Oifig an Ard-Rúnaí
An Roinn Oideachais agus Scileanna

PAC-R-881

Correspondence 3A.2
Meeting 78 – 21/03/2013

AN ROINN OIDEACHAIS AGUS SCILEANNA | DEPARTMENT OF EDUCATION AND SKILLS

Office of the Secretary General
Department of Education and Skills

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14 MAR 2013
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PAC

Ms. Niamh Maguire,
Secretariat to the
Committee of Public Accounts,
Leinster House,
Dublin 2

Our Ref: S1310134
PLEASE QUOTE REFERENCE ON ALL CORRESPONDENCE

14 March 2013

Supply of follow-on information arising from PAC Hearing of 28 February 2013

Dear Niamh,

I refer to your letter of 28th February 2013 concerning information I undertook to supply to the Committee during the course of the hearing on 28th February 2013.

1. SUSI – (Points 1, 3, 6)

Point 1 – Cost of Student Universal Support Ireland IT System.

The following information in relation to the cost of the IT system used by SUSI has been provided by Student Universal Support Ireland:

IT Costs SUSI 2012

IT Infrastructure/Equipment Including Servers and Storage	€ 272,454.29
Primary and Resilience Connectivity	€ 30,475.71
IT services (integration/Software development)	€ 402,500.28
Licences	€ 37,062.84
Telephony	€ 30,611.88
Total	**€ 773,105.00**

Point 3 – Competitive Process which resulted in CDVEC administering the Student Grant Scheme

A briefing note on the competitive process which resulted in the City of Dublin VEC being appointed to administer the Student Grant Scheme is appended at Appendix One.

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Point 6 – Involvement of the Ombudsman in the SUSI Appeals Process
A briefing note on the involvement of the Ombudsman is appended at Appendix Two.

2. School Transport (Points 2,7 and 11)

Point 2 – Administration of School Transport
The School Transport Scheme is administered by Bus Éireann in accordance with the Department's general direction and policy. Copies of the three schemes – primary, post primary and for children with special educational needs arising from a diagnosed disability - are attached for information at Annex One to Annex Three respectively in conjunction with this response.

The core document setting out the arrangements between the Department and Bus Éireann is the *Summary of Accounting Arrangements (January 1975)* and a copy of this is attached at Annex Four, parts i to part iii.

Bus Eireann maintains separate accounts for the School Transport Scheme which are subject to annual independent audit. The 2006 to 2011 accounts are available on the Department website. A copy of the 2011 accounts is attached at Annex Five.

The Department reimburses Bus Eireann for a range of costs identified as being directly incurred in the operation and administration of the scheme, together with an agreed 13% charge to cover all other direct costs and indirect costs attributable to the work carried out for the Department. In recent years an element of the 13% charge has been rebated to the Department by mutual consent. The 2010 and 2011 breakdowns are attached at Annex Six.

A detailed breakdown of expenditure on the school transport scheme in the 2000 - 2012 period, updating Table 5.11 in the Value for Money Review, is attached at Annex Seven (Note: 2012 figures estimated).

Bus Éireann plans and manages the countrywide service on behalf of the Department. Bus Éireann Inspectors plan every bus route – primary, post-primary and for children with special educational needs – from the point of view of its suitability to accommodate the size of vehicle that will be used. A safety assessment of every route and of all pick-up points is carried out and services are monitored and checked by Inspectors on an ongoing basis.

In addition, vehicle safety checks and maintenance audits over and above the statutory annual roadworthiness requirements are conducted by independent experts on behalf of Bus Éireann.

The Scheme is managed centrally at Bus Éireann headquarters in Dublin. School transport is administered at local level through eleven regional offices in Bus Éireann.

Bus Éireann engages the services of a large number of private bus operators to provide dedicated school transport services on a contractual basis. Approximately 86% of school transport services are provided by private operators. Bus Éireann is responsible for the negotiation and awarding of school transport contracts to private operators. This process starts in March and is concluded during July and August each year. Applications are invited from operators of large, medium and mini buses and taxis who are interested in undertaking, on a contractual basis, the operation of school transport services throughout Ireland. Tenderers are provided with the criteria they would be assessed against in both the Pre Qualification and Invitation to Tender documents.

There is no agreement in place with Bus Eireann in relation to payment of any amount to BE in the event of termination of the school transport scheme.

Material compiled by the Department in respect of the Comprehensive Expenditure Review coordinated by the Department of Public Expenditure Reform (published December 2011) on the likely amount of disengagement costs estimated that some €55 million would be required for the disengagement costs of Bus Éireann. This was reflected in the material forwarded. This estimate was provided by BE.

Point 7
A detailed note on this issue is attached at Appendix Three as requested.

Point 11
A copy of this report, which was lodged in the Oireachtas library on 8th March 2011, Library and which is also available on the Department website is attached at Annex Eight.

3. Substitute Teachers (Point 4)

Attached at Annex Nine is a schedule of the substitution paid by category during 2012

4. Co Cork VEC (Point 5)

(a) At the Committee Hearing on February 28th the issue of the loan facility for €430,000 from Mallow Credit Union to Co. Cork VEC for the leasing of the Mallow Youthreach Centre was raised.

The VEC has confirmed to the Department that it does not have any loan facility with Mallow Credit Union in relation to the Mallow Youthreach centre property or any other property. The Department is continuing to seek further clarification in regard to the lease arrangement and will revert to the Committee with further information, when it becomes available.

(b) ICT expenditure in Co Cork VEC

1. **Background: ineffective expenditure on an IT project**

   In early 2005 a college under the auspices of Co Cork VEC entered into a contract with an IT company for the provision of 3D animation for use in classroom instruction. As part of the arrangement, the college undertook a leasing arrangement to obtain the funding for the equipment needed for the project. The funding was then passed on to the company, which agreed to reimburse the college on a quarterly basis for the period of the development of the product. The total value of this leasing arrangement was approximately

€216,000. In the event, the company reimbursed only €54,000 and defaulted on the remainder, leaving a balance of €162,000 to be paid by Co Cork VEC. The VEC pursued the company for the outstanding amount without success and, accordingly, the repayments were paid from VEC funds. The company was subsequently dissolved.

2. C & AG Section 7 Report

The C &AG determined that a report in the matter was warranted, in accordance with Section 7(4) of the Comptroller and Auditor General (Amendment) Act, 1993. The report found that the project has resulted in net costs to Co Cork VEC of €161,990, that it had not been completed, that full value was not achieved for the expenditure and that the processes employed in the project were defective.

The report also recommended that the Department issue guidance to VECs regarding leases, the reporting of losses, tendering for procurement and the introduction of gateway controls for the development of new teaching methods and technologies. Department Circular 0039/2011 dealt with these matters (see 3 below).

3. Department's position regarding the loss

The Department notes that ineffective expenditure of €162,000 was incurred by Co Cork VEC and accepts that this amount was not recoverable by the VEC.

In law, the CEO of a VEC is responsible for carrying on, managing and controlling generally the administration and business of a VEC. In addition, he/ she is accountable to the Public Accounts Committee for the economy and efficiency of a VEC in the use of its resources.

However, as a direct consequence of this case the Department introduced Circular 0039/2011 *"Good Practice Guidelines in relation to Contracts for the Provision of Goods and/or Services"* (copy enclosed) which encompasses:

- The evaluation of proposals;
- Procurement;
- Borrowing and leasing;
- The reporting of losses;
- A reminder that ordinary non-pay funding is to be used for appropriate purposes.

The Department has further increased the reporting requirements of VECs in Circular 0015/2013 "*Requirement for Department approval before providing non-core services*", in accordance with which a VEC must undertake a rigorous evaluation of any proposal to enter into a new activity/ programme outside its core services and seek the Department's approval for all such proposals.

The Department is confident that the implementation by VECs of these Circulars will ensure that a loss such as that incurred by Co Cork VEC in this instance should not be repeated.

(c) At the Committee hearing the issue of allowances paid to ineligible learners in the Macroom Youthreach Centre was raised. The Department had contacted the VEC by letter on the 14th February asking the VEC to examine the potential for recouping allowances overpaid to participants. However to date, no response has been received to the Department's letter dated 14 February. The Department has issued a further letter to the County Cork VEC seeking a response to this issue.

5. St. Patricks College Building Programme (Point 8)

The current capital project at St. Patrick's Teacher Training College in Drumcondra (the "Campus Redevelopment Project") has encountered a number of delays as set out below.

The background to the project is that in December 2005 approval to commence design for the project was devolved to the College Authorities. The original successful tender was awarded to P Elliott & Co. Ltd. Construction began in November 2010. However, this contractor encountered trading difficulties that culminated in liquidation of the company and the termination of the contract in April 2011.

The St Patricks College project was re-tendered in November 2011. The Minister's approval to place a contract with the preferred tenderer was given in May 2012. However, neither this contractor, nor any of the other short listed tenderers were able to comply with the bond requirements which were set at 25%.

Consequently, the tendering process in that respect has been under review in recent months. The Department has been liaising with the HEA and the College Authorities in an attempt to overcome these difficulties. In this respect, the College Authorities have gone back to the preferred tenderer and lowered the bond requirement to 12.5%. As a result the original lowest tenderer has been offered the contract and we understand that it is hoped to progress to site shortly.

The contractor's price for the St. Patrick's campus redevelopment as submitted originally was for **€28.746m.** This was substantially below the cost plan in the pre tender estimate.

In addition to this sum consultants fees, furniture and equipment and ancillary costs bring overall costs to **€40.8m** of which the College was committed to contributing **€1.1m** leaving **€39.7m Exchequer liability.**

The Department has paid **€7.3m** towards these costs leaving it with an outstanding with liability of **€32.4m.** This is the figure that is included in the overall contractual commitments on the higher education capital programme for this project.

6. A list of Uncompleted school building projects resulting from the contractor ceasing trading (Point 9)

The information sought by the Committee is supplied in Appendix Four.

7. Kilmacthomas Convent Primary School, Waterford (Roll No. 20170N) - Rationale behind the plan to purchase replacement prefab accommodation (Point 10)

In recent years the emphasis within the Department has been to reduce the reliance on prefabs. Schools being approved for devolved grant aid for additional accommodation are given the option to build a permanent classroom(s) rather than purchase a prefab.

Regarding replacement of the temporary accommodation at Kilmacthomas National School Co Waterford (Roll No. 20170N) the Department wrote to the school authority on 31st August 2012 authorising an extension to the rental of the temporary accommodation in question and also requesting the school to explore the possible buy-out of the accommodation.

On the 20th September 2012 the school responded to the Department with an architect's report on the condition of the units and an application to replace them. The report outlined that the rented temporary prefabricated buildings currently provide accommodation for one mainstream classroom, as well as a learning support room, a resource room, a store room and a Principal's office.

The Department responded on 28th September authorising the school to seek quotations for the purchase of replacement prefabs. The school was also advised in that letter that *"if it is economically viable, a grant to build in lieu of purchase may be considered"*.

The school provided a tender report from its architect on 21st February 2013. The school's application is currently under consideration by the Department.

The Department will be in contact with the school in the near future in relation to this matter.

8.VEC's Legal Costs (Point 12)

Information relating to legal costs to VECs for the payment of legal services, including details of procurement, is held by each of the 33 VECs. The Department has requested that each VEC provide this information to the Department so that the Department may collate the information and forward it to the PAC as soon as possible.

9. Details of the business plan for capital works at Tallaght Institute (Point 13)

The Department of Finance published in 2005 "*Guidelines for the Appraisal and Management of Capital Expenditure Proposals in the Public Sector*" which prescribe the criteria that must be satisfied in order for Exchequer funding to be approved for capital projects. Details of these guidelines are contained on the Department of Finance's website at http://www.finance.gov.ie/documents/publications/other/capappguide05.pdf.

All projects bidding for capital Exchequer funding must comply with these guidelines. These guidelines outline three distinct phases in a project lifecycle: 1) needs evaluation followed by the 2) planning phase once need has been robustly established and 3) subsequently construction phase subject to availability of resources and relative priority.

The guidelines re-enforce the basic core message that access to Exchequer capital can only occur once there has been compliance with these guidelines. They also make it clear that reverting to a Sanctioning Authority at pre tender stage for approval is mandatory. This prompts a review of need which re-enforces the message of there not being a commitment to a project beyond fees up to the point of approval to proceed to tender. The reverting to the Sanctioning Authority at the pre-tender stage provides an opportunity for the Sanctioning Authority to again re-affirm need before allowing tendering to proceed.

The guidelines specify that the following specific requirements be adhered to in all instances:

(i) That a **simple assessment** be applied or be carried out when a request for minor projects is made. Minor works are classified as works with an estimated cost below €0.5 million.

(ii) Projects costing between €0.5 million and €5 million must be subjected to a **single appraisal** incorporating elements of a preliminary and detailed appraisal.

(iii) A **Multi Criteria Analysis** (MCA) must be carried out for projects between €5 million and €30 million.

(iv) Projects over €30 million must be the subject of a **Cost Benefit Analysis** (CBA).

(v) A CBA would also be appropriate for innovative projects costing above €5 million which:

- involve complex or special issues or untried technology; **or**
- involve issues which have not been previously investigated in-depth; **or**
- are regarded as pilot projects on which larger programmes may be modeled; **or**
- would generate additional substantial ongoing operating or maintenance

In the case of IT Tallaght, four projects were initially recommended for funding having been evaluated through an independent process titled the Review and Prioritisation of Capital Projects in the Higher Education Sector – Report of the Review Group (commonly referred to as the Kelly Report) which reported in 2004. The projects in question were an Engineering School, a Multi Purpose/Student Centre

Building, a Catering and Tourism Building and Enabling Infrastructure and Sports Pitches works.

Arising from an acceptance of the Kelly Report, it was decided to implement three of these four projects through the Public Private Partnership process (PPP) namely the Engineering School, Catering and Tourism Building and Multi Purpose/Student Centre Building.

All four projects were subjected to a detailed business case consistent with the indicative values of the projects and under the Capital Appraisal Guidelines outlined above. Once need was verified in each case, three of the four projects were referred to the NDFA for implementation through the PPP process in 2006.

The remaining project – the enabling infrastructure works – was devolved to the Institute for delivery. The indicative value of the enabling works was estimated on the basis of the business case submitted by the Institute at **€8.7m**. It was agreed to apportion substantial elements of these works to the three PPP projects. It was agreed that the remaining element of these works would proceed independently of the PPP process as upfront works that were seen as a prerequisite to the main PPP process.

The indicative value of these latter works (i.e. works to proceed independently of the PPP process) was **€3.5m.** The Institute agreed to commence these works from within their own resources. The works were commenced in August 2011 on the understanding that costs incurred by the Institute would be contributed to through direct exchequer funding, subject to resources. An initial exchequer contribution of €0.321m had been provided in respect of the works prior to commencement. The works were commenced in expectation at that time that the approved PPP projects would proceed and on the basis that completion of these works would be essential in enabling these.

As a result of a requirement to prioritise capital resources in a difficult fiscal environment, a decision was subsequently taken in November 2011 that higher education projects that had not been contractually committed at that stage, including the three PPP projects at IT Tallaght, would not be progressed.

Notwithstanding the pressure on capital resources at that time, in recognition of the fact that IT Tallaght had commenced these works in good faith in the expectation that the PPP projects would proceed, the Department agreed in December 2011 to provide a further €1.0m capital funding to the institute to contribute to costs, bringing the total direct exchequer contribution to date to just over **€1.3m.**

The site enabling works were completed in June 2012. The nature of the works that have been undertaken enhances the overall quality of the external campus environment and will benefit the Institute in the long term.

The business cases for each of the four projects at the Institute are attached at Annex 10 to Annex 13 supplied in conjunction with this response. Each business case prepared by the Institute is carefully evaluated within the Department before approval to proceed is given.

10.VEC monitoring
A briefing note on this issue is appended at Appendix Five.

Correction of Factual Inaccuracies at Hearing on 28 February 2013.

I would also like to take the opportunity to correct the record of the hearing of the 28th February in respect of a number of inaccurate comments that were made at the hearing. The following are clarifications provided to correct the inaccurate statements.

Correction - Page 17 of the transcript at the bottom of page, the context of the discussion was an exchange with Deputy Donohue on the pilot PPP schools, it was indicated that these schools commenced operation in 2005. I wish to clarify that the actual commencement date of these schools was 2003.

Correction - Page 44 of the transcript – The Context of the query was Deputy Murphy asked for details of which school had moved into the free scheme and which school is due to move from being a fee paying school to being a free school

I said "Kilkenny College is moving and Wilson's Hospital in Westmeath is due to move"

The clarification required to the record of the PAC hearing is that While Kilkenny College is moving to the free scheme Wilson's Hospital in Westmeath moved in January 2011.

I would be grateful if the follow on information and clarification can be brought to the attention of the Committee at the earliest opportunity.

Yours sincerely,

Seán Ó Foghlú
Secretary General

Appendix One

The Selection Process for the Single Student Grant Awarding Authority

Independent Selection Panel

An independent selection panel was put in place on 12 November 2011 to agree the procedures and carry out the selection process to identify a suitable public body to carry out the administration of student grants on a centralised basis.

Composition of Selection Panel

The composition of the independent selection panel was as follows:

1. Mr. Pat McLoughlin (Chair) - Chief Executive of the Irish Payment Services Organisation (former Chief Executive of the Eastern Health Board, chair of the Local Government Efficiency Review Group and a member of the Special Group on Public Service Numbers and Expenditure Programmes)
2. Mr. Jim Duffy - Former Assistant Secretary at the Department of Finance with responsibility for the Centre for Management and Organisation Development (CMOD)
3. Mr. Gerry Kearney - Former Secretary General of the Department of Community, Rural and Gaeltacht Affairs with significant experience with programme management and also former Assistant Secretary of the Revenue Commissioners.

The members of the selection panel were chosen by reference to their relevant knowledge, their significant experience and expertise in the various elements that would be involved in the administration of student grants.

The selection of Student Universal Support Ireland (SUSI)

In January 2011, the Department issued an Expression of Interest invitation to the VECs, local authorities or other public bodies who might be interested in taking on administrative responsibility for the centralised student grants awarding and payments function. This was issued through the respective parent Departments concerned.

A total of 10 proposals were received and these proposals were examined by the independent selection panel against the evaluation criteria which was an integral part of the Expression of Interest procedure.

Evaluation criteria

The selection panel evaluated the proposals under the following criteria:

- Organisational capacity to perform the function 20%
- Experience in dealing with comparable schemes/services 10%
- Existing core management, expertise and resources available to be deployed to the function. 20%
- Capacity to deliver strong cost and efficiency benefits 30%
- Overall quality of the proposal for delivery of a central student grants function. 20%

On the basis of the review carried out by the independent selection panel at the initial stage of the Expressions of Interest process, four of the ten proposals received were short-listed for oral presentation. Following oral presentation these proposals were assigned a ranking depending on their relative strengths under each of the evaluation criteria leading to the preferred proposal.

An oral presentation was made by each of the 4 four short-listed bodies as above. This was followed by a question and answer session.

Each proposal was then marked under the evaluation criteria headings. On the basis of marks awarded by the Selection Panel, City of Dublin VEC was deemed to be the preferred proposal.

The selection panel made a recommendation to the Minister for Education and Skills to establish Student Universal Support Ireland (SUSI) as a unit of City of Dublin VEC. This recommendation was accepted by the Minister on 13th April 2011

Department of Public Expenditure and Reform approval
The overall SUSI package relative to core staff, seasonal staff and outsourcing of functions was examined and approved by the Department of Public Expenditure and Reform. Approval was received in the Department of Education and Skills on 26th October 2011.

Appendix Two

Involvement of the Ombudsman in the Student Universal Support Ireland (SUSI) appeals process

Ombudsman (Amendment) Act 2012

The Ombudsman (Amendment) Act 2012 was passed on 31 October 2012 and extends independent oversight to over 180 additional agencies.

From 1st May 2013 the Office of the Ombudsman will be empowered to examine complaints arising from "*any action taken by or on behalf of [the additional agencies] in the performance of administrative functions*" where the action occurred after that date.

Vocational Education Committees, which includes City of Dublin VEC and, therefore, SUSI, are included in the additional agencies.

Role of the Ombudsman

The Ombudsman may investigate any action taken by or on behalf of a reviewable agency in the performance of administrative functions if that action has resulted in an adverse affect

In addition the action must or may have been

- taken without proper authority
- taken on irrelevant grounds
- the result of negligence or carelessness
- based on erroneous or incomplete information
- improperly discriminatory
- based on an undesirable administrative practice
- a failure to comply with section 4A or
- otherwise contrary to fair or sound administration

But the Ombudsman may decide not to investigate if the action complained of is

- trivial and vexatious
- the complainant has insufficient interest
- the complainant has not taken reasonable steps to seek redress
- satisfactory measures to remedy, mitigate or alter the adverse affect have been or are proposed to be taken

Section 5 of the Amendment Act outlines exclusions to the Ombudsman's jurisdiction

- These include if a person has already initiated court proceedings or has a right of appeal to another body, national security, terms and conditions of employment or where a complaint is not made within 12 months of the action occurring

Student Grant Appeals Process

The Student Grant Scheme is statutorily based. It is grounded on the Student Support Act 2011 and the Student Support Regulations 2011 (SI 304 of 2011). Each student grant scheme is also a statutory instrument. The current scheme is the Student Grant Scheme 2012 (SI 189 of 2012).

Under the Student Support Act 2011, an applicant has the right of appeal in the first instance to an appeals officer in SUSI. If an applicant is not satisfied with the outcome, he/she has the right of appeal to an independent Student Grants Appeals Board. If he/she is aggrieved by the outcome of that appeal, he/she may appeal to the High Court.

How will the Ombudsman be examining SUSI complaints?
Given that there is a Statutory right of appeal to both an independent appeals board and the courts the Ombudsman would not be examining the decision of SUSI on a grant application or on an appeal but would examine issues that relate to the principles of good administration.

Lead in to Ombudsman's role in additional agencies
It is understood that the Office of the Ombudsman will be meeting with all of the additional 180 agencies, including the City of Dublin VEC, to explain its future role with regard to these organisations.

Appendix Three

Note on the method for determining how distance between a school and residences are measured for the purpose of the school transport scheme

Under the terms of the Department's Primary and Post Primary School Transport Scheme children are eligible for transport where:-

- At primary level they reside not less than 3.2 kilometres from and are attending their nearest national school as determined by the Department/Bus Éireann, having regard to ethos and language.

- At post primary level they reside not less than 4.8 kms from and are attending their nearest education centre as determined by the Department/Bus Éireann, having regard to ethos and language.

Distance eligibility is determined by Bus Éireann by measuring the shortest traversable route from a child's home to the relevant school or education centre. For measurement purposes this may be either a pedestrian or vehicular route.

In cases where the distance eligibility is marginal or in dispute, vehicles fitted with calibrated measuring devices which measure the distance down to the nearest metre may be used by Bus Éireann to establish the exact distance.

At post primary level there may be more than one school in an education centre. In these cases eligibility is determined by measuring the distance from a child's home address to a central measuring point (CMP). CMPs are a feature of the school transport scheme and have assisted in the smooth operation of services for many years. While Bus Éireann now has responsibility for the administration of the Post Primary Scheme, historically central measuring point's were defined by Transport Liaison Officers (Chief Executive Officer of VECs). This role ceased with effect from 31st December 2011.

The central measuring point may not necessarily be equidistant between the schools in an education centre but rather it is a common point to which all applicants for school transport to that education centre are measured.

The main reason for using central measuring points, rather than measuring to the school, is because it benefits families by ensuring that children of the same family, regardless of gender, who are attending different schools in the same education centre, are eligible for school transport provided they satisfy the distance criterion.

However, where queries arise regarding distance, eligibility for school transport is determined by measurement (by Bus Éireann) of the distance children reside from their nearest school, having regard to ethos and language, rather than the CMP.

Appendix Four

Details of Building Projects impacted by insolvency of contractors

Since 2010, 16 major building project contracts in the Education Sector have been affected by the insolvency of 7 contractors. The tables below provides details of the major building projects affected.

The Department of Public Expenditure and Reform (D/PER) has responsibility for implementing national policy on public procurement, particularly in relation to construction procurement. The Capital Works Management Framework developed by D/PER, allows for various bond and guarantee options designed to protect the Contracting Authority/Employer from issues such as contractor insolvencies. These options include retention deductions, performance bonds and parent company guarantees. The majority of major projects in the Education Sector operate using a combination of a performance bond and retention deductions. On occasion a parent company guarantee may also be sought.

A performance bond is issued by a guarantor or surety (authorised to do guarantee business) to guarantee that in the event of a Contractor's default, proven losses under the Contract can be recouped. In essence, the guarantor undertakes to be answerable for losses (up to the limit of the Bond) suffered by the Contracting Authority if the Contractor's obligations are not performed in accordance with the Contract; this includes a situation where the Contractor becomes insolvent during the Contract. Bonds are generally required for projects with an estimated value in excess of €500,000 (including VAT). Smaller projects below €500,000 generally do not require a performance bond due to the nature of those projects *i.e.* short-term, lower risk, cost of obtaining bond verses contract size, availability of bonding facilities in the market for small value projects and barrier to entry issues for new entrants or SME's. Retention deductions allow the Contracting Authority to retain a proportion of the value of work done as security for the cost of remedying defects which become evident before the end of the Defects Period, should the Contractor fail to rectify them.

The value of the bond required for a project is determined at tender stage according to guidelines issued by D/PER, having due regard to the estimated cost of the project. The values are set out in the table below.

Contract Sum (Inc. VAT)	Bond as a % of contract sum
Less than €2.5m	25%
€2.5m to €6.3m	20%
€6.3m to €9.5m	17.5%
€9.5m to €12.7m	15%
Over €12.7m	12.5%

The Public Works Contracts contain clauses which deal with a contractor's default such as an insolvency event. The Model Performance Bond used for public works contracts also contains a clause which allows the Surety to nominate a completion contractor to the Employer, provided the proposed completion contractor is acceptable to the Employer.

When a contractor becomes insolvent, all costs incurred by the Contracting Authority/Employer on foot of the contractor's default, can be offset against monies held on the contractor plus costs up to the value of the performance bond. The circumstances surrounding each insolvency event varies from project to project. In cases of insolvency, the size of a project, its value, discussions with the surety, where applicable discussions with the receiver, legal advice, the quality of the works done at the time the insolvency event occurs and the relative state of completion of the works, all have to be taken into account when appointing a completion contractor. In all circumstances the appointment of a contractor to complete the works has to have due regard for national guidelines and EU procurement directives.

Depending on the circumstances of each insolvency event, different options are pursued to complete the works. These include a complete re-tender to the market, a tender competition run by the Bondsman, a Bondsman's nominee, completion by one of the entities in a joint venture and completion by the company in receivership.

Major Projects in the Education Sector involving Contractor Insolvencies since 2010

Third Level Institutes

County	Institute	Project	Year in which issue arose	Bond in Place Y/N	Completion Process	Current Status (March 2013)
Dublin	St. Patrick's College, Drumcondra	Campus Redevelopment	2011	Y	Re-tendered to the Market	At tender
Dun Laoghaire Rathdown	Dun Laoghaire Institute of Art, Design and Technology	Irish Film School	2011	Y	Re-tendered to the Market	Under Construction
Limerick	University of Limerick	Graduate Medical School	2011	Y	Re-tendered to the Market	Construction Completed
Galway/Mayo	Galway/Mayo Institute of Technology	PPP Enabling Works	2012	Y	Completed by Contractor in Receivership	Construction Completed

Schools where contractor became insolvent

County	Roll Number	School Name	Year in which issue arose	Bond in Place Y/N	Completion Process	Current Status (March 2013)
Kilkenny	61580P	Loreto Secondary School, Granges Road*	2012	Y	Re-tendered to the Bondsman	At tender
Dublin City	20139T	Inchicore NS, Sarsfield Road, Dublin 10	2011	Y	Re-tendered to the Market	Under Construction
Dun Laoghaire Rathdown	70030E	Senior College, Dún Laoghaire, Eblana Avenue, Dún Laoghaire, Co Dublin	2011	Y	Re-tendered to the Market	Under Construction
Galway City	62970K	Coláiste Iognáid SJ Bothar na Mara	2011	Y	Re-tendered to the Market	Under Construction
Limerick	13026P	Kilfinane National School	2011	Y	Re-tendered to the Bondsman	Construction Completed
Limerick City	64201T	Ardscoil Ris, North Circular Rd, Limerick	2011	Y	Re-tendered to the Market	Under Construction
Roscommon	65100S	Scoil Mhuire, Strokestown, Co Roscommon	2011	Y	Bondsman Nominee	Construction Completed

Offaly	17523D	SN Cronain Naofa, Dromakeenan	2010	Y	Re-tendered to the Bondsman	Construction Completed

Wicklow	76099B	Wicklow Town	2011	Y		***Construction Completed (Schools PPP Bundle 2)
Limerick	76093M	Scoil Ide agus Iosef Abbeyfeale	2011	Y		
Cork	76090G	Bantry CC	2011	Y		
Cork	20001N	Gaelscoil Beanntraí	2011	Y		
Kildare	91530S	Kildare Community School	2011	Y		
Meath	91517D	Athboy Community School	2011	Y		
Dublin Fingal	761040	Donabate Community College, Donabate, Co Dublin	2011	Y	**Construction completed by second party of joint venture	Construction Completed

Meath	76103M	Coláiste na hInse, Laytown	2011	Y	**Construction completed by second party of joint venture	Construction Completed

Other projects

Kildare	N/A	IVEA HQ, Pipers Hill, Naas*	2011	N	Direct Engagement of Contractors	Construction completed

* In the case of Loreto Secondary school, Kilkenny and IVEA HQ works had slowed down or ceased on site and the contract was terminated by the Employer prior to the insolvency date.

**In the case of Donabate Community College and Coláiste na hInse, the contract was awarded to a Joint Venture of two contractors. One of the Contractors became insolvent; however construction did not cease as the project was completed by the second party of the joint venture arrangement.

***In the case of these PPP delivered schools, one of the contractors engaged by the PPP operator encountered difficulties. Under the PPP arrangements, the contractor in question had not been directly appointed by the Department i.e. the Department's contractual arrangement was with the PPP operator and not with the contractor directly. The PPP operator was obliged under the terms of the PPP contract to appoint a new contractor to complete the contract. Delays encountered led to the imposition of penalties on the operator under the terms of the PPP contract.

Appendix Five

Oversight of expenditure in the VEC sector

1. Context: Department of Education and Skills funding to VECs in 2012 by programme

Programme	(€)m	% of total funding
General and post primary	730	61.5%
Further Education	241	20.3%
Student grants	141	11.9%
Capital	75	6.3%
Total	1,187	

2. Letter of Determination

Each VEC is provided with an annual letter of determination which sets out the grants it is to receive from the Department under the various programme headings.

VECs are informed that expenditure amounts set out under each programme heading may only be used for necessary expenditure in the programme for which they are allocated.

3. General and post primary programme expenditure

(a) Scope

The general and post primary programme funding incorporates:

- pay funding for teachers, administrative and maintenance staff (excluding Youthreach and VTOS staff) (€661m in 2012);
- non-pay funding for the day-to-day costs of schools and VEC head offices (€41m);
- associated expenditure funding (e.g. Schools Services Support Fund, Book Grant) (€22m);
- targeted grants (e.g. DEIS, Outdoor Education Centres) (€6m).

(b) Overview of expenditure in the general and post primary programme
(i) Monthly return

Each VEC provides a monthly return to VEC Financial Section setting out its expenditure to date and the estimated expenditure for the year under the general and post primary pay and non-pay headings. The monthly return is signed by the CEO.

The pay heading return is categorised as instruction, administrative, maintenance and SNA pay. The information is used to estimate the pay demand in the sector as the year progresses and to establish that the allocation is sufficient to meet this demand.

VECs cannot exceed the non-pay expenditure limit as set out in the letter of determination.

(ii) Staffing returns

Separately, VEC Financial Section collects data quarterly on the numbers of VEC staff funded from the pay allocation under the administrative and maintenance headings.

4. Further Education programme expenditure

(a) Full-time programmes

The full-time Further Education programmes are Youthreach, Vocational Training Opportunities Scheme (VTOS) and Post Leaving Certificate (PLC)

In respect of the full time Youthreach and VTOS programmes, each VEC provides three returns to Further Education Section setting out its expenditure to date and the estimated expenditure for the year under pay, non-pay and training allowances headings. Reports are made at the end of April, August and at year end and are signed by the CEO

Funding for teachers in the PLC programme is included under the instruction heading in the general and post primary programme (see 3(b)(i) above).

(b) Part-time programmes

Part-time programmes are provided under the Back to Education Initiative (BTEI), Adult Literacy (AL) and Community Education (CE) schemes

Financial reports are received at the end of the year for Literacy and Community Education and twice yearly for the BTEI and are signed by the CEO.

(c) Annual statistical return

VECs also make an annual statistical return (Survey of Learners) to Further Education Section for each programme.

5. Expenditure on Student Grants

(a) Background

The Student Support Act 2011 became law in February 2011 and this provided a legislative basis for the fundamental reform of the student grants system.

In practice, this means is that, instead of four different student grant schemes, there is now only one scheme. The new scheme took effect took effect for the 2011/12 academic year.

In addition a single grant awarding authority, Student Universal Support Ireland (SUSI), a unit of City of Dublin VEC, has been established to replace the existing 66 grant awarding bodies (local authorities and VECs) for all new applications from the 2012/13 academic year.

The existing grant awarding bodies will continue to process renewal applications for students already in college until those students have completed their courses. This will wind down the involvement of the existing grant awarding bodies in the student grant function over a three to four year period. Until this occurs, the Department will be making student grant payments to 66 grant-awarding authorities of which 33 are VECs.

(b) Oversight of VEC student grant expenditure

Normally, the Department makes one advance payment and four financial reconciliation payments per year to grant awarding authorities. The advance payment is made on the basis of 70% of the previous year's expenditure between September and December. The reconciliation payments are made on the basis of returns made by the grant awarding authorities showing actual expenditure for the previous period and estimated expenditure for the next period.

The final reconciliation payment is based on actual expenditure only.

Each financial reconciliation form is supported by backing documentation as required and has an authorised signatory (e.g. CEO, Finance Manager or equivalent in the organisation). This documentation is checked at three different levels in the Department before payment issues.

In addition, an annual statistical return from each grant awarding authority includes financial data to enable verification of the previously submitted expenditure data.

This arrangement is reflected in a letter of determination issued by the Department to VECs for each financial year.

(c) Review of SUSI

With regard to SUSI, Department officials continue to meet with senior officials in SUSI on a regular basis to discuss controls, processing and reporting on new student grant applications for 2012/13 and arrangements for the 2013/14 academic year.

Arrangements for a detailed independent review of the SUSI processing system have been put in place. The proposed timeline for completion of the review is March 2013. Additional checks will be carried out later in the year as resources allow, following the implementation of any appropriate recommendations in the independent review of the SUSI process.

6. Capital programme expenditure

(a) Systems for traditional (non devolved) major building projects

In cases of non-devolved major projects where a VEC is the client, the procedures which apply are the same as those which apply to other Contracting Authorities on major school building projects (i.e. Boards of Management). VECs are required to adhere to the suite of guidance documentation available on the Department's website.

The written authorisation of the Department to proceed is always required prior to (a) commencing Tender Action (b) issuing the Letter of Intent and (c) issuing the Letter of Acceptance. These are issued following a review by the Department of documentation submitted by the VEC.

(b) Systems for the devolution of major capital projects

The Department has a detailed Service Level Agreement (SLA) for VECs authorised to deliver major school building projects. The SLA sets outs milestones to be passed before a project can proceed, allows for an option for the Department to review project documents, places a requirement on the VEC to confirm that their Internal Audit Unit has been informed that the project is progressing and also to forward a copy of the SLA to their Internal Audit Unit. Those VECs authorised to deliver major school building projects are invited by the Department to a briefing session (training) on how to manage such projects. The VECs are required to adhere to the suite of guidance documentation available on the Department's website. A maximum project budget is provided to the VEC for each project and any proposed changes to that budget must be justified to the Department prior to the VEC proceeding further with the project.

(c) Payments to VECs for capital projects

- Building Unit Finance Section processes payments on foot of certified claims forwarded to the Section by the line Divisions within the Planning and Building Unit.
- Payments are lodged directly to VECs' bank accounts.
- It is the responsibility of the VEC to apply all appropriate statutory deductions to these payments before forwarding same to relevant parties.

- As part of the Department's responsibility to report to the Department of Public Expenditure and Reform, a sample of claims paid by VECs are selected periodically for review purposes to ensure compliance with relevant regulations.

7. VEC Accounts

VEC are required to produce annual accounts in accordance with the Vocational Education Act 1930. The accounts are high-level documents which are published and laid before the Oireachtas, once signed off by the C&AG (see 11 below).

Unaudited VEC accounts are sent to the Minister annually and are circulated to a number of sections within the Department (VEC Financial Section, the Planning and Building Unit and Further Education Section).

It is important to note that the accounts can only be made available to the Department after the end of a financial year and, accordingly, matters of concern in the accounts will only be apparent to the Department some time after the event. The Department must therefore rely on the CEO, who is responsible in law for managing the business of the VEC, to inform it of significant matters arising (see 10(d) and 12 below).

9. Chairperson's reports to the Minister and the C & AG

(a) Statement of System of Internal Financial Control

The Chairperson of each VEC includes with the unaudited annual accounts of the VEC a "Statement of System of Internal Financial Control". The C & AG reviews the Statement to ascertain whether it reflects the VEC's compliance with the Code of Practice for the Governance of VECs and reports any material instance where it does not do so, or if the statement is misleading or inconsistent with other information of which he is aware from his audit of the accounts.

A template statement is included in the Code of Practice.

(b) Separate report to the Minister

The Chairperson of the VEC also, following formal resolution of the Committee, furnishes separately to the Minister a comprehensive report:

1. Outlining all financially significant developments affecting the VEC in the preceding year, including the establishment of any bodies under its aegis, the purchase and sale of land and/or buildings and major issues likely to arise in the short to medium term.
2. Affirming that all appropriate procedures for financial reporting, internal audit, procurement and assets' disposals are being carried out.
3. Including a statement on the system of internal financial control.
4. Affirming that Codes of Ethics for Staff and Members of the Committee have been put in place and adhered to.
5. Affirming that Government policy on pay is being complied with.
6. Explaining failure to comply with any of the above and stating any corrective

action taken or contemplated.
7. Outlining significant post balance sheet events.
8. Confirming that the Guidelines for the Appraisal and Management of Capital expenditure proposals are being adhered to where appropriate.
9. Confirming that this Code of Practice has been adopted and is being complied with.

10. Internal Audit in the VECs

(a) The Vocational Support Services Unit (VSSU)

The VSSU is the internal audit unit for the VEC sector. It is staffed by a Director, three auditors and an administrative person.

(b) Purpose of internal audit in the VEC/ ETB sector

The primary purpose of internal audit in the VEC/ETB sector is to provide assurance to each VEC Committee that the information it is given by management, both during the year and at year-end, is essentially correct.

To do this, the VSSU performs, and reports to the VEC committee, an independent appraisal of the adequacy of internal control as a contribution to the proper, economic, efficient and effective use of resources.

In this context, internal control comprises not only internal check and internal audit, but the entire system of controls, financial and otherwise, including risk management and corporate governance, which have been established by management to:

- safeguard the assets,
- secure the integrity of transactions,
- secure as far as possible the accuracy and reliability of the records.

(c) Scope of service

The internal audit service in the VEC sector is currently provided by the VSSU in 32 of the 33 VECs. City of Dublin VEC maintains its own internal audit unit, but it is intended that this will be incorporated into the VSSU in due course.

(d) VSSU reporting to the DES

Under recently agreed reporting arrangements, the Department will receive from the CEO of the VEC in respect of each audit, the internal auditor's Opinion Report setting out:

- Area or programme audited;
- Audit method;
- Respective responsibilities of the auditor and executive management;
- Opinion as to the adequacy and appropriateness of internal control.

Where in the Opinion Report the internal auditor expresses an opinion that internal controls are either inadequate or not operating or both, the Department will be provided by the CEO with full details of the item or items giving rise to this opinion.

In the event that losses have occurred, all such losses will be communicated to the Department by the CEO together with a full explanation and confirmation that internal control has been improved, or will be improved, from a stated date to prevent a reoccurrence.

These recently agreed reporting arrangements should provide the Department with a level of assurance that heretofore has been absent.

Otherwise, specific audit reports are not provided by the VSSU to the Department[1].

(e) Other reporting activities of the VSSU

The VSSU prepares additional reports only when requested to do so by:

- the Department solely, or
- the Steering Committee and approved by the Department.

It is the Department's view that such reports will only be appropriate in very exceptional circumstances.

(f) Independence of the VSSU

In undertaking its function, the VSSU remains independent of the VEC, the CEO, the Department and its Steering Committee. Accordingly, the Department cannot direct (though it may request) the Unit to undertake a particular audit or prepare a particular report.

(h) Relationship with the Comptroller and Auditor General (C & AG)

The VSSU makes its working papers available to the C & AG on request and complements the work of the C & AG on an ongoing basis.

11. C & AG audit

The C & AG externally audits the accounts of the VECs and his reports are provided to the Department.

In accordance with the 1993 Comptroller and Auditor General (Amendment) Act, the C & AG is required to state in his Audit Report on the Annual Accounts of a VEC whether in his opinion:

- The Accounts properly present the income and expenditure of the

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[1] The Department can, however, seek specific reports directly from a CEO.

committee for the year;

- The Statement of Balances properly presents the state of affairs of the committee at year-end;
- The Accounts are in accordance with the accounting policies laid down by the Minister for Education and Skills.

The C & AG also reports by exception if a matter meriting a public accountability arises (a "Section 7" report)

12. Chief Executive Officer and the role of the Department

In law, the CEO of a VEC is responsible for carrying on, managing and controlling generally the administration and business of a VEC. In addition, he/ she is accountable to the Public Accounts Committee for the economy and efficiency of a VEC in the use of its resources.

Accordingly, the Department does not have a "hands on" role in respect of the business of each VEC; rather it has puts in place structures to ensure that expenditure remains within the authorised limits and prompt reporting to it by the CEO, in whom executive functions are vested, of matters of particular concern.