approve, which is an average time frame it takes in the public sector, there are only a few things that can happen: 1) the contractor takes a huge financial risk and proceeds to incur those costs in order to keep the project going – and if it is then denied – they absorb the cost, 2) the job comes to a screeching halt which then ends up costing a public agency more money because of the delays, and 3) it drives the project cost higher because after 300 days, the cost of materials and supplies has increased anywhere from 12% to

15%. Public-Private Partnerships can operate on more of a business like model rather than a public model with its inherent limitations.

The second advantage of using Public-Private Partnerships is that it provides the opportunity to attract private capital.

And in today's world that is absolutely essential. The ability of state and local government to provide sufficient tax dollars for badly needed capital projects is severely limited in today's economic climate.

In order to rebuild the competitiveness of our state and of our nation we need to attract private capital to finance these projects.

I believe there is an untapped source of funding for these projects that needs to be explored more fully, the use of union pension funds. In today's investment world, utilizing union pension funds could prove both to be a good financial investment as well as a good investment for creating good construction jobs.

While not an expert in the field, I believe this would require changes in the federal ERISA law. If we do not do it now – when will we?

Our state and our nation have a desperate need to rebuild our infrastructure and the financial capital to pay for it.

In conclusion, Public-Private Partnerships can be a solution that fixes that problem. It can access badly needed capital and it can buy those services in a more cost efficient and effective way than the normal government procurement process.

Thank you.

ⁱ The National Council for Public-Private Partnerships, <http://www.ncppp.org/>

ⁱⁱ Atlanta Business Chronicle, August 6, 2004 by Elizabeth Drachman, <http://atlanta.bizjournals.com/atlanta/>