



Preliminaries Definitions/Distinctions

The ABA Model Procurement Code Can Help Industry
and Government Establish a New Approach to 21st
Century Development

How Are Project Costs Paid?

Direct

Government pays for projects with public resources – “directly”.

This includes monies obtained: (i) through taxes, user fees, or other funds received by government; (ii) funds borrowed from capital markets (typically bonds or bond anticipation notes); and (iii) grants of money from other governments. Funds are borrowed (ii) based on the credit-worthiness of the government. Grants (iii) received are available through taxes or charges by other governments.

Government attracts the Private Sector to pay for projects with private sector resources – “indirectly.” This is typically done by ceding specific, limited, control over a public infrastructure asset to create a revenue stream which the private sector will use to earn a return on capital invested and a profit.

Indirect

“Indirect” includes monies obtained: (i) through user fees, or other funds received by the private sector that are “at risk” to the private sector; (ii) funds borrowed by the private sector from capital markets (typically bonds or other debt); and (iii) equity invested. Funds are typically borrowed for design and construction based on the credit-worthiness of the project to produce sufficient revenue to repay the borrowed funds (with interest), to pay for long term O&M, and a profit.

How Are Project Elements Delivered?

The three (3) key elements of infrastructure projects are delivered – “Piecemeal” – separated from each other – “Segmented.”

Distinctions remain between capital budgets for the Initial Delivery of projects and the operating budgets for long term repair, operations, and maintenance.

Combining Design with Construction (Design-Build) included here, with O&M.

Design

Construction

Design-Build

**Operations &
Maintenance**

Segmented

The three (3) key elements of infrastructure projects are delivered together – integrated with each other – “Combined.”

Distinctions are eliminated between capital budgets and operating budgets for these projects.

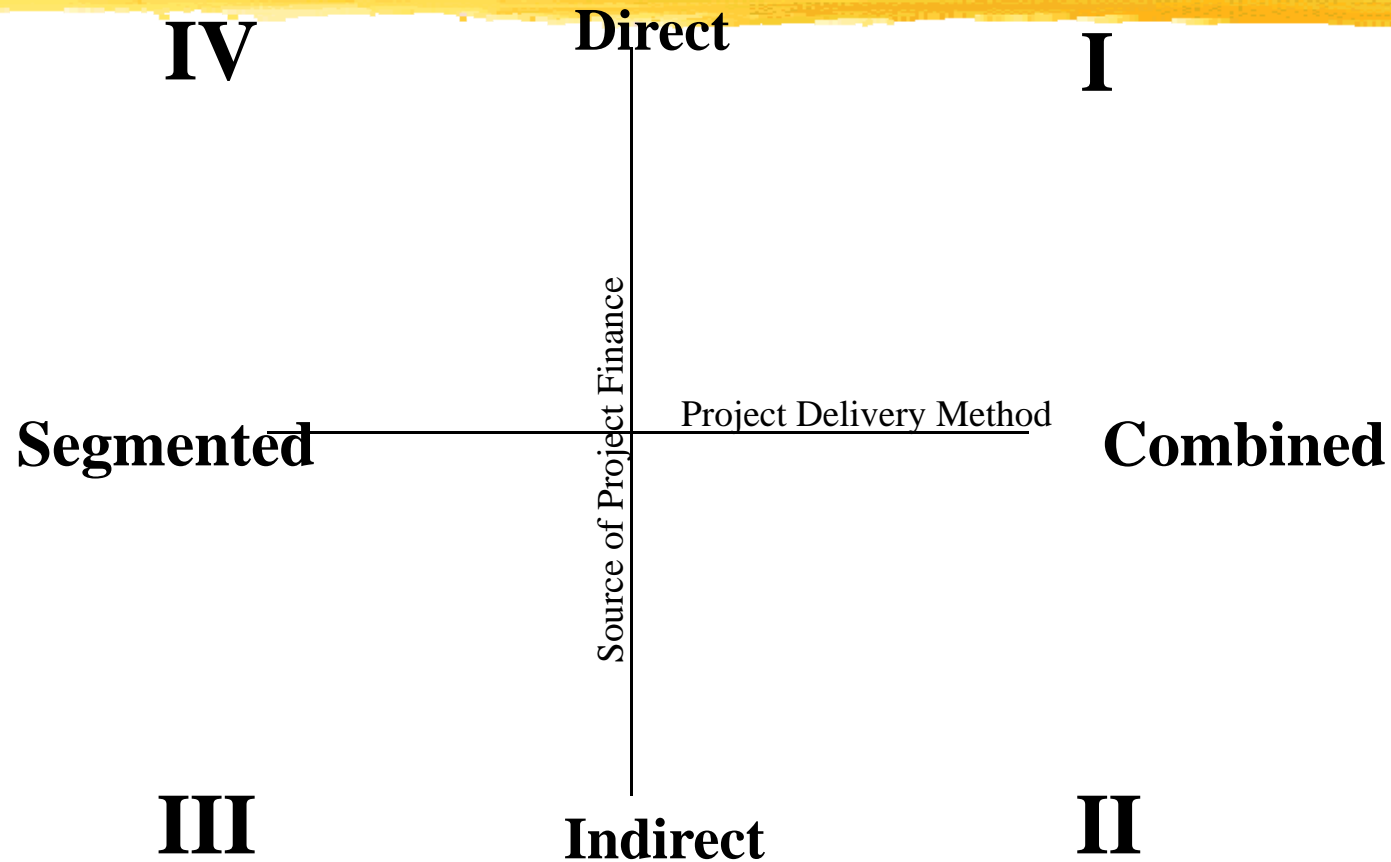
All “Public Private Partnerships”

Design-Build-Operate-Maintain

(including all combinations of public and private sector funding)

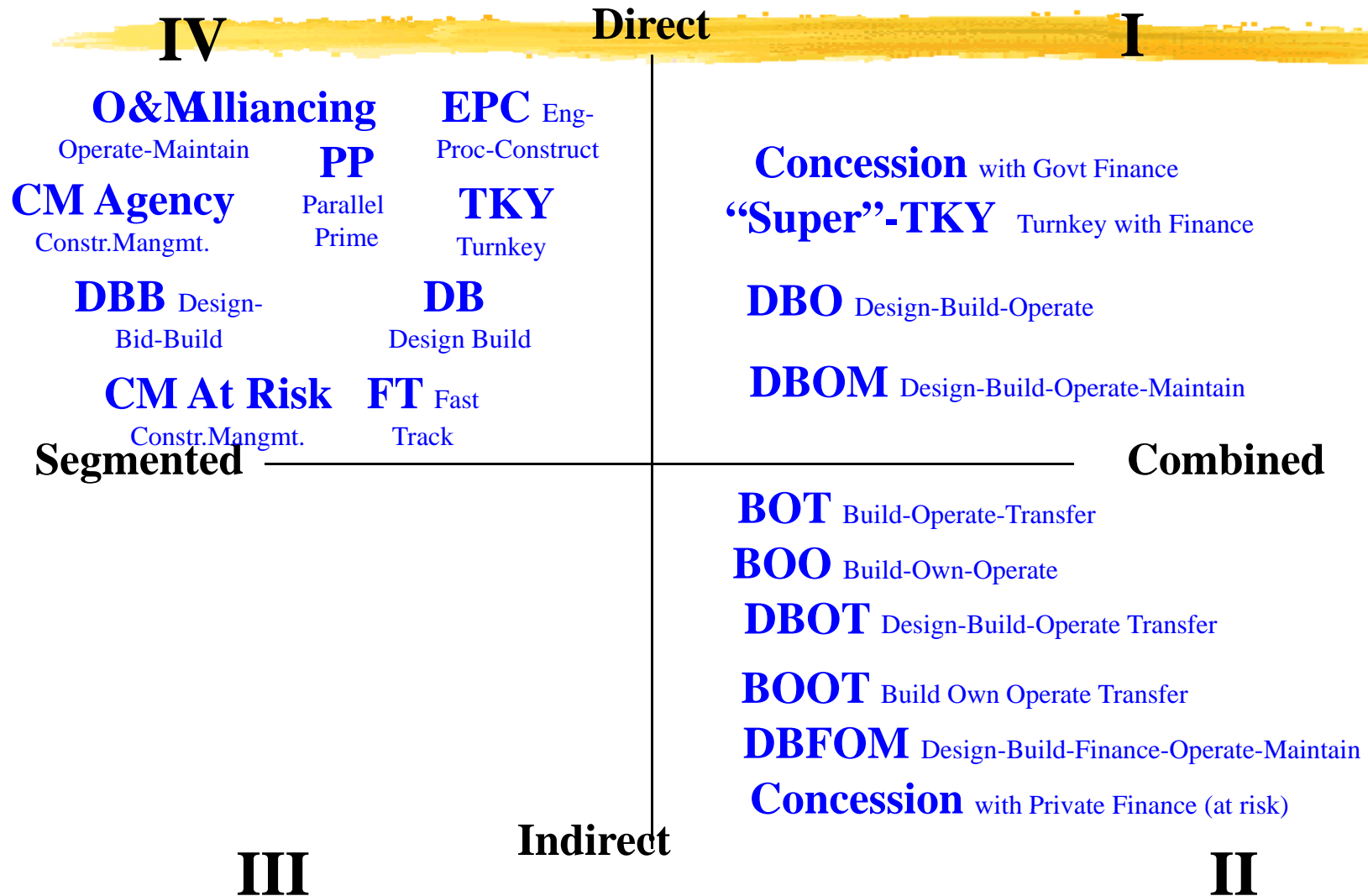
Combined

Delivery Methods Distinguished

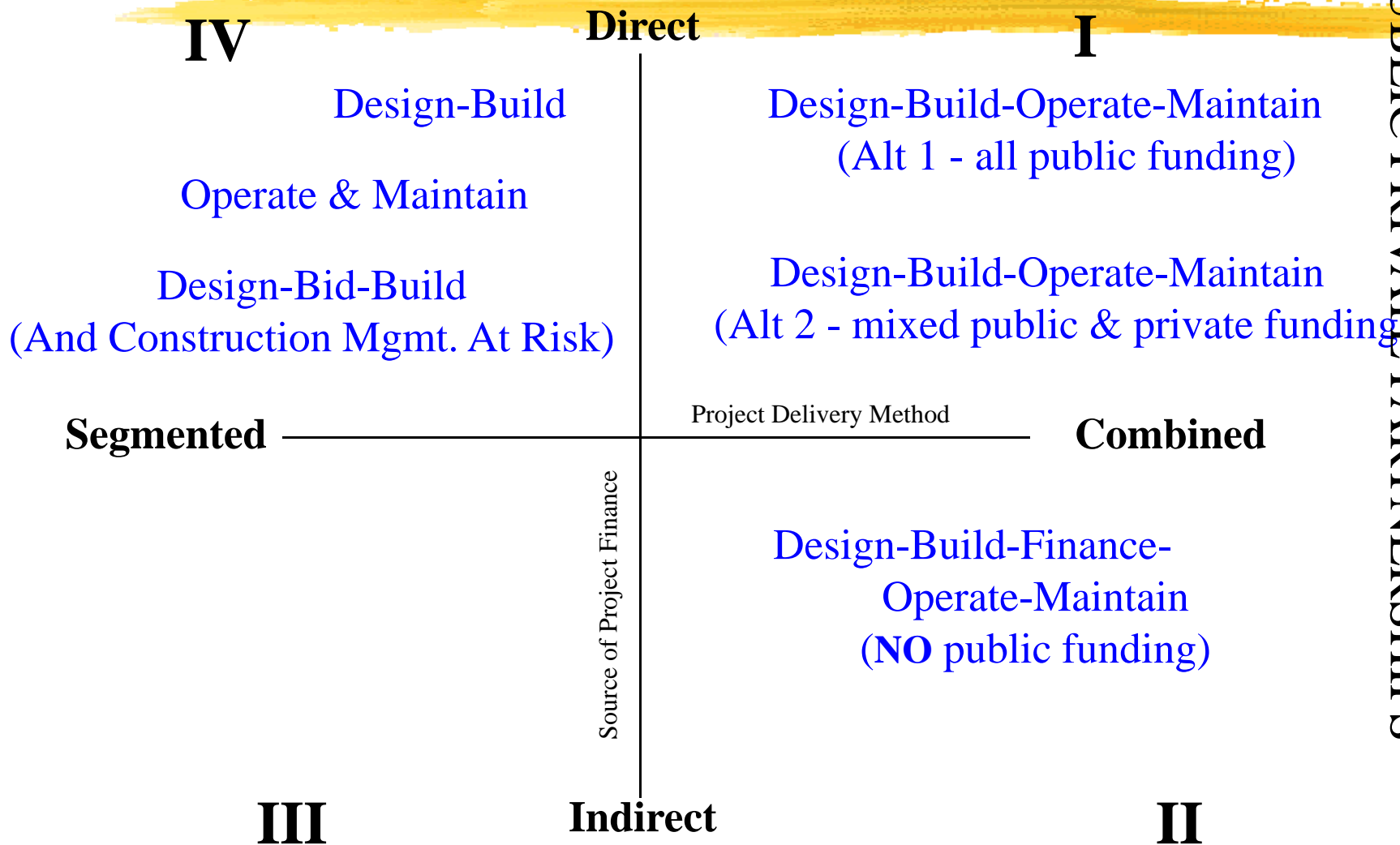


From *Principles* Text, Miller 2000, Kluwer.

The World's Project Delivery Methods

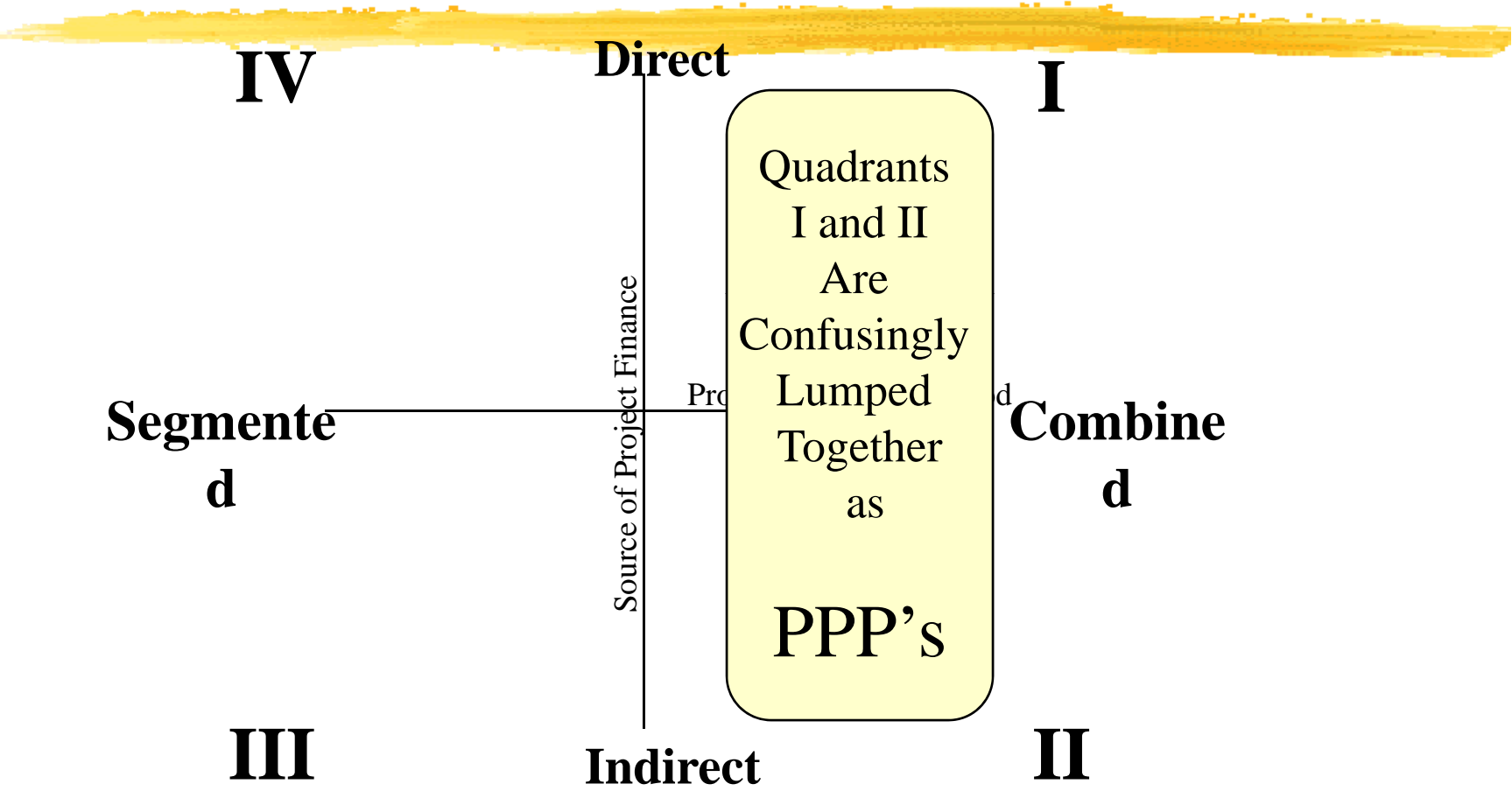


Six Key Delivery Methods



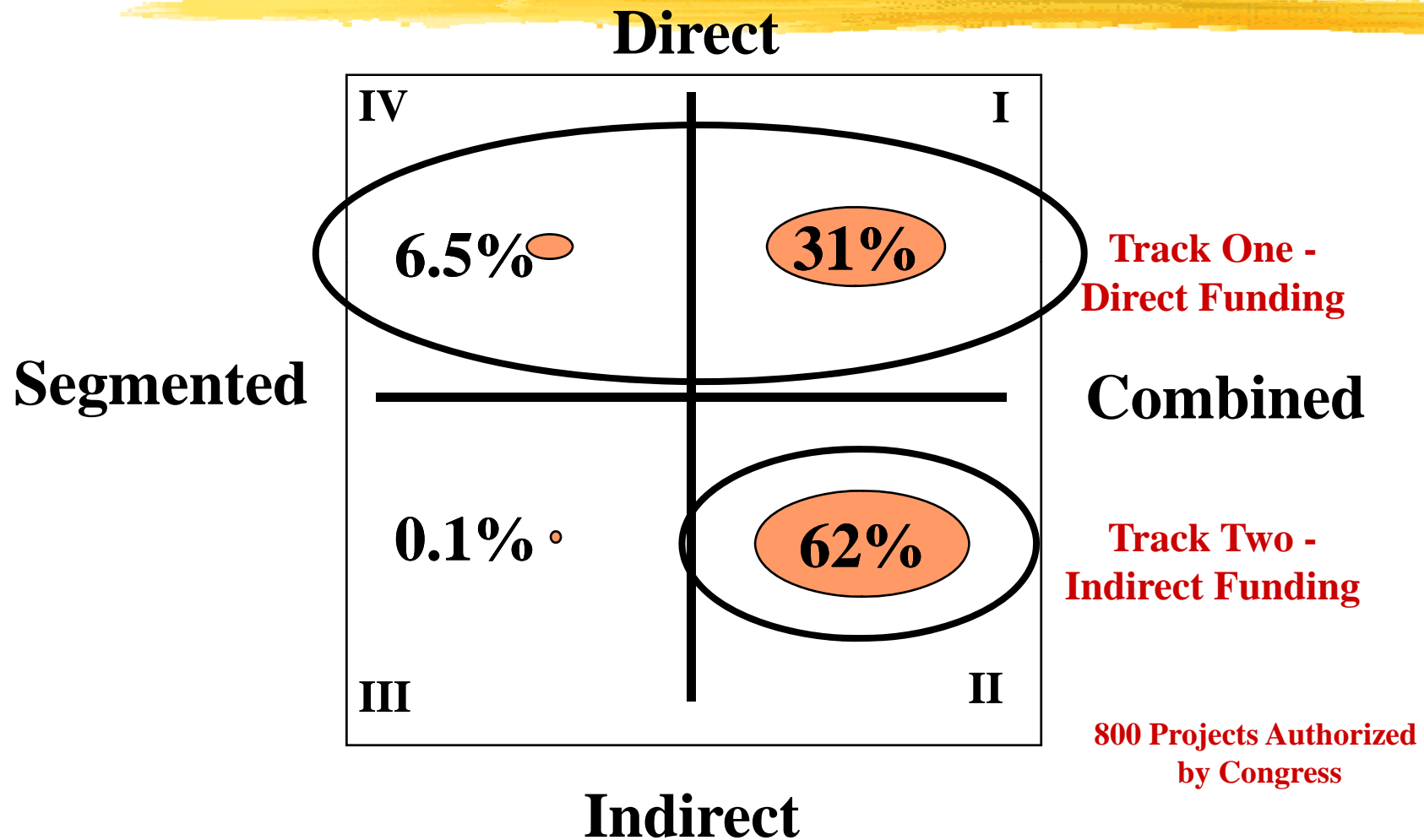
“PUBLIC PRIVATE PARTNERSHIPS”

The Quadrant Framework



From *Principles* Text, Miller 2000, Kluwer.

US History of Delivery Methods: 1780 to 1933

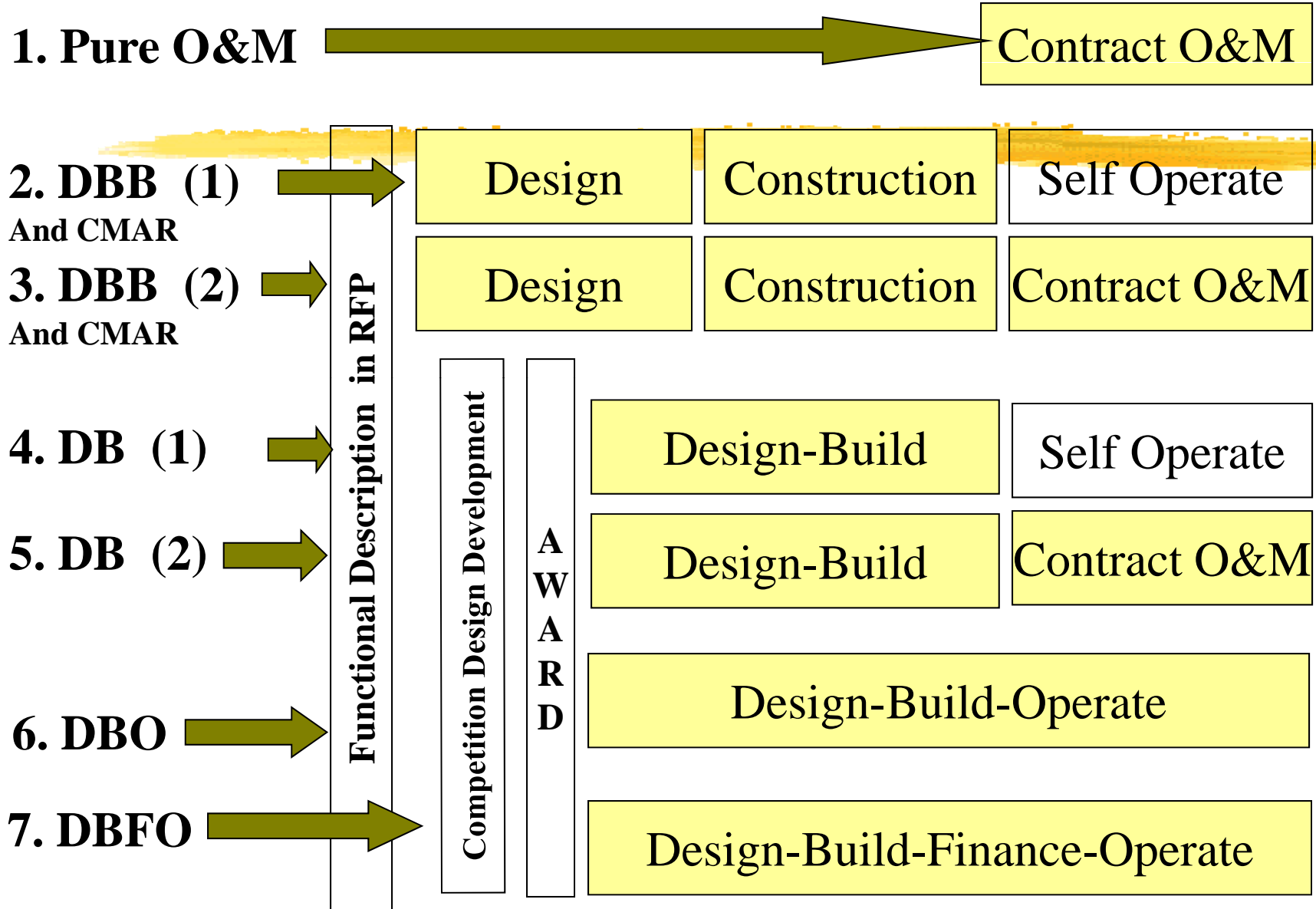


The 2000 ABA Model Procurement Code

Project: August, 1997 to July 11, 2000
Approved by the ABA House of Delegates

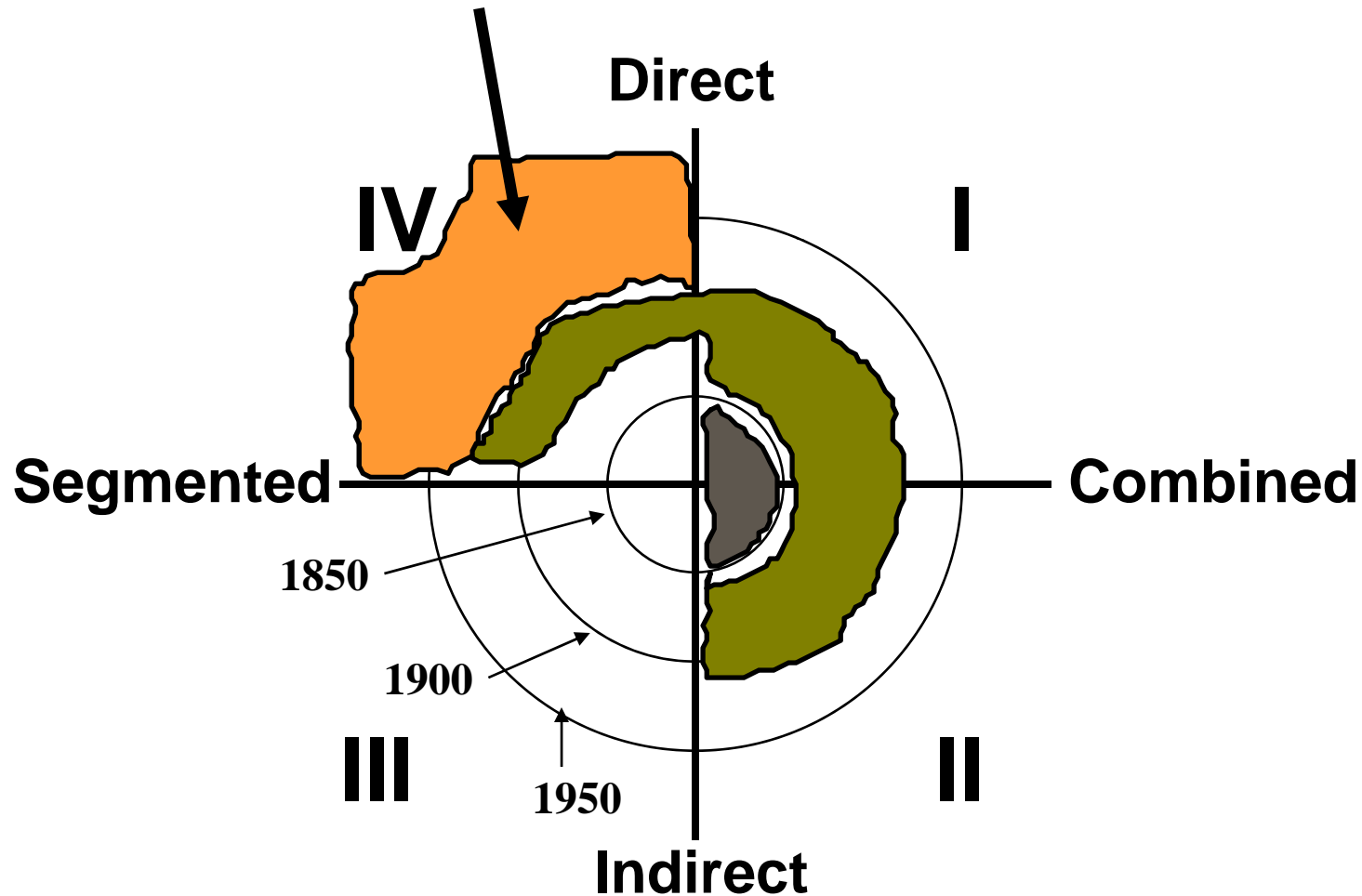
2007 ABA Model Code for Public Infrastructure Procurement

A Condensation of the 2000 MPC focused ONLY on Public Infrastructure Procurement

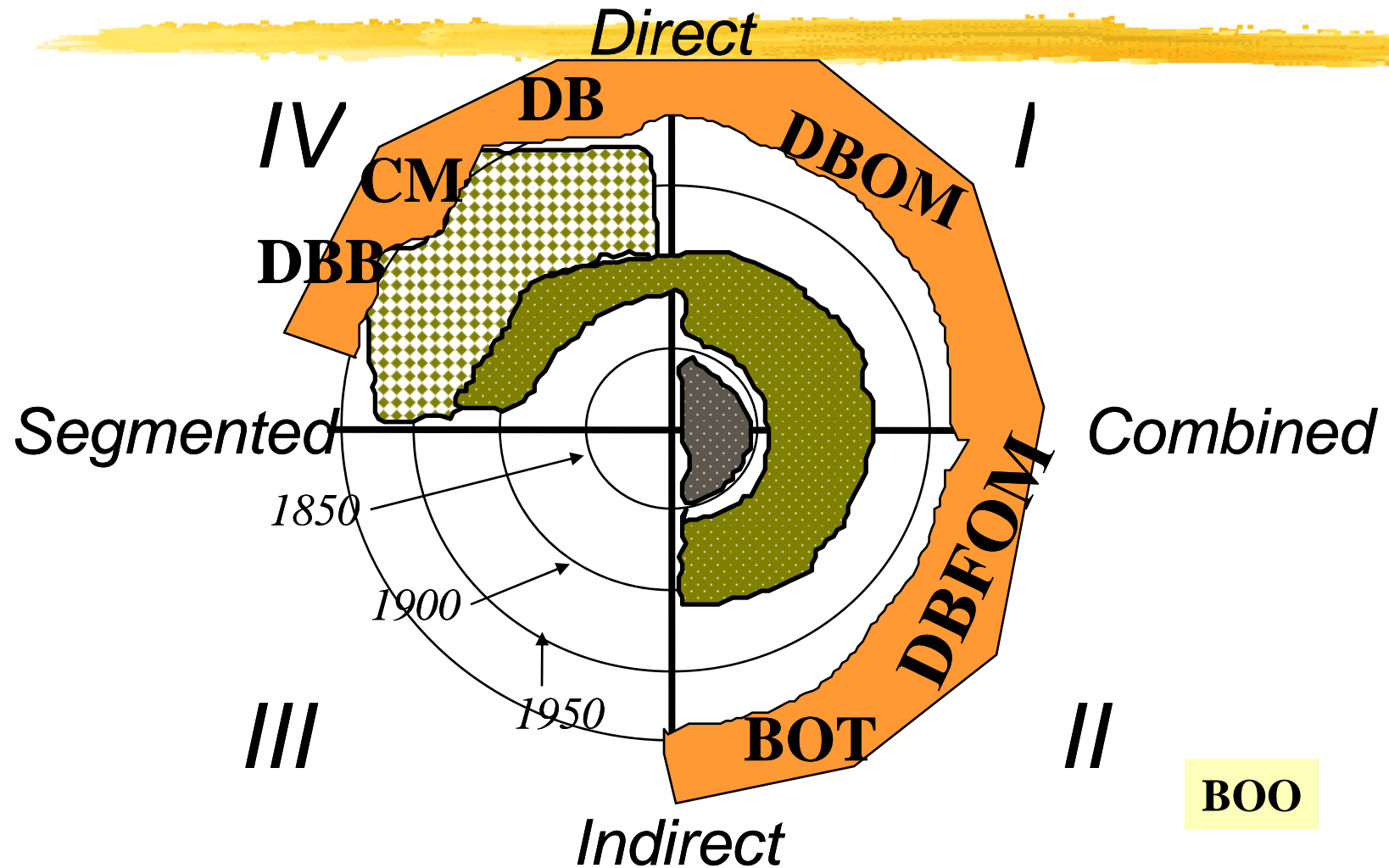


The 2000 MPC and the 2007 MC PIP

Move From This



To This:



Three Proven Source Selection Methods

Article 3-202

Competitive
Sealed
Bids:

Construction;
Operations &
Maintenance

Article 3-203

Article 5-204

Competitive
Sealed
Proposals:

Design-Build;
Design-Build-Operate;
Design-Build-
Finance-Operate

Article 5-205

Qualifications
Based Selection:

Architectural and
Engineering
Services

Some Advantages of the MPC Competitive Processes



- ⌘ In Existence for >30 Years
- ⌘ Successfully Used in Millions of Procurement Transactions in 20+ States
- ⌘ Language has been repeatedly construed by numerous courts across the country

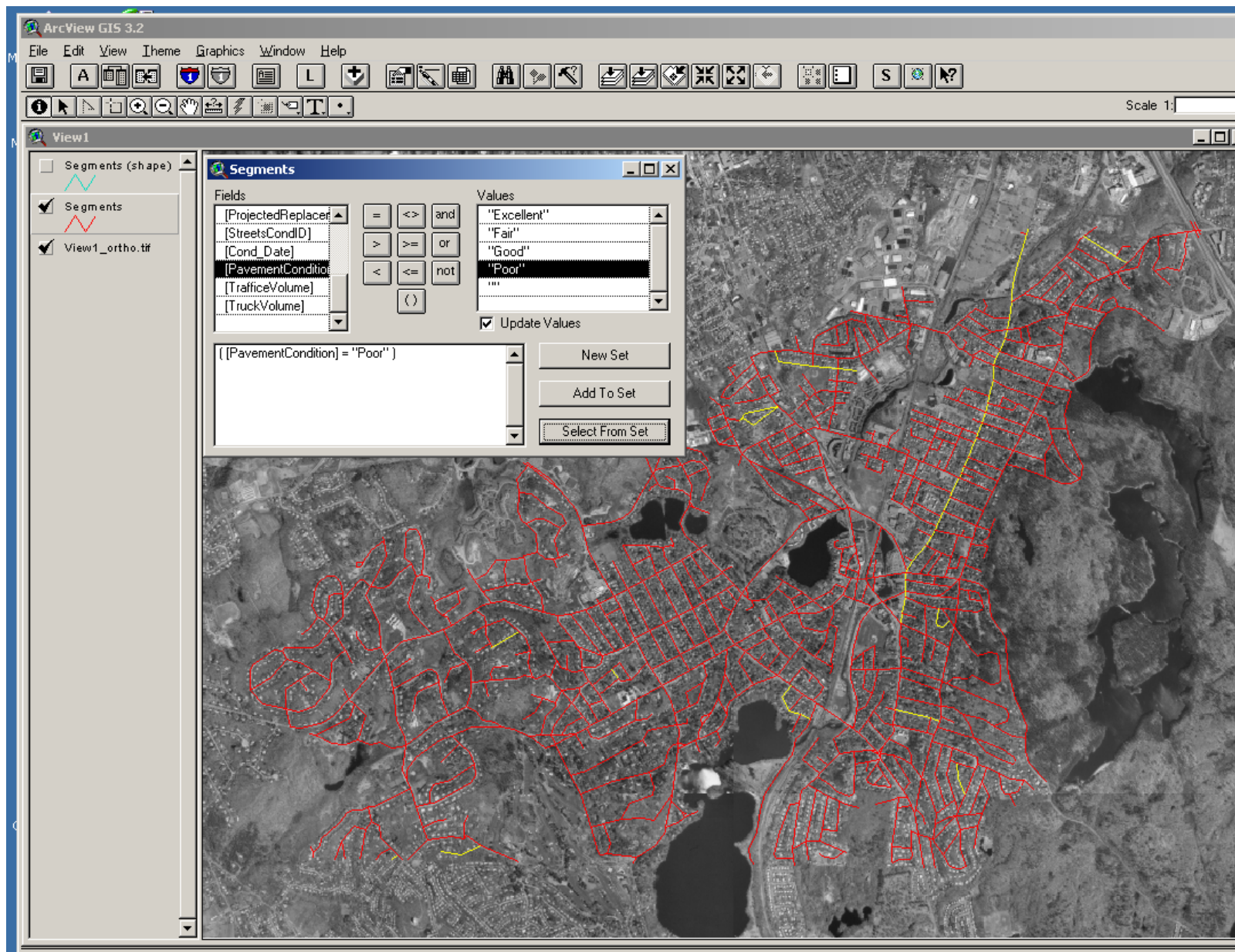
⌘ BUT

The Goal Isn't Just the Procurement Process

- ⌘ Get the Procurement Process Out of the Way
- ⌘ Design, Build, Repair, Operate
 - ☑ entire “collections” or “portfolios” of projects.
- ⌘ Which delivery method is “best” for one project is silly Question today.
 - ☑ Facilities badly in need of repair
 - ☑ Facilities with poor performance (i.e., energy)

What 21st Public Infrastructure Procurement Could Look Like

The Pieces Exist



The Portfolio Configuration Problem

Capital Sources

Source 1

Source 2

Source 3

Source 4

The List of Desirable Infrastructure Projects

Project 1

Project 2

Project 3

Project 4

etc.

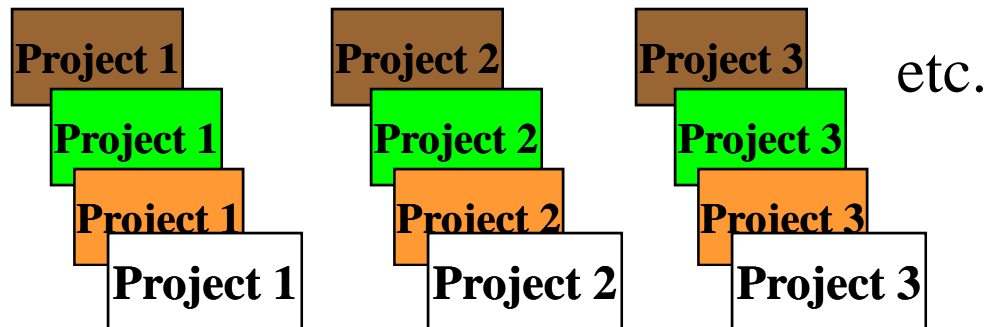
The Variables: Alternative Means of Delivery

Design-Bid-Build

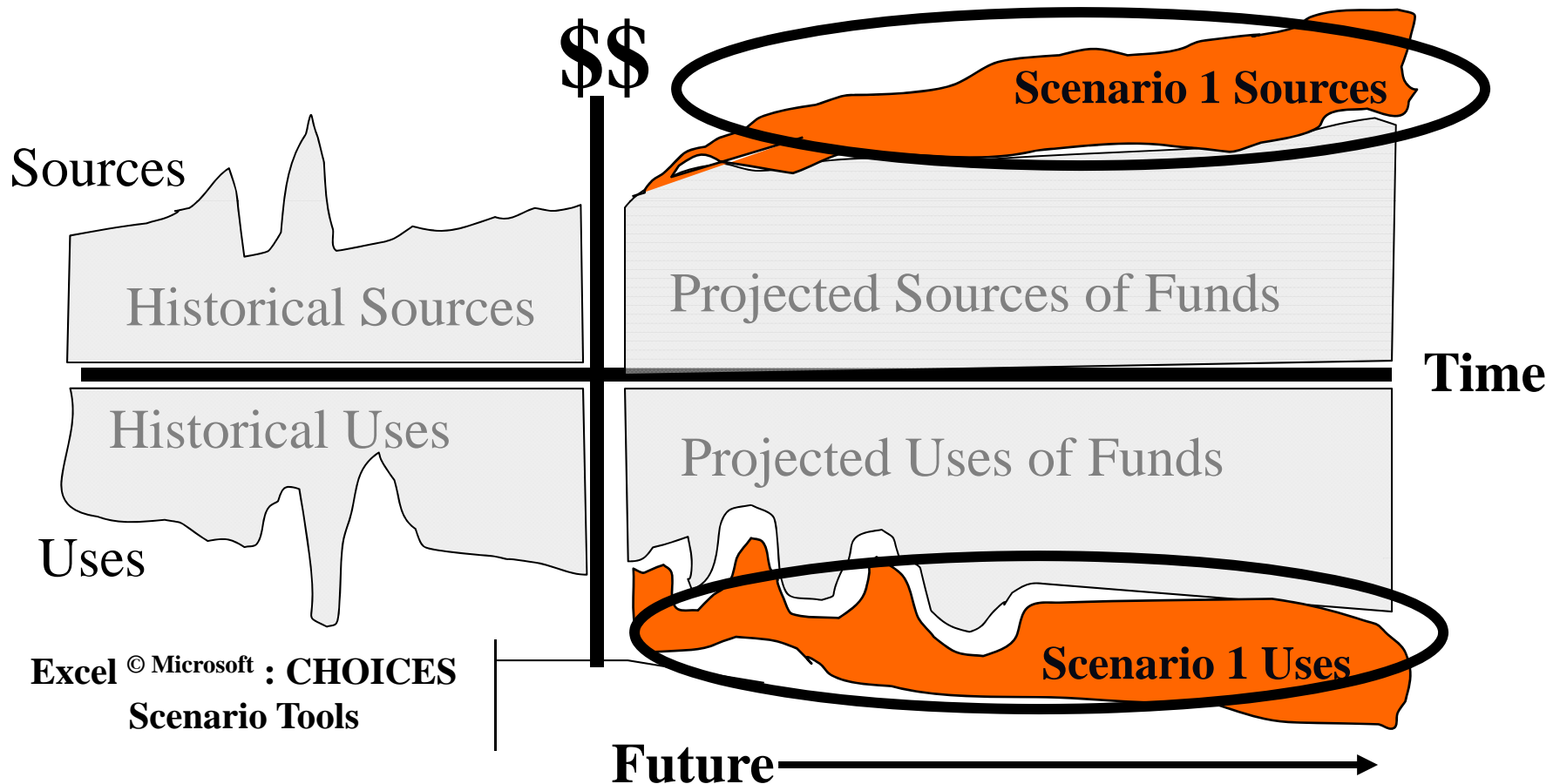
Design-Build

Design-Build-Operate

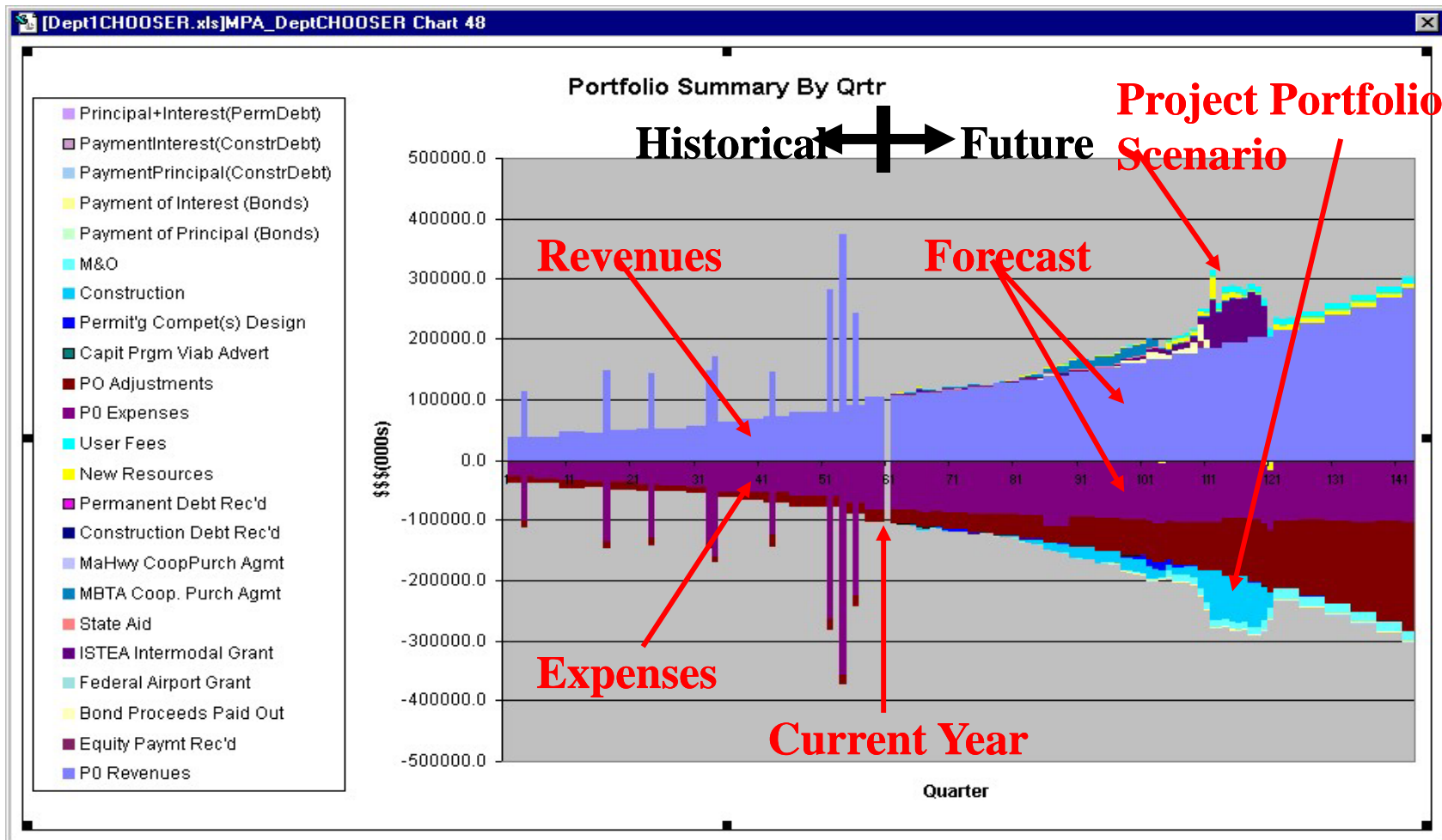
Build-Operate-Transfer



Scenario Tools Explore Different Combinations of Projects and Delivery Methods



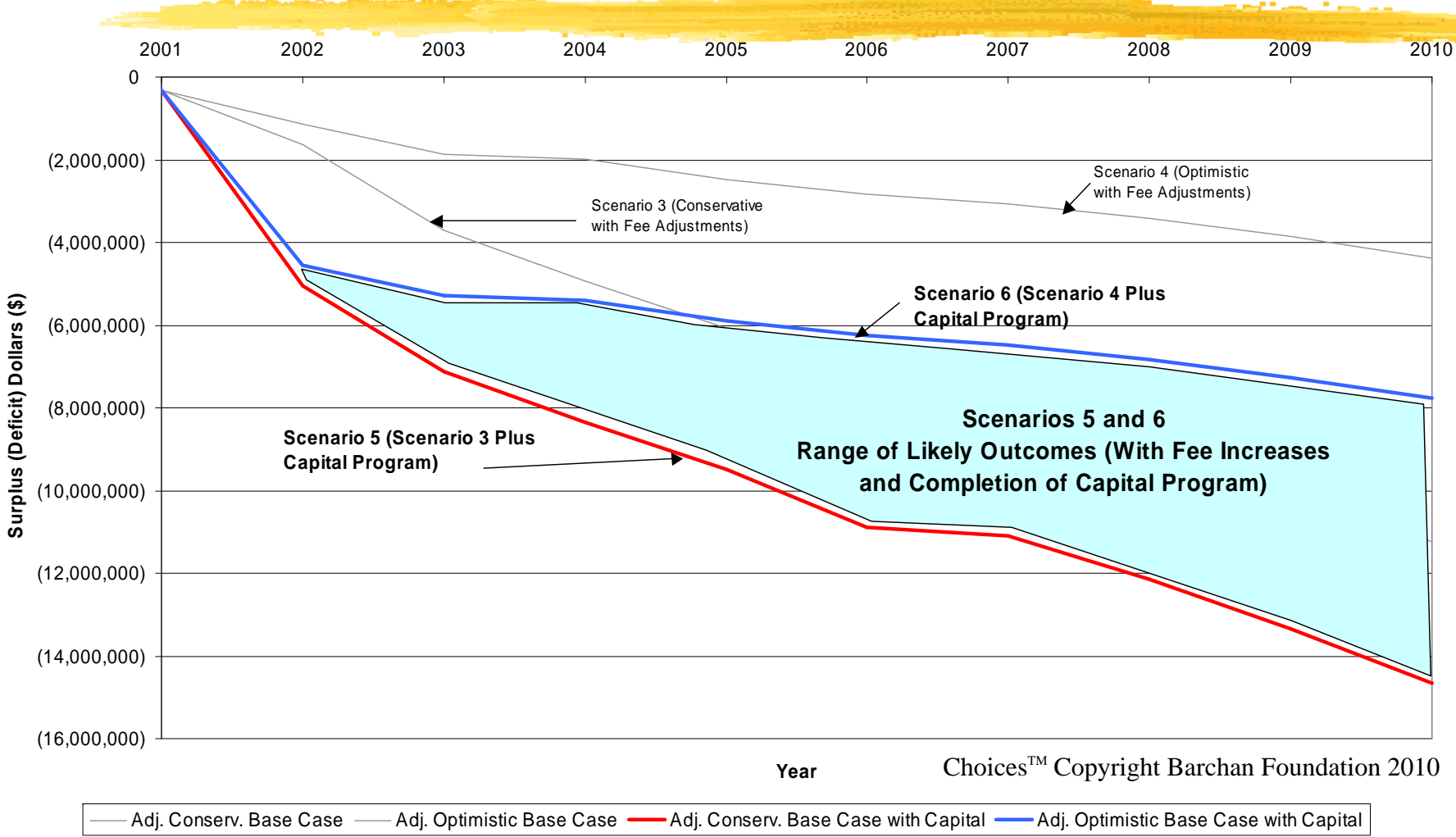
One (of Many) Scenarios for A Project Portfolio



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Example of Range Analysis

**Scenarios 5 and 6: Adjusted Base Cases with Fee Increases Plus Completion of Major Capital Program
(Assumes Twenty Year Bond at 4%, Beginning in 2002)**



Variables in The New Discipline

- Multiple Revenue Sources
- Project Start Dates
- Scope of Projects in the Portfolio
- Needs Exceed Funds
- Project Delivery Method
- Level of Investment ("Pace")
- Timing of Investment ("Pace")
- Sources of Investment

The Result – a Proper (and a COMMON) Foundation for:

Capital Budgeting,
Asset Inventory,
Condition Assessment,
Capital Programming, and
Financial Reporting

The 21st Century Frontier in Public Infrastructure Procurement:

1. Move Decision-Making to The Portfolio Level
2. Make Decisions on Numerous Projects at Once
3. Delivery Method Chosen in the Context of the Portfolio

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