

Annex B Briefing Note for the Committee of Public Accounts

C&AG Reports re Public Private Partnerships

Overall PPP Expenditure and Commitments

Each of the Comptroller and Auditor General's Reports on the Accounts of the Public Service from 2008 to 2012 included a chapter collating information about PPPs entered into by central government departments and agencies. Those chapters provided a summary of PPP expenditure and commitments in respect of major projects — those where the capital cost of asset creation was €20 million or more (central guidance is that projects involving private finance need to be at least of that scale to be viable). The key details of each of the projects were also listed. In addition, the chapters considered developments in relation to specific PPP projects as well as issues in relation to PPPs generally.

A copy of the 2012 chapter is attached giving the latest position as reported by the C&AG. The IMF's Fiscal Transparency Assessment for Ireland (July 2013) noted that the chapters in the C&AG's Report were the only available source of information on total government PPP spending and commitments.

The 2011 chapter had recommended that overall PPP commitments should be reported each year in the Finance Accounts. The Department of Finance accepted the recommendation but expressed concerns about the possible impact of this on the efforts to bring forward the date for completion of the Finance Accounts. The 2012 chapter notes that the recommendation was being considered in the context of a broader revision of the Finance Accounts and central government financial reporting.

The Department of Public Expenditure and Reform (DPER) maintains a website with information on PPPs. This includes a listing of major PPP projects (but not expenditure by and commitments of the Department of the Environment in relation to local authority projects). When we examined the DPER listing in mid 2012, we found that it had not been updated since March 2010, and recommended that the listing be kept up to date. This was accepted by DPER and the listing was subsequently updated. The public availability of an up-to-date listing significantly reduced the need for a chapter in the C&AG's Report, and the C&AG discontinued the annual report chapter after 2012.

Reviews of Specific PPP Projects

The main reports which examined specific PPP projects are

- *VFM Report on Grouped Schools Pilot Partnership Project (Report 48, June 2004)*
Review of the development and evaluation of the project.
- *PPP Pilot Schools Project — Follow Up (2006 Annual Report, Chapter 7.1)*
Review of the operation of the project.
- *The Criminal Courts of Justice Building (2008 Annual Report, Chapter 17)*
Review of the development and evaluation of the project including compliance with guidelines.
- *National Convention Centre (2009 Annual Report, Chapter 20)*
Review of the development and evaluation of the project including compliance with guidelines.
- *Contract Management in Education PPP Projects (2012 Annual Report, Chapter 12)*
Examination of the expenditure controls for the five PPP projects in the education sector that were at the operational stage — three schools bundle projects, National Maritime College and Cork School of Music.

3 Financial Commitments under Public Private Partnerships

- 3.1 A public private partnership (PPP) is a contractual arrangement between public and private partners for the delivery of public infrastructure and/or public services. Commitments under PPPs give rise to financing obligations usually extending over 25 to 30 years.
- 3.2 This report has been compiled to provide information about the financial commitments entered into by central Government departments and agencies in respect of PPP contracts.
- 3.3 A request for information was issued to each department/agency with commitments under PPP contracts. Information sought included expenditure to date, estimated commitments under PPP projects, and information on significant developments in 2012. The Department of Public Expenditure and Reform and the National Development Finance Agency (NDFA) were also consulted.

Summary of Expenditure and Commitments

- 3.4 Annex A lists the major PPP projects, as at end December 2012, in respect of which central Government departments and agencies had entered into contracts as the sponsoring agency, or otherwise had financial commitments to the projects.¹ A summary of expenditure and outstanding commitments at the end of 2012 is set out in Figure 3.1.

Figure 3.1 Expenditure and commitments under PPP contacts at end 2012, by sponsor

Department/Agency	Number of projects	Expenditure to date		Outstanding commitment €m
		Pre 2012 €m	In 2012 €m	
Education and Skills	6	255	49	1,446
Courts Service	1	58	22	542
Office of Public Works	1	95	52	610
National Roads Authority	10	1,287	142	1,556
Environment, Community and Local Government ^a	20	653	26	3
Total	38	2,348	291	4,157

Source: See Annex A

¹ Major projects are those where the capital cost of asset creation was €20 million or more.

Notes: a Amounts shown in relation to projects sanctioned by the Department of Environment, Community and Local Government are the contributions by the Department towards the capital cost of the local authority PPP projects. They do not include expenditure under contracts by the relevant local authorities, or the outstanding commitments that will have to be met by the local authorities from their own future budgets.

- 3.5** Expenditure in 2012 under PPP contracts amounted to €291 million. Total expenditure to the end of 2012 was just over €2.6 billion and estimated total outstanding commitments were nearly €4.2 billion. The total Exchequer expenditure in respect of PPPs that had been contracted by the end of 2012 is therefore projected to be €6.8 billion.

New PPP Projects

Third Schools Bundle Project

- 3.6** In November 2012, the contract for the 'Schools Bundle 3' project was awarded to BAM PPP PGGM Infrastructure Cooperatie. The consortium is a joint venture between BAM PPP, part of a multinational construction services group based in the Netherlands and PGGM, a Dutch pension fund administrator.
- 3.7** The project involves construction of eight schools on seven sites. Second level schools are being constructed in Donegal, Leitrim, Limerick, Waterford, Westmeath and Wexford. In addition, a primary school and a secondary school are being constructed on a single campus in Doughiska, Co. Galway. When construction is complete, the schools will provide accommodation for approximately 5,700 students. The due date for operational service of the first school is November 2013, with all schools planned to be operational by April 2014.
- 3.8** The project was notified to the market in August 2010 with invitation of expressions of interest. Expressions of interest were received from four candidates, three of whom were shortlisted. All three shortlisted candidates subsequently submitted tenders.
- 3.9** The view of the NDFA is that the tender and evaluation process on the project was robust. The time from tender submission to the award of the contract was 16 months. The NDFA stated that the preferred bidder stage was prolonged due to planning issues, funding challenges and difficult market conditions. It stated that the value for money testing confirmed that the project represented value for money at contract award stage. It considers that the results of the value for money testing of the final deal should not be published as to do so could compromise its negotiating strategy and be detrimental to achieving optimal outcomes for other bundles currently being procured.

PPP Projects in Development

- 3.10** The current status of projects that had yet to reach contract stage by the end of 2012 is set out in Figure 3.2.

Figure 3.2 Current status (at end June 2013) of PPP projects in development

Education projects	Project stage^a	Current status
Schools Bundle 4: Six schools on five sites in Clare, Cork, Kildare, Louth and Tipperary	Market stage	Pre-qualification stage. Expressions of interest received from consortia and evaluation in progress.
Schools Bundle 5: Five schools and one further education college on four sites in Wexford, Wicklow, Meath and Carlow	Market stage	Pre-qualification stage. Expressions of interest received from consortia and evaluation in progress.
Dublin Institute of Technology, Grangegorman campus	Pre-market stage	Planned to go to market in the last quarter of 2013.
Transport projects		
N11 Arklow-Rathnew and Newlands Cross	Contract	Contract agreed in April 2013.
N17/N18 Gort-Tuam	Preferred bidder	Preferred bidder announced October 2011. The National Roads Authority aims to sign this contract by the end of 2013.
N25 New Ross bypass	Market stage	Pre-qualification stage.
M11 Gorey-Enniscorthy	Market stage	Pre-qualification stage.
N6 Galway City bypass	Pre-market stage	Project on hold, pending the resolution of planning issues.
Health projects		
Primary Care Programme	Pre-market stage	Planned to go to market in the last quarter of 2013.
Justice projects		
Courts Programme	Pre-market stage	Planned to go to market in the last quarter of 2013.
Garda Programme	Pre-market stage	Planned to go to market in either the last quarter of 2013 or the first quarter of 2014.

Source: NDFA, Department of Education and Skills, National Roads Authority, HSE, Department of Justice and Equality.

Note: a The main stages for PPP projects in development are pre-market (viability of PPP approach has not been confirmed), market (contract is out to tender) and preferred bidder (one tender has been selected and negotiation on the contract is underway).

Management of Operational Projects - Developments in 2012

The Criminal Courts Complex

- 3.11** In managing a PPP contract, the public sector partner must ensure that agreed services are provided by the private partner to the required standard. The Criminal Courts PPP contract specifies penalties that may apply in the event of the unavailability of all or part of the complex or failure to meet other specified service levels.
- 3.12** In January 2012, the Courts Service imposed a deduction of €204,000 (including VAT) on the monthly payment to the private sector partner, which represented about 1% of the contract payments for that year. The deduction related to the unavailability of the Criminal Courts of Justice complex for one day in October 2011, due to a flooding incident in an underground plant room. The Courts Service did not accept the private sector partner's contention that the unavailability provisions of the contract did not apply because an emergency event had occurred.
- 3.13** As provided for under the contract, the Courts Service also instructed the private partner in 2011 to carry out a benchmarking exercise in respect of certain services (primarily cleaning and security) being provided under the PPP contract. Following the benchmarking exercise, the Courts Service negotiated an 8% reduction in the costs of these services at the Criminal Courts complex. This has led to annual savings of €163,000 (including VAT) on the contract payment with effect from 2012.

National Convention Centre

- 3.14** Treasury Holdings is the ultimate owner of Spencer Dock Convention Centre Dublin Ltd (SDCCD), which is the special purpose vehicle set up to undertake the National Convention Centre PPP project. The contracting authority for the project is the Office of Public Works (OPW).
- 3.15** Treasury Holdings went into liquidation during 2012. The Treasury Holdings shareholding in SDCCD is currently held by the liquidators. The liquidators have informed OPW that they have been made aware of some interest in the shares but there are no firm plans at present for any change in ownership. Any proposed sale or transfer of the shares would have to be notified to OPW.
- 3.16** OPW has stated that the liquidation of Treasury Holdings has not impacted on the ability of SDCCD to trade and there have been no changes to the terms of the contract, as of June 2013.

Education Sector Projects

- 3.17** Chapter 12 of this report examines the control of expenditure on operational PPP projects in the education sector. In particular, it considers the adequacy of controls in place in respect of price indexation, service performance and benchmarking.

PPP Programme Management

National Development Finance Agency

- 3.18** The NDFA has the statutory role of financial advisor on all PPP projects in development. It also has responsibility for the procurement and delivery of PPPs, except for projects in the transport sector and local authority projects.
- 3.19** The Department of Finance is currently preparing legislation which will provide for a number of changes to the organisational structure of the National Treasury Management Agency.¹ Under the new model, the functions of the NDFA will continue as before with a revised governance structure in place.

Post Project Review of PPP Projects

- 3.20** Under the *Public Spending Code* issued by the Department of Public Expenditure and Reform, it is the responsibility of the project sponsor to ensure that post project reviews are carried out for all capital projects valued in excess of €20 million.² This requirement applies regardless of whether the project was procured through PPP or by traditional procurement.
- 3.21** The aim of post project reviews is to draw lessons for the future. The *Public Spending Code* states that the reviews should be undertaken once sufficient time has elapsed to allow the project to be properly evaluated, based on reliable evidence in relation to the flow of costs and benefits. Post project reviews should consider both the appraisal and management procedures employed and the project outcome.
- 3.22** The aim of reviewing the appraisal and management procedures is to determine whether experience shows that any stage of the project could have been done better and any lessons learnt applied to later projects.
- 3.23** The aim of reviewing the project outcome includes determining whether
- the basis on which a project was undertaken proved correct
 - the expected benefits and outcomes materialised
 - the planned outcomes were the appropriate responses to actual public needs.
- 3.24** The Department's guidance on post project reviews is set out in the context of traditional procurement procedures. There are no separate guidelines for carrying out post project reviews in respect of PPP projects.
- 3.25** Individual departments/agencies and the Department of Public Expenditure and Reform were asked for details of any postimplementation evaluations or reviews that have been carried out in respect of PPP projects. Responses received indicated that a number of reviews are currently in progress.
- The Central Expenditure Evaluation Unit of the Department of Public Expenditure and Reform is conducting a policy assessment on the compliance with the VFM procurement model for PPPs in relation to water projects in the local authority sector.
 - The Department of Education and Skills is conducting a review of the Pilot Schools PPP project, which became operational in 2003. This review is expected to be completed by end 2013.

¹ See Chapter 28
Accounts of the National
Treasury Management
Agency.

² The Public Spending
Code is the set of rules
and procedures that apply
to ensure that expenditure
appraisal and value for
money standards are
upheld across the Irish
public service.

- The National Roads Authority indicated that reviews of a number of roads schemes are in progress and will be available later this year.

Review of the Criminal Courts Complex

- 3.26** A post project review of the Criminal Courts PPP project, conducted on behalf of the Courts Service, was completed in October 2012.
- 3.27** The Courts Service has undertaken the post project review promptly. The review has been able to identify useful lessons, in terms of process, for future projects.
- 3.28** The review recommended that the Courts Service should measure the efficiency savings created by the project after 12 months of normal operation e.g. effect on court waiting times, costs savings etc. As previously reported, while the business case for the Criminal Courts project identified benefits in qualitative terms, more could have been done prior to launching the project to quantify the expected business benefits.¹ This will present difficulties for any post project review of the extent to which expected benefits have been realised.

Post Project Review of the Criminal Courts Complex

In April 2007, the Courts Service entered into a PPP contract with a private sector consortium to build a new Criminal Courts of Justice complex on a State-owned site at Parkgate Street and to operate the complex for a period of 25 years. In addition to the development of new court buildings, the scope of the contract included maintenance of the buildings, waste management, traffic management and some elements of security and IT support services. The complex was ready for use by the Courts Service in late 2009 and became fully operational by January 2010.

A post project review was completed in October 2012. The stated overall aim of the review was to determine whether any stage of the Criminal Courts project could have been done better and any lessons applied to future projects. The review approach concentrated on assessing the processes used rather than the outcome of the project in terms of its impact on court business.

At an overall level, the review concluded that the project objectives had all been realised within a timeframe appropriate for a PPP project of its complexity. It concluded that the project processes had been satisfactory.

It also suggested that further analysis should be carried out to assess the operational impacts resulting from the delivery of the project.

In terms of learning lessons, the review included recommendations for the PPP process. Some of the recommendations were specific to the project but others have more general applicability including

- future projects should report against a benefits realisation plan and strategy
- an 'issues log' should be produced and maintained to record details of key decisions in a single document.

¹ See Report of the Comptroller and Auditor General on the Accounts of the Public Services 2008, Chapter 17.

Programme Monitoring and Reporting

- 3.29** I previously recommended that the State's financial commitments in respect of legally binding PPP contracts should be reported in the annual Finance Accounts.¹
- 3.30** The Department of Finance accepted the recommendation. The form and content of information in respect of PPP commitments is being considered in the context of a broader revision of the Finance Accounts and central government financial reporting.

Conclusions and Recommendation

- 3.31** Cumulative Exchequer spending on PPP projects had reached over €2.6 billion by the end of 2012. The estimated outstanding commitments in respect of PPP contracts in place were nearly €4.2 billion.
- 3.32** It is important that contracts for PPP projects are managed effectively over their lifetime to ensure that value negotiated during contract development is actually delivered. Benchmarking provisions in PPP contracts provide an opportunity to secure savings in respect of contract services, where the market price for those services falls below the contracted rate. The Courts Service secured annual savings of over €160,000 on contracted services at the Criminal Courts complex through a benchmarking exercise conducted in 2011.

Recommendation 3.1: In view of the potential savings across all PPP projects, the Department of Public Expenditure and Reform should remind project sponsors of the importance of engaging in periodic benchmarking for contracted services where this is provided for in contracts.

Accounting Officer's Response: Agreed. My Department will communicate to the relevant departments the importance and benefits of conducting periodic benchmarking. However, it remains the responsibility of the individual departments and agencies to ensure benchmarking is conducted.

¹ See Report of the Comptroller and Auditor General on the Accounts of the Public Services 2011, Chapter 6.

Annex A Expenditure and outstanding commitments, at end 2012, on large PPP contracts, by sponsor and project

The following table lists the individual projects reported by the respective departments and agencies. Only projects with an estimated capital development value of €20 million or more are included. All amounts include VAT (unless otherwise stated).

A summary outline of the individual projects contracted up to the end of 2008 was included in the Comptroller and Auditor General's Report on the Accounts of the Public Services 2008 (pages 29 to 34). Summary outlines of other projects were included in the report on the year of contract.

Financial Nature of PPP arrangements

The structure put in place to compensate the private sector partner for delivering the assets and/or services can vary between projects. In many cases, the public sponsors of the project take on contractual commitments to make regular payments to the private sector partner over the life of the project. In other cases, projects are designed on a concession basis, whereby the private sector partner receives some or all of the compensation in the form of charges imposed on the users of the service.

Scope of PPP projects

The private sector elements contributed to each project are indicated as follows

- D** Design of service/infrastructure
- B** Build/construct/extend/renovate capital assets
- F** Provide finance (e.g. provide/secure private equity and borrowing; collect user charges)
- O** Operate assets (e.g. facilities management; employment of services staff)
- M** Maintain assets over contract life.

Figure A1 Expenditure and Commitments under PPP Contracts at end 2012

Sponsoring authority/project name	Scope of project	Key project dates			Expenditure			
		Contract signed	Service commencement	Contract end	Pre 2012 €m	2012 €m	Future commitments ^a €m	Projected total expenditure €m
Department of Education and Skills								
Pilot PPP Schools Bundle	DBFM	November 2001	2002	2027	107.3	10.8	188.4	306.5
Maritime College	DBFM	February 2003	2004	2029	71.5	8.6	116.2	196.3
Cork School of Music	DBFM	September 2005	2007	2032	44.2	8.1	176.9	229.2
First bundle PPP schools	DBFM	March 2009	2010	2035	18.3	9.0	237.5	264.8
Second bundle PPP schools	DBFM	June 2010	2011	2036	13.9	12.3	325.8	352.0
Third bundle PPP schools	DBFM	November 2012	2013/2014	2039	-	-	401.2	401.2
Sub total					255.2	48.8	1,446.0	1,750.0
Courts Service								
The Criminal Courts of Justice	DBFOM	October 2007	2009	2035	58.4	22.4	542.2	623.0
Department of Transport, Tourism and Sport/Office of Public Works								
National Conference Centre ^b	DBFOM	April 2007	2010	2035	95.2	51.7	609.7	756.6

Sponsoring authority/project name	Scope of project	Key project dates			Expenditure			
		Contract signed	Service commencement	Contract end	Pre 2012 €m	2012 €m	Future commitments ^a €m	Projected total expenditure €m
Department of Environment, Community and Local Government^c								
<i>Waste water treatment plants</i>								
Dublin Bay ^d	DBOM	March 2001	2003	2024	227.9	3.5	n/a	231.4
Wexford	DBOM	July 1999	2004	2026	18.4	—	—	18.4
Cork	DBOM	December 2001	2004	2027	68.1	—	—	68.1
Balbriggan/Skerries	DBOM	September 2004	2006	2028	19.3	—	—	19.3
South Tipperary	DBOM	March 2003	2007	2029	13.4	—	—	13.4
Dungarvan	DBOM	April 2004	2007	2029	12.2	—	—	12.2
Sligo	DBOM	September 2006	2008	2030	17.0	—	—	17.0
Donegal	DBOM	June 2006	2008	2030	25.2	—	—	25.2
Waterford	DBOM	September 2006	2010	2030	25.5	—	0.6	26.1
Portlaoise	DBOM	December 2006	2009	2031	20.1	—	—	20.1
Meath Villages ^d	DBOM	October 2007	2010	2032	23.1	1.9	n/a	25.0
Mullingar	DBOM	April 2008	2010	2030	16.5	—	—	16.5
Castlebar	DBOM	September 2008	2011	2031	11.4	—	—	11.4
Bray/Shanganagh	DBOM	September 2008	2011	2031	56.4	—	—	56.4
Wicklow	DBOM	September 2007	2009	2031	14.4	—	—	14.4
Portrane/Donabate/Rush/Lusk	DBOM	February 2010	2012	2032	27.2	—	0.9	28.1
Tullamore	DBOM	April 2010	2012	2032	15.1	—	0.6	15.7
Letterkenny	DBOM	February 2011	2013	2033	13.7	7.8	0.8	22.3
<i>Water treatment services</i>								
Clareville	DBOM	December 2006	2007	2027	21.0	—	—	21.0
Barrow Abstraction-Srowland	DBOM	April 2011	2013	2033	6.7	13.2	0.3	20.2
Sub total					652.6	26.4	3.2	682.2

Sponsoring authority/project name	Scope of project	Key project dates			Expenditure			
		Contract signed	Service commencement	Contract end	Pre 2012 €m	2012 €m	Future commitments ^a €m	Projected total expenditure €m
National Roads Authority ^e								
Kilcock/Kinnegad	Concession	March 2003	2005	2033	172	0.3	7.0	179.3
Dundalk Western Bypass	Concession	February 2004	2004	2034	2.8	0.2	3.7	6.7
Rathcormac/Fermoy	Concession	June 2004	2006	2034	109.4	5.7	34.9	150.0
Waterford City Bypass	Concession	April 2006	2010	2036	118.6	9.5	72.7	200.8
Limerick Tunnel ^f	Concession	August 2006	2010	2041	199.8	11.3	53.0	264.1
Clonee/Kells ^f	Concession	April 2007	2010	2052	335.4	29.2	353.0	717.6
Galway/Ballinasloe	Concession	April 2007	2010	2037	183.1	55.6	137.1	375.8
Portlaoise/Cullahill	Concession	June 2007	2010	2037	52.6	6.6	26.0	85.2
M50 Upgrade ^g	DBFOM	September 2007	2007	2042	65.8	23.6	868.6	958.0
Motorway Service Areas	Concession	October 2009	2010	2034	47.1	—	—	47.1
Sub total					1,286.6	142.0	1,556.0	2,984.6

Source: Listed departments/sponsoring agency provided information

- Notes:
- a The future commitments figure incorporates an assumed inflation rate of 4% for the pilot schools bundle, 2.5% for the Cork School of Music and 2% for all other contracts.
 - b Expenditure pre-2012 and in 2012 includes the unitary charge plus VAT and rates. Future commitments include the unitary charge only.
 - c Expenditure/commitments exclude those of local authorities.
 - d The Department has not indicated future commitments in respect of these projects. Funding is under examination in the context of the final accounts. The projected total expenditure column shows the currently approved grants.
 - e National Roads Authority concession contracts include revenue share provisions that apply for the concession period. The revenue share is dependent on traffic volumes in the case of road concessions and sales levels in the case of the motorway service areas contract. Authority expenditure figures are VAT exclusive.
 - f Clonee/Kells and Limerick Tunnel provide for the Authority to make payments if traffic levels fall under specified levels. Expenditures to date include such payments. Traffic-related payments are not included in the future commitments.
 - g The M50 is tolled between Junctions 6 and 7. The revenue arising from the M50 tolling accrues to the Authority.