



INFORMER

#3, Late April 2016

Professional Engineers in California Government

THE ROLE OF GOVERNMENT – PART 3

The Consequences of Abandoning Basic Principles

The role of government is to protect the people it represents and to serve their needs and interests. The role of PECG members is to help achieve those basic goals.

When it comes to infrastructure projects, the people know and understand what they want and how to achieve it. The government should regulate and oversee the private sector without unnecessarily controlling or hindering its ability to innovate and produce. For government infrastructure projects, the people want competitive bidding – contracts awarded to the qualified firm at the lowest cost – to ensure that taxpayers get their money’s worth. They want someone who works for and is loyal to them, the public, to inspect construction by private firms. (See pg. 3 for Voter Survey results.)

For infrastructure projects, **Design-Bid-Build** has been the project delivery procedure for decades. This means that public agency engineers, or a design firm hired by the public agency, produces detailed plans and specifications; private construction firms submit bids for the project; the lowest cost qualified firm is selected; and engineers employed by the agency (who work for and are loyal to the public) inspect the contractor’s work to ensure that it complies with the plans and specifications. For decades, this

procedure has resulted in high quality projects at the lowest cost to the taxpayers.

On occasion, projects have been delayed or costs increased dramatically. While sometimes this occurred due to unanticipated circumstances, more



California State Engineer Memorial Interchange

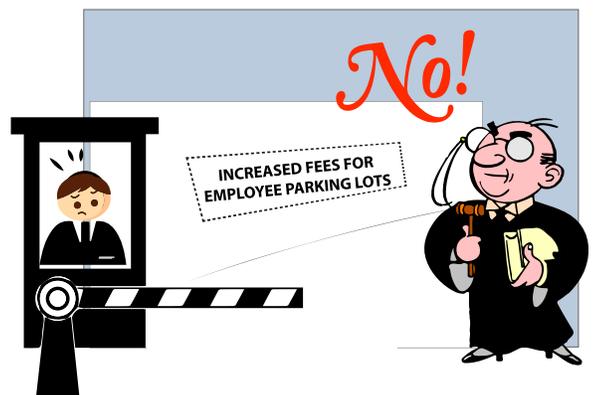
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WHAT DOES PECG DO FOR ITS MEMBERS?

The California Housing Finance Agency leases office space in Culver City, which includes free parking for employees. The Agency recently renewed the lease but provided that employees could rent parking space directly from the landlord at \$90 per month. Although only a handful of PECG members work at that location, PECG filed a grievance and ultimately went to arbitration, which means a hearing and a decision by a mutually-selected neutral third party.

The Unit 9 MOU prohibits the state from increasing rates “for existing parking lots where employees do not currently pay parking fees.” While the state claimed it was the landlord charging the fees, not the state, **the arbitrator ruled in PECG’s favor**. As a result, a few PECG members who have been paying **\$90 per month for up to 30 months** will have the entire fee **refunded** to them and receive free parking in the future.

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THE ROLE OF GOVERNMENT – PART 3

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frequently it has been the result of government abandoning some of its basic principles. In the case of the Bay Bridge, the political decision makers changed the basic design three times over 16 years before work got underway. In the case of Boston's "Big Dig", government abandoned its role for design and inspection, with disastrous results.

These are high profile but not isolated cases. For example, Caltrans discontinued using employees for welding inspection, outsourcing the work. As a result, 10,000 of 14,000 welds in a freeway interchange earthquake strengthening project in San Diego were found to be defective. In the Bay area, private welding inspectors were convicted of fraud.

At a time when government agencies seek additional funding for long-overdue infrastructure projects, one might think competitive bidding and public inspection would be highlights in convincing the public that funding from additional increased taxes would be well spent. However, that has not been the case.

Instead of designing a project, producing a set of plans, and having construction contractors bid to build it, "Design-Build" was introduced. Design and construction for a project are lumped into one contract, companies are forced to submit a bid before the design is completed, and the agency can award a contract without selecting the lowest cost. Not surprisingly, costs for some projects doubled and, by the time construction was completed, doubled again.

Then, a new element was added – **Public Private Partnerships**. This, in essence, is Design-Build with a private company (or consortium of companies) offering

to finance and maintain the project, as well as design and build it. Although in theory the P3 contractor would accept the risk, in practice they would run up the design and construction cost, then either declare bankruptcy or impose unreasonable conditions on the public agency and the taxpayers for decades.



TAXPAYER

It soon became apparent that P3 stands for **Pick the Public's Pocket**, not Public Private Partnership.

There have been three such projects in California.



- **FOR A TEN MILE FOUR LANE TOLL PROJECT** in Orange County, the cost of the "fixed price" P3 contract more than doubled; a "non-compete" clause prohibited the public agency from undertaking projects to relieve traffic congestion in the area; and ultimately the public agency bought the project back from the private entity, paying \$207 million for a \$57 million project.
- **A TOLL ROAD IN SAN DIEGO** cost more than twice what the contract provided. The consortium then declared bankruptcy and the local agency bought out the project after the consortium defaulted on a federal loan.
- **A THIRD P3 PROJECT IN THE BAY AREA** saw the cost more than double when it was converted from Design-Bid-Build to a P3 Design Build project.

This problem is not unique to California. It is happening all over the country. Three P3 projects made the national news since March 1.



IN TEXAS, then-Governor Rick Perry announced the first road built by a "public-private partnership" in Texas which "holds a special place in our history". After signing a 50-year agreement to allow a private entity to collect the tolls and borrowing \$430 million from the federal government, the private consortium declared bankruptcy in less than three years. Repayment of principal and interest on the federal loan had not even begun.



THE STATE OF MARYLAND agreed to a 36-year \$5.6 billion contract for a consortium to design, build, and operate light rail lines to Washington, D.C. The consortium and the taxpayers will each put up a billion dollars to start. If ridership is less than projected, the state will assume the "financial risk."



THE STATE OF VIRGINIA hired a P3 consortium to build a new 55-mile section of a state highway for \$1.4 billion. This month, the state "severed ties" with the consortium and will now seek to recover a portion of the \$252 million it already paid for a project that never broke ground.

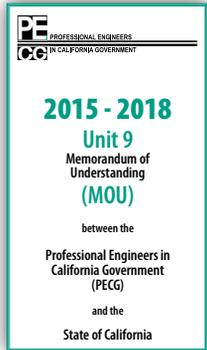
How have public decision makers been misled so far off course and what, if anything, can be done about it? In the next issue of the *Informer*, the final chapter in this four-part series will address the factors that lead decision makers astray and offer suggestions on potential solutions to the problem.



WHAT DOES PECG DO FOR ITS MEMBERS?

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This follows an arbitration ruling from several years ago. All employees in the Caltrans Los Angeles office were informed parking fees would increase from \$20 to \$75 per month. The Unit 9 MOU says the state could increase such rates “in existing owned or leased lots” by no more than \$20 per month. The state constructed a parking building over an open air lot and claimed that was no longer an “existing lot”, but the arbitrator disagreed. He **ruled in PECG’s favor, saving all affected employees \$35 per month for years.**



Negotiating a new Memorandum of Understanding (MOU) is important and visible. PECG’s current MOU, approved by 97% of the membership, includes salary increases (beginning with 5% in July), increased shift differential and vacation/annual leave cashout, prohibition of split shifts, enhanced moving and relocation expenses, and several other improvements.

However, a contract is only effective if it is enforced. That is part of PECG’s job. These parking grievances are one example. Requiring the state to pay moving and relocation expenses if an office is moved more than 35 miles (previously 50 miles) and MOU provisions dealing with mandatory transfers, hardship



transfers, reasonable accommodation, alternate work schedules, and telecommuting have protected and benefited employees on numerous occasions.

PECG is currently representing employees on 61 grievances and appeals, 17 adverse actions, and numerous other

activities ranging from negotiating pay raises and benefits for supervisory members to representing members affected by proposed office moves at the Air Resources Board and the Division of Oil, Gas, and Geothermal Resources.



PECG also represents members in court on issues ranging from furloughs to outsourcing and in the state Legislature and Congress on infrastructure funding, staffing, outsourcing, and the CalPERS retirement and health plans, as well as professional issues, such as PECG-sponsored legislation to create a license for Environmental Engineers. PECG is also part of several coalitions of like-minded organizations on pensions and a variety of other issues in California and nationally.

The *Informer* newsletter and weekly emailed updates are sent to members and fee payers. Members also have access to PECG’s insurance (life, auto, homeowners, disability, etc.) package at low cost group rates.

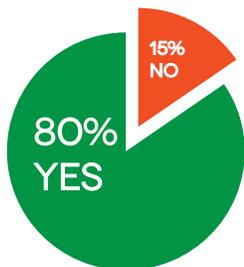


If you have a work-related problem, issue, or question, contact PECG – that’s why we’re here!

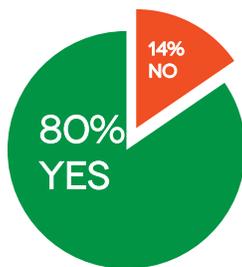


2015 VOTER SURVEY RESULTS

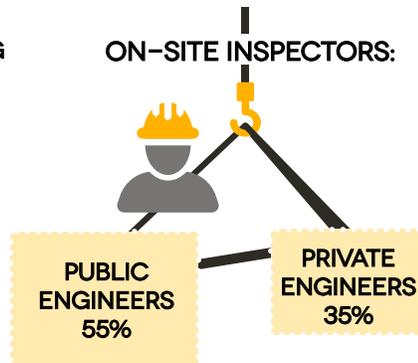
COMPETITIVE BIDDING FOR CONSTRUCTION:



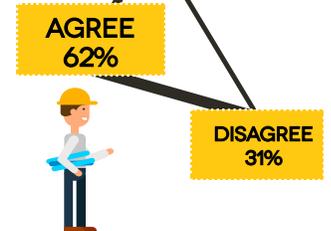
COMPETITIVE BIDDING FOR ENGINEERING:



ON-SITE INSPECTORS:



DON'T AWARD A CONTRACT IF PUBLIC ENGINEERS COST LESS:



WINNERS OF PECG AWARDS AT LOS ANGELES COUNTY SCIENCE & ENGINEERING FAIR



PECG provides two special awards at the **Los Angeles County Science & Engineering Fair** in memory of former Caltrans Engineers James E. Roberts and Marilyn Jorgensen Reece. The special award winners this year were **Piper Mape**, winner of the Marilyn J. Reece Award, and **Charles Felimon Legaspi**, winner of the James E. Roberts Award, presented by Section Officers **Grish Biglarian** (left) and **John Vassiliades** (right).

“SOLAR POWERED GEARBOX” WINS AT THE SACRAMENTO REGIONAL STEM FAIR



(l-r) PECG Vice President **Matt Hanson** presents PECG's Excellence in Engineering Award to **Peter Milam** and **Gerardo Inzunza**

PECG is a proud sponsor of the **Synopsys Sacramento Regional STEM Fair** and many PECG members serve as volunteer judges of the projects. The 2016 Fair featured hundreds of projects from students in Sacramento and eight other surrounding counties. This year, PECG's Excellence in Engineering Award went to the team of **Peter Milam** and **Gerardo Inzunza** from the School of Engineering and Sciences in Sacramento for their project "Solar Powered Gearbox."