

INFRASTRUCTURE CASE STUDY:

Long Beach Courthouse



SUMMARY

PROJECT TYPE	YEAR
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Civic building	2013
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DEAL STRUCTURE

Design-build-finance-operate-maintain agreement

TOTAL COST

\$725 million (net present value) in payments to private partner over life of contract

FINANCING

Private equity and mini-perm loans

FUNDING

Service fee/availability payments from AOC, lease revenue from LA County, and parking and retail revenue

PUBLIC BENEFIT

New courthouse facility with separate space for juries and defendants, as well as new retail and eateries



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Background

The Long Beach Courthouse, named after former California Governor, George Deukmejian, was the first major civic building in the United States to be delivered as a performance-based infrastructure (PBI) public-private partnership (P3) project, in which the developer makes the initial investment and the public sector makes payments once the building is occupied.¹ The major stakeholders were the Administrative Office of the Courts (AOC), the state agency that manages the court system, and Long Beach Judicial Partners, the lead company of the consortium of companies involved in the design and construction process.² The resulting structure, a new building that opened in September 2013, is 531,000 square feet and houses 31 courtrooms. It also achieved LEED Gold Certification, despite only initially planning for Silver, with no additional costs.

Project Description

When the Long Beach Courthouse project was developed, the state was actively looking for innovative ways to shift risk and capital requirements off of their docket, largely due to the billions needed for courthouse repair projects throughout the state.³ Gov. Arnold Schwarzenegger's administration had also prioritized the expansion of private-industry collaboration in delivering government services through P3s.⁴ Legally, the use of P3s by the AOC is authorized under California law, and the specific Long Beach Courthouse project was authorized under California Senate Bill 77, the Budget Act of 2007.

This project was completed through a PBI framework adopted by the AOC. On the front end, the private entity finances and builds the project. The developer invested \$49 million in cash equity in 2010 and arranged seven-year floating-rate mini-perm loans totaling \$443 million.⁵ The mini-perm loans, which are short-term commercial real estate loans for income-producing properties, had the benefit of allowing the developer four years to refinance.⁶ Only upon satisfactory completion did the government occupy the building and begin paying the set monthly rate. This rate is subject to satisfactory maintenance and can be used to deduct for lapses or closures that decrease building performance. The first year's occupancy payment is \$53.65 million, assuming no deductions.⁷ The net present cost, the current sum of the life of the contract, to the AOC is \$725 million, but future payments will be adjusted for inflation and could raise this total.⁸

Benefits and Criticisms

One key benefit to the state is assured funding of maintenance over the 35-year lease. Because payments are controlled and maintenance is fulfilled by the private company, fluctuations in state budgeting will not affect future maintenance of the courthouse. One critique of the courthouse came from the state Legislative Analyst's Office (LAO), a nonpartisan fiscal and policy advisor. LAO did a report in 2012, "Maximizing State Benefits from Public-Private Partnerships," which found that the P3 practices used by the AOC did not have a transparent process and said that the Long Beach Courthouse project was not complex enough to require the innovative processes and techniques that a P3 could deliver (i.e., it would have been simpler to build more traditionally). Moreover, the LAO found that the original analysis of the project had some key assumptions that favored P3 procurement, such as overestimating cost overruns. These assumptions, according to the LAO, could result in the P3 costing more than a traditional approach.⁹

However, the AOC responded in a letter to the LAO that this critique is theoretical only and it stands by its assumptions.¹⁰ The AOC disputed the idea that the courthouse was not a complex project, stating that the energy management systems, life safety issues, hundreds of detention cells, and 19 elevators needed for management of a large courthouse's occupants are inherently complex.

Takeaways

This is the first P3 assembled by the AOC and one of only a few P3s in the country for civic buildings. One observer noted that this model could translate to rebuilding hospitals across the United States that are in need of major work or the thousands of schools nationwide that are searching for innovative solutions in a time of tightening state budgets.¹¹

Further, the difference of opinion regarding the use of a P3 model for the courthouse between two state agencies (the AOC and the LAO) did not stop the project, but it does highlight the need to develop an agreed-upon methodology that states across the country can use to analyze the value-for-money offered by a P3 approach compared with a traditional procurement.

Ultimately, performance-based infrastructure P3s could be a valuable tool for public entities to protect investments from political trends that can affect state budgets on a year-to-year basis, as it locks in public payments at a fixed amount for a number of years. Moreover, it is a promising avenue for infrastructure advocates because it guarantees sufficient maintenance of an investment over the lifetime of the lease. This could prove useful for many different types of public infrastructure, from transportation to civic buildings.

Endnotes

1. California Courts, Los Angeles County, Governor George Deukmejian Courthouse, Long Beach, Project Description, 2013. <http://www.courts.ca.gov/facilities-la-longbeach.htm#tab3661>.
2. Ibid.
3. For the 2015–2016 fiscal year, deferred maintenance of California court buildings totals over \$2 billion, see: Judicial Council of California, Report to the Business Council, August 20, 2015. <http://www.courts.ca.gov/documents/jc-20150821-item1A.pdf>.
4. Rich Saskal, “Schwarzenegger Pushing P3s,” The Bond Buyer, 2007. http://www.bondbuyer.com/issues/116_5/-280822-1.html.
5. William G. Reinhardt, “\$492 Million Long Beach Courthouse P3 Opens The Door For Social Infrastructure,” Public Works Financing, 2010. http://www.pwfinance.net/document/research_reprints/8%20long%20beach.pdf.
6. Ibid.
7. Ibid.
8. California Courts, Los Angeles County, Long Beach Courthouse Fact Check, 2013. <http://www.courts.ca.gov/21457.htm>.
9. California Legislative Analyst’s Office, “Maximizing State Benefits From Public–Private Partnerships,” November 8, 2012. http://www.lao.ca.gov/reports/2012/trns/partnerships/P3_110712.aspx.
10. Judicial Council of California, Administrative Office of the Courts, Letter to Legislative Analyst’s Office, November 30, 2010. <http://www.courts.ca.gov/documents/AOC-response-to-LAO-ppp-report-11-30-12.pdf>.
11. William G. Reinhardt, “\$492 Million Long Beach Courthouse P3 Opens The Door For Social Infrastructure,” Public Works Financing, 2010. http://pwfinance.net/document/research_reprints/8%20long%20beach.pdf.



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