



COMMUNITY-BASED PUBLIC-PRIVATE PARTNERSHIPS

A Guide for Municipal Stormwater Managers in Washington State

 Department of Commerce

 DEPARTMENT OF
ECOLOGY
State of Washington

IACC ROLL OUT
OCTOBER 23, 2019

Chad Praul
cpraul@enviroincentives.com
(530) 318-4540

 Environmental
Incentives

 Geosyntec
consultants

 Corvias®

WHY WE ARE HERE

To roll out the new **Community Based Public-Private Partnership Guidebook (CBP3)** to help permittees pursue CBP3s and performance-based contracts that can more effectively achieve stormwater and community objectives.

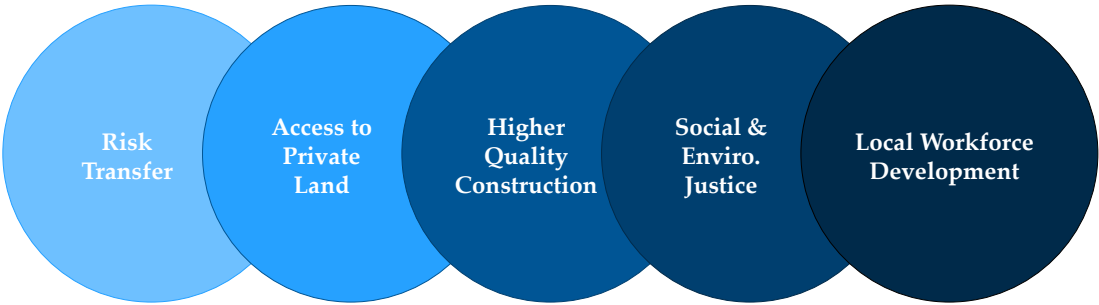
Today's Objectives

- Provide orientation to the Guidebook
- Do an exercise to become familiar with CBP3 design elements

History

- CBP3s are being used in Mid-Atlantic and promoted by EPA
- WA Legislature assigned Commerce and Ecology to assess feasibility of CBP3s
 - Phase I found no legal barriers, a need for a small-scale approach and a need for technical assistance
 - Phase II produced the Guidebook being rolled out today
- Large Washington State stormwater permittees have shown interest in CBP3s

WHY DO CBP3?




WHAT IS A CBP3?

- This Guidebook categorizes a CBP3 as any project or program that, at a minimum,
- creates a partnership between a municipality and a private entity
 - measures benefits beyond stormwater that are valuable to the community and
 - develops green stormwater infrastructure.


	Conventional Procurement	Public-Private Partnership
Planning	Permitting; Goals/Targets Project Identification & Concept Design	Permitting; Goals/Targets
Real Estate	Land Acquisition / Lease	Design-Build-Operate & Maintain
Design	Engineering/Design/ Construction Docs	
Build	Construction	
	Construction Oversight	
	Optimization/ Monitoring/Report	
O&M	Operations & Maintenance	

GUIDEBOOK STRUCTURE


A CBP3 Guide for Municipal Stormwater Managers in Washington State




Section I. Is a CBP3 Right for Your Community?




Section II. Designing a CBP3



Section III. Building Support for Your CBP3



Section IV. Getting Started

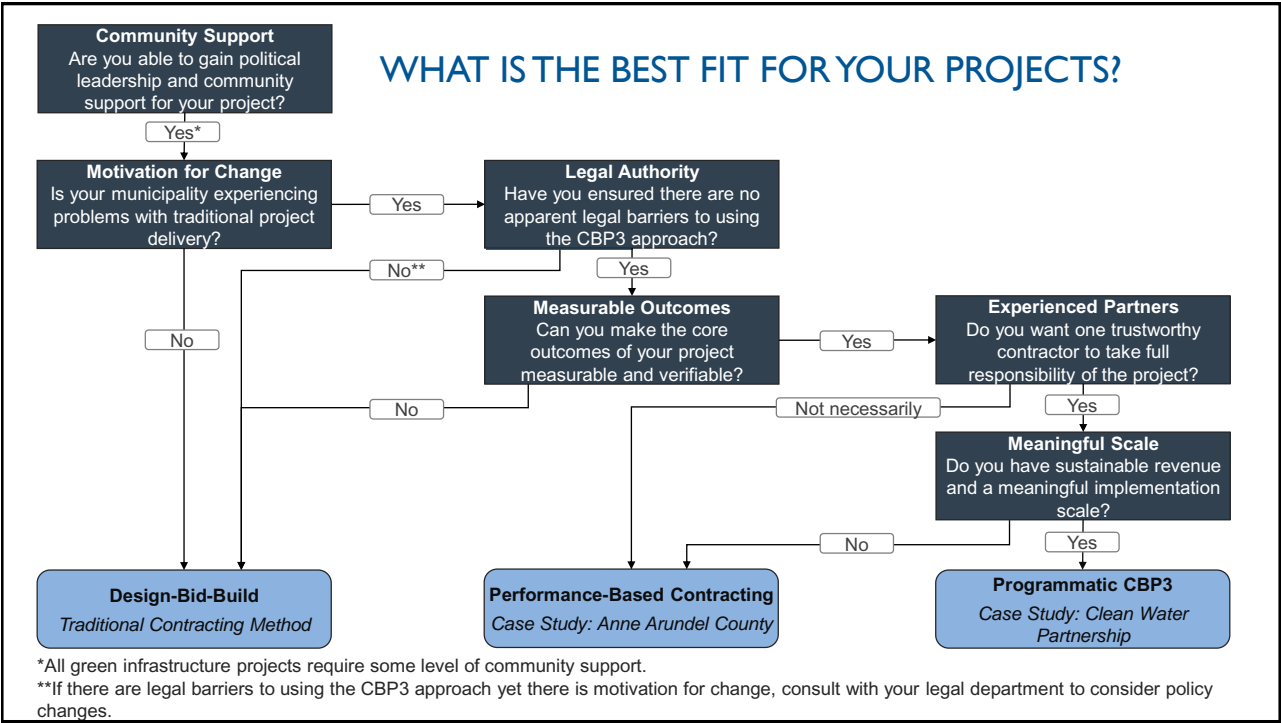


References & Appendices (P3 Models, Case Studies)



CBP3 CONCERNS EXPRESSED BY MUNICIPALITIES

Common Barriers	Potential Solutions
Our contractors are typically selected based on lowest bid procurement.	<ul style="list-style-type: none">➤ Select contractors by using best value procurement that includes both cost and other selection criteria such as quality, experience, goal alignment, and more.
Our current capital or project needs don't seem to justify a large CBP3.	<ul style="list-style-type: none">➤ Create meaningful scale by bundling projects and phases.➤ Consider developing small CBP3s with performance contracts before investing in a larger programmatic CBP3.
Our municipal staff are concerned about losing control of each project phase	<ul style="list-style-type: none">➤ Benefit from the private sector's flexibility and innovation while still maintaining appropriate project oversight and governance.➤ Clearly define key project milestones, checkpoints, and the governance structure in contracts.



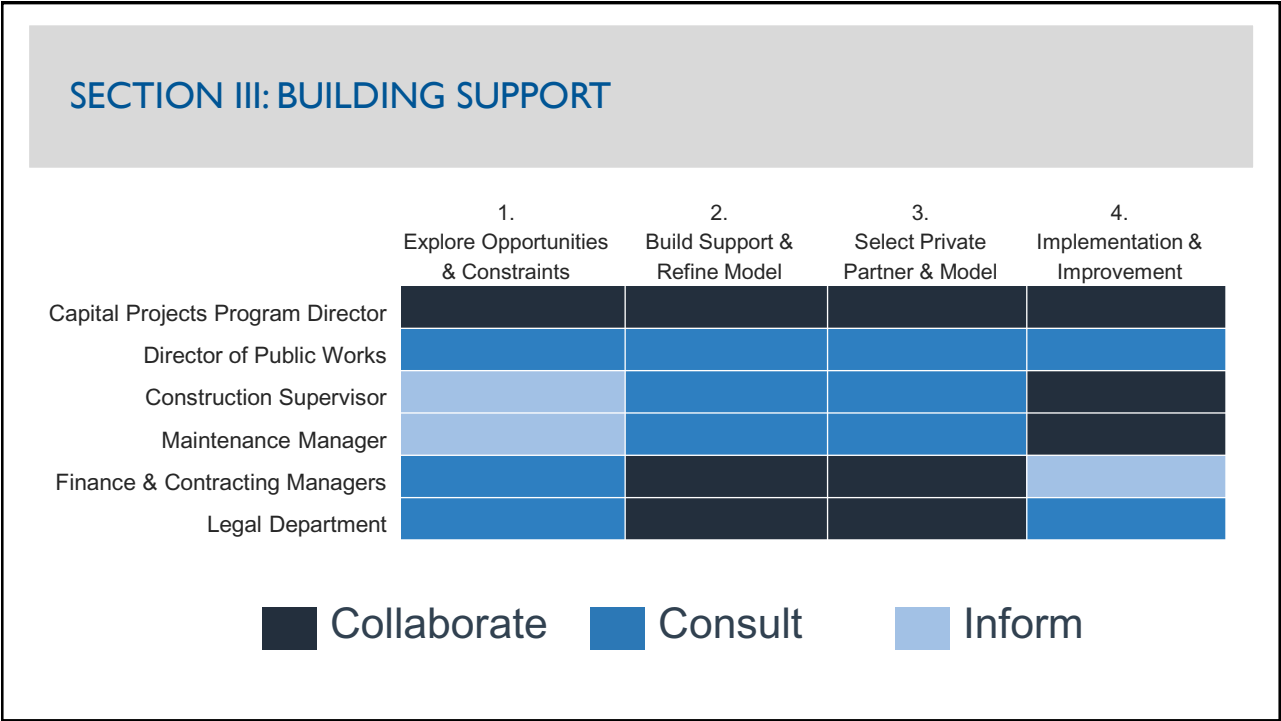
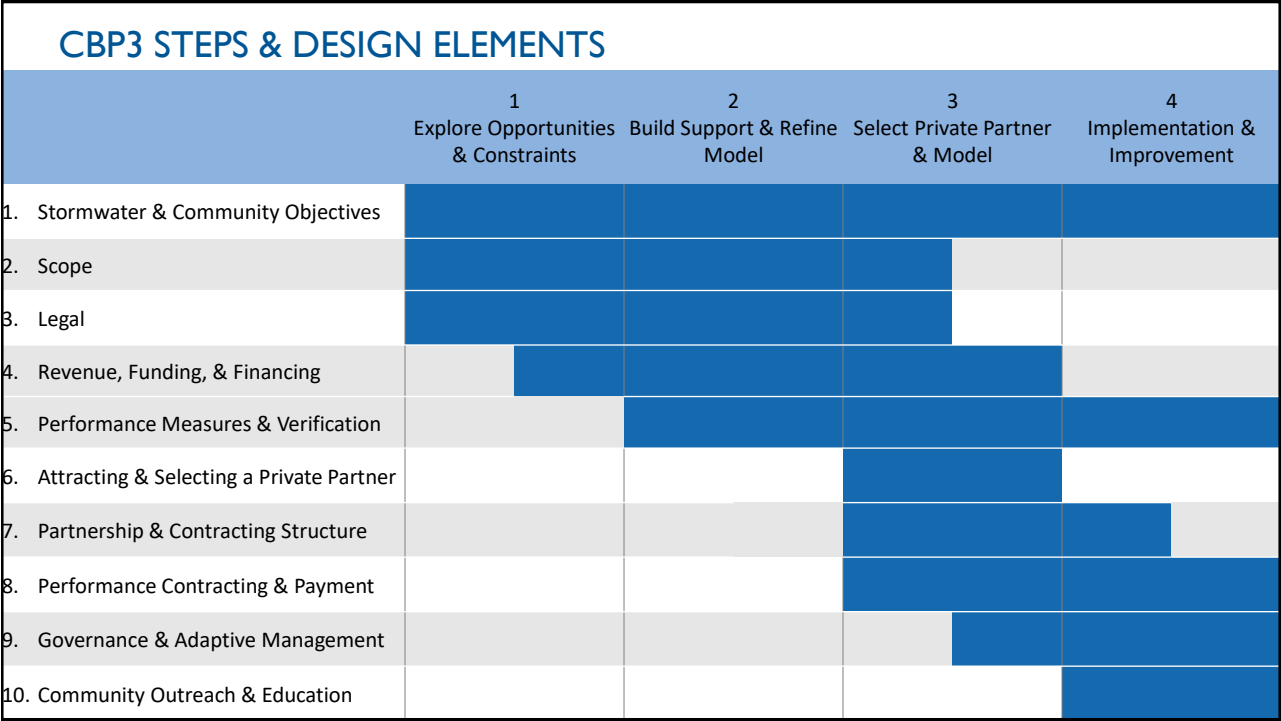
WHAT IS PERFORMANCE-BASED CONTRACTING?

Performance Contracts base payments on defined performance outcomes that reflect the quality of the project delivered.

CBP3 **Performance Contracts**

DIFFERENTIATORS FROM ACTIVITY-BASED CONTRACTS:

1. Performance measures
2. Verification processes
3. Payment terms



CBP3 EXAMPLE: CLEAN WATER PARTNERSHIP (PRINCE GEORGES CO., MD)

▪ Scope

- Treat impervious acres of PGC
- Design-Build-Operate-Maintain infrastructure for 30 years as milestone are met
- Use certified small, minority, and women-owned businesses for 30-40% of the total project scope

▪ Results

- 4,000 acres of retrofit credits at \$50,000/acre in phase I (<50% \$ reduction)
- 266 best management practices (BMPs) installed at 94 project sites
- 87% target class utilization
- 40% resident work hours
- 1.9% private financing (saved \$17M in finance cost)
- No lost jobs
- 10 mentor-protégé relationships with disadvantaged companies
- Moving on to Phase III



PERFORMANCE CONTRACT EXAMPLE: FULL DELIVERY RFP (ANNE ARUNDEL COUNTY, MD)

▪ Scope

- Treatment of 20% of untreated impervious area within the county
- Meeting Chesapeake Bay TMDL and Maryland Phase II Watershed Improvement Plans
- RFP for Full Delivery of stormwater benefits. Once awarded, the applicant contract goes through three-phase inspection
 - **Phase 1:** verify applicant's proposed plan is accepted by the county and follows local ordinance
 - **Phase 2:** county inspects projects to ensure implementation in accordance with regulations
 - **Phase 3:** annual project inspection to ensure fulfillment of original intended function

▪ Results

- Cycle One treated approximately 188 acres for \$3.8 million
- Cycle Two treated approximately 133 acres for \$1.7 million
- 40% cost savings over typical published costs
- Private sector is bringing good projects that accelerate progress
- Third cycle was contracted this spring and fourth cycle Proposals due December 2019



ACTIVITY: DISCUSS AN EXAMPLE PROJECT

GOAL: Deepen your understanding of the first few design elements by exploring them with a group



1. Form a team of 2-5 people



2. Discuss possible projects that might fit and choose one to “develop” (5 minutes!)



3. Write down ideas for Design Elements #1-4 (10 minutes)



4. Report back to the whole group (2 minutes each)

Design Elements

- #1 Stormwater & Community Objectives
- #2 Scope
- #3 Legal Authorities
- #4 Revenue, Funding, & Financing

4 OF THE 10 DESIGN ELEMENTS OF A CBP3

I. STORMWATER & COMMUNITY OBJECTIVES

After reviewing your community's goals, setting the right objectives for your project will help to guide the scope of the CBP3 arrangement and inform specific design elements.

Environmental objectives

- Primary environmental objectives should address meeting relevant MS4 and CSO requirements, including MS4 Phase I Structural Stormwater Controls Retrofit Incentive Points.
- Supplemental environmental objectives should address stormwater flow control, pollutant treatment, habitat creation, flood management, air quality, water supply, and aquifer protection.

Community and economic objectives

- Project implementation objectives should address goals during project delivery including job creation, job training, and cost savings.
- Green infrastructure objectives should address long-term goals for the project including service equity, public health, safety, recreation opportunities, and environmental education.

[Go back](#)

2. SCOPE

The scope of a CBP3 includes, but is not limited to, the following:

- Geographic focus of the effort
- Land ownership
- Types of projects
- Partners' roles
- Total project cost/expenditure
- Amount of water quality and community benefits
- Acreage targets
- Types of projects

Larger-scale CBP3 arrangements can be achieved by either bundling multiple stormwater projects or bundling multiple project phases on a single stormwater project.

[Go back](#)

3. LEGAL AUTHORITIES

- Procurement & Contracting Rules
 - Competitive Bid
 - Best Value Procurement
- Process Considerations
 - CBP3s must comply with all local laws and mandates which will vary from community to community. Common issues include
 - Restrictions on design-build contracts. However, project leads may be able to use alternative models, such as integrated design-bid-build or other alternative contracting structures.
 - Restrictions on allowable contract length (e.g., 3 years, 5 years), and longer-term contracts may require special approval from city or county council.

Washington Procurement Rules

Washington State law includes "competitive bidding", "lowest bidder", and "prevailing wages" procurement rules for public works projects.

- [RCW 39.04](#) defines public works contracting requirements.
- [RCW 39.04.280](#) contains exemptions to competitive bidding.
- [RCW 39.04.015](#) requires awarding contracts to the lowest responsive bid.
- [RCW 39.12.020](#) requires paying prevailing wages.

[Go back](#)

4. REVENUE, FUNDING, & FINANCING

Revenue: income that is both ongoing and not repaid (e.g. surface/stormwater utility rates).

- General Funds
- City Street or County Road Funds.
- Local Improvement Districts (LIDs).
- Special Fees
- Capital Facilities Charges

Funding: income that is from one-time sources (e.g. state appropriation funds or grant awards).

- Grants
- Public Works Trust Fund/ Public Works Assistance Account
- Pooled Funding across Departments.

Financing: any form of funding that requires repayment (e.g. municipal bonds or private partner capital invested in project implementation).

- Traditional local government debt instruments (e.g. municipal bonds)
- Clean Water State Revolving Fund (CWSRF) loans.
- Revenue bonds.
- General obligation bonds
- Bridge or short-term "interim" financing mechanisms.
- Green bonds
- The Water Infrastructure Finance and Innovation Act (WIFIA).

[Go back](#)

SUMMARY & CONTACT

A CBP3 Guide for Municipal Stormwater Managers in Washington State

- Section I. Is a CBP3 Right for Your Community?
- Section II. Designing a CBP3
- Section III. Building Support for Your CBP3
- Section IV. Getting Started
- References & Appendices (P3 Models, Case Studies)

- Contact:**
- Chad Praul, Environmental Incentives, cpraul@enviroincentives.com
 - Jessica Schwing, Department of Ecology, jessica.schwing@ecy.wa.gov
 - Bruce Lund, Department of Commerce, bruce.lund@commerce.wa.gov



THE REMAINING 6 DESIGN ELEMENTS

5. PERFORMANCE MEASURES & VERIFICATION

Performance measures dictate how data is collected and built into a CBP3 partnership structure, payment terms, and governance process.

- Define your expected and optimal program results.
- Establish performance measure uses.
- Evaluate and select your performance measures.
- Document your performance measures and processes.
- Design your reporting approach.

Example performance measures:

- **Performance measures addressing environmental objectives:** acres retrofitted with green infrastructure, volume to sewage treatment, change in pollutant loads, carbon emissions, energy use, vegetation/tree cover, and more.
- **Performance measures addressing community and economic objectives:** percentage of work executed by local, small, and/or disadvantaged businesses, number of jobs created, cost savings, number of job trainings, number of educational outreach events, crime levels, and more.

[Go back](#)

6. ATTRACTING & SELECTING A PRIVATE PARTNER

Multi-Phased Procurement

- Request for Qualifications (RFQ)
- Request for Information (RFI)
- Early Announcement with Open Door Policies

Alternative Procurement Models

- Best value procurement

Minimum Qualifications & Alignment

- Experience & Proven Track Record
- Understanding & Level of Commitment to CBP3 Goals
- Flexibility & Ability to Innovate
- Technical Qualifications
- Local Partnerships
- Other Qualifications

Best Practices

- Avoid cost disclosure requirements
- Be transparent about cost ceilings
- Keep short-term financial requirements reasonable
- Match contract requirements to meet the project's cost structure
- Scale risk to meet desired outcomes
- Use financial incentives when possible

[Go back](#)

7. PARTNERSHIP & CONTRACTING STRUCTURE

- Partnership Structure
 - Traditional Services Agreement
 - Legally Constructed Partnership
 - Delegated Management Partnership
 - Co-Permittee Partnership
- Contract Structure
 - Flexibility necessary for the private partner to streamline execution, accelerate delivery, and reduce costs.
 - Oversight and control necessary for your municipality to provide input and monitor project execution while also minimizing costs and time delays for the private partner.
 - Execution risk transferred to the private partner

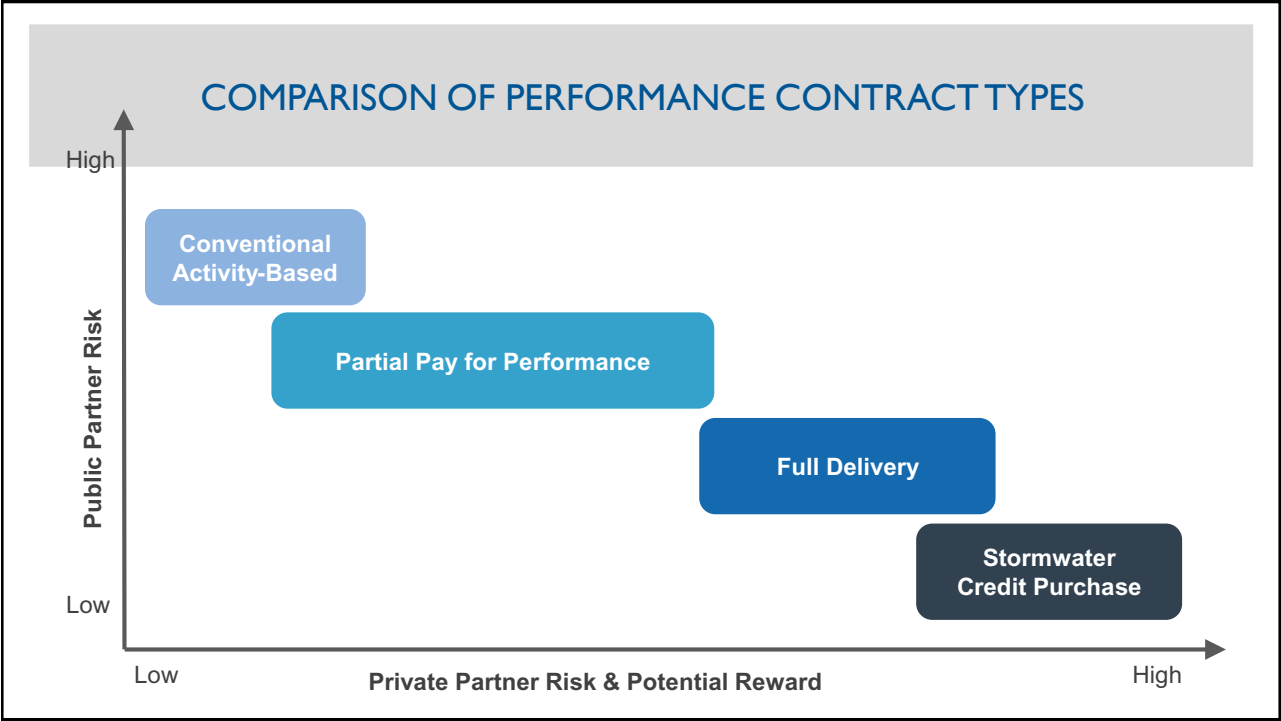
[Go back](#)

8. PERFORMANCE CONTRACTING & PAYMENT TERMS

Table 2. Key distinctions of contract elements in performance-based contracts compared to traditional agreements.

CONTRACT ELEMENTS	PERFORMANCE CONTRACTS	TRADITIONAL AGREEMENTS
Definition of Performance Outcomes	<ul style="list-style-type: none">▪ Performance metrics▪ Quantitative results	<ul style="list-style-type: none">▪ Flexible metrics▪ Narrative results
Payment Terms	<ul style="list-style-type: none">▪ Outcome-based	<ul style="list-style-type: none">▪ Action-based
Monitoring, Reporting, & Verification	<ul style="list-style-type: none">▪ Monitoring & reporting▪ Ongoing verification	<ul style="list-style-type: none">▪ Monitoring▪ One-time verification
Management Plan	<ul style="list-style-type: none">▪ Binding▪ Specific	<ul style="list-style-type: none">▪ Non-binding▪ Non-specific
Long-Term Stewardship	<ul style="list-style-type: none">▪ Informs payment	<ul style="list-style-type: none">▪ Lacks financial incentive
Remediation	<ul style="list-style-type: none">▪ Basis for action	<ul style="list-style-type: none">▪ Lacks incentive for action

[Go back](#)



9. GOVERNANCE & ADAPTIVE MANAGEMENT



- Annual Planning Process
 - Adaptive Management Process
 - Project Review Process
- Potential Issues List & Resolutions
 - Reporting Requirements
 - Conflict Resolution Procedures

[Go back](#)

10. COMMUNITY OUTREACH & EDUCATION

Table 3. Example outreach and education initiatives and associated potential performance measures.

OUTREACH/EDUCATION INITIATIVE	PERFORMANCE MEASURES
Events. Engage the community at established events or by hosting an event. Days already designated to celebrate the environment or community like Earth Day and World Water Day are valuable in conducting outreach and education.	# of events participated in # of events hosted # of attendees
Schools. Engage local schools with outreach and educational activities. Example initiatives include involving students in BMP construction and developing environmental curriculum.	# of students educated # of schools engaged Test results
Workshops. Hold capacity building workshops for the local workforce (i.e. stormwater management or business development) or other municipalities (i.e. CBP3 implementation or grant application assistance).	# of workshops # of people educated Scores on feedback surveys
Internships. Develop the local workforce by providing stormwater and business development internships or by funding local businesses to provide internships.	# of interns # of businesses Funding spent on internships
Marketing and Educational Materials. Develop informational materials to distribute publicly including annual reports, flyers, brochures, web pages, and more.	# of marketing products # of educational materials # of web page views



[Go back](#)

ADDITIONAL SLIDES FOR REFERENCE

CBP3 FEASIBILITY ASSESSMENT RECOMMENDATIONS (PHASE I)

IMPROVE ENABLING CONDITIONS FOR CBP3S



- Seek policy and appropriations that support the use of CBP3s, performance contracts, and other alternative project delivery mechanisms
- Revise stormwater funding program eligibility guidelines to encourage state and local agencies to propose projects to facilitate CBP3s and performance contracts

DEVELOP AND IMPLEMENT CBP3 PILOT PROGRAM



- Develop education resources and provide educational venues
- Provide technical assistance
- Establish an inter-agency committee to support development of CBP3s
- Develop a list of revenue and funding sources

IDENTIFY AND FACILITATE CBP3 PILOT PROJECTS

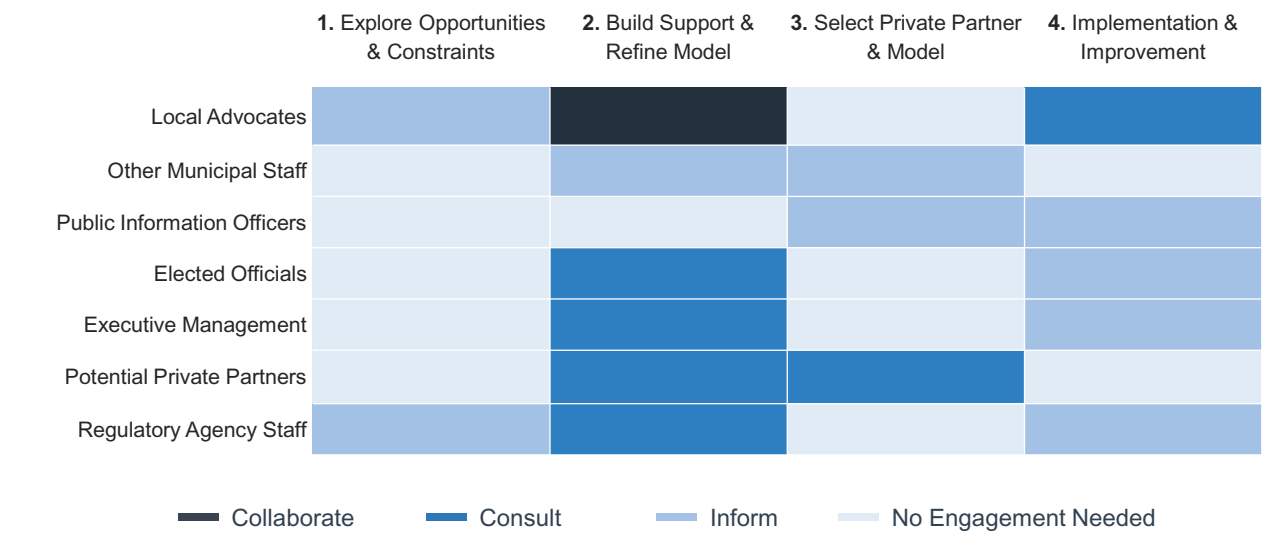


- Seek CBP3 pilot projects; target Phase I permittees and DBOM and DBOOM contract arrangements
- Seek performance contract pilot projects
- Use project selection criteria based on assessment criteria
- Use Value for Money techniques to compare CBP3 and traditional procurement approaches

OVERCOMING BARRIERS

Common Barriers	Potential Solutions
Our municipal staff are concerned about losing control of each project phase.	<ul style="list-style-type: none">➢ Benefit from the private sector's flexibility and innovation while still maintaining appropriate project oversight and governance.➢ Clearly define key project milestones, checkpoints, and the governance structure in contracts.
Prevailing wages, design criteria, or other constraints prevent us from contracting to a private party.	<ul style="list-style-type: none">➢ Satisfy state and local laws and ensure projects will contribute to municipal priorities by incorporating hiring, payment, and project requirements into the procurement and contract terms.
We are concerned that using public dollars on private property can cause negative stakeholder perception.	<ul style="list-style-type: none">➢ Analyze and communicate the beneficial opportunities that would not otherwise be possible without using private lands.➢ Pay the private partner for outcomes to insulate the municipality from negotiations with private landowners.
Our contractors are typically selected based on lowest bid procurement.	<ul style="list-style-type: none">➢ Select contractors by using best value procurement that includes both cost and other selection criteria such as quality, experience, goal alignment, and more.
Private financing is more expensive than public debt.	<ul style="list-style-type: none">➢ A CBP3 does not have to include private financing. If private financing is beneficial, ensure the difference in financing costs is outweighed by lower project delivery costs and by avoiding the time and cost required to issue debt with a Value for Money analysis.
Developing and negotiating a CBP3 contract is complex and costly.	<ul style="list-style-type: none">➢ Develop a transparent framework with a governance structure that establishes a common purpose with the private sector.➢ Offset the cost to develop a CBP3 structure with savings from bundling multiple projects or phases under a single contract.➢ Ask for advice from experienced municipalities and legal experts.
Some of our staff are concerned that private partners are only interested in generating profits.	<ul style="list-style-type: none">➢ Use a payment structure with incentive payments that are paid only after outcomes are achieved.➢ Ensure the private party is responsible for delivering outcomes at a higher value for money than would be traditionally achieved.
Our current capital or project needs don't seem to justify a large CBP3.	<ul style="list-style-type: none">➢ Create meaningful scale by bundling projects and phases.➢ Consider developing small CBP3s with performance contracts before investing in a larger programmatic CBP3.
Our stormwater projects have not historically delivered community and economic benefits.	<ul style="list-style-type: none">➢ Partner with local advocates to target important community issues, while elevating the multiple values of green infrastructure.➢ Select performance metrics focused on community and economic benefits to anchor the payment terms.

ADDITIONAL STAKEHOLDERS



P3 MODELS

	Conventional Procurement	Design- Build	Design-Build- Operate & Maintain	Design-Build- Own- Operate & Maintain
Planning	Permitting; Goals/Targets	Permitting; Goals/Targets	Permitting; Goals/Targets	Permitting; Goals/Targets
	Project Identification & Concept Design	Project Identification & Concept Design	Project Identification & Concept Design	Project Identification & Concept Design
Real Estate	Land Acquisition/Lease	Land Acquisition (if necessary)	Land Acquisition (if necessary)	Design-Build-Own- Operate & Maintain
Design	Engineering/ Design/ Construction Docs	Design-Build	Design-Build-Operate & Maintain	
Build	Construction			
	Construction Oversight			
	Optimization/ Monitoring/ Reporting			
O&M	Operations & Maintenance	Operations & Maintenance		

IACC CONFERENCE HANDOUT

DOWNLOAD AND CONTACT INFORMATION

A CBP3 Guide for Municipal Stormwater Managers in Washington State

- Section I. Is a CBP3 Right for Your Community?
- Section II. Designing a CBP3
- Section III. Building Support for Your CBP3
- Section IV. Getting Started
- References & Appendices (P3 Models, Case Studies)


Download: <https://deptofcommerce.app.box.com/v/stormwater-cbp3-guide-draft>
Contact:


- Chad Praul, Environmental Incentives, cpraul@enviroincentives.com
- Jessica Schwing, Department of Ecology, Jessica.schwing@ecy.wa.gov
- Bruce Lund, Department of Commerce, bruce.lund@commerce.wa.gov





BENEFITS OF A CBP3


COMMON CHALLENGES


- 


The community benefits of our stormwater projects are not sufficiently leveraged or well understood.
- 

Implementing stormwater programs takes too long.
- 

We don't have the internal expertise or capacity to independently conduct all the project phases.
- 

Our department struggles to expend our annual budget each year.
- 

We don't have enough available land for doing stormwater projects.
- 

We struggle to attract contractors with the skills necessary to implement green infrastructure.
- 

Green infrastructure is too costly to implement.

BENEFITS OF CBP3s

- Investment in Underserved Communities**

 - CBP3s prioritize creating jobs and educational opportunities in targeted areas.
 - The aesthetic and recreational benefits of green infrastructure improve quality of life in urban areas.
- Expedited Project Delivery**

 - Bundling project phases into one contract reduces contracting costs and streamlines implementation.
 - Private financing can enable implementation to begin before public funds are available.
- Expanded Expertise and Flexibility**

 - Private partners can provide technical expertise, innovative ideas, and access to new technologies.
 - Working with a private partner allows for increased flexibility in the project approach and scope.
- Opportunity to Bundle Projects and Phases**

 - Bundling projects and project phases can reduce contracting steps and increase scale.
 - CBP3s enable delivering programs of a greater scale with existing staff.
- Access to Private Land**

 - Private partners can increase your access to private lands by flexibly engaging private landowners who may otherwise be wary of working with the government.
- Aligned Goals**

 - Use of alternative procurement and performance contracts incentivize high performance.
 - Bundling projects or project phases increases scale which can attract more potential private partners.
- Better Value for Money**

 - Cost savings are enabled by reduced overhead costs and project implementation efficiencies.
 - More competition from greater involvement of the private sector can reduce green infrastructure costs.