

POLICY PAPER

The Only Game in Town: Public Private Partnerships in the Irish Water Services Sector

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Abstract: Public Private Partnerships (PPPs) transfer significant responsibility for infrastructure and public service delivery to the private sector. This raises questions in relation to accountability in the context of PPP. An important accountability mechanism is the Value for Money (VFM) assessment which procuring authorities in Ireland must conduct prior to adoption of PPP. This paper examines the application of VFM appraisal procedures in the case of the water services sector. As the Department of Environment, Heritage and Local Government, considers PPP as the preferred model of procurement, VFM assessments fail to deliver an acceptable level of accountability. The result is a mono-culture of PPP procurement in the water services sector.

I INTRODUCTION

It is now over ten years since a systematic programme of public private partnerships (PPP) was announced in Ireland. Despite the initial pronouncements that PPP would be adopted on a pragmatic basis the model has proved extremely attractive to Irish policymakers and the PPP model is regularly put forward as a means of procuring infrastructure projects when they come under consideration. The attraction of the model was such that although PPPs were initially introduced on a pilot basis in 1999 (with eight projects nominated across five sectors including roads, schools and waste management) the proposed programme expanded even before the pilot

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projects reached the early stages of the procurement process. The *National Development Plan 2000-2006* which was published in November 1999 justified this expansion on the basis of the acute nature of Ireland's deficit of physical infrastructure. Today the PPP model is being used to procure a range of projects such as national motorways, Dublin's first metro line, urban regeneration initiatives, court service facilities and water services projects. The scale of overall PPP activity in Ireland has been such that, in a recent review of international PPP activity, Ireland was ranked third (after the UK and Australia) in terms of the maturity of its PPP markets (Deloitte, 2007).

The apparent faith of Irish policymakers in PPP model was not necessarily justified in terms of the international experience. For example, the UK version of PPP, the Private Finance Initiative (PFI) which was launched in 1992, had been the subject of much criticism in the literature on PPP/PFI. One of the principal criticisms of PPP/PFI policy in the UK was that the model was being imposed on decision makers (for example, managers in local authorities) as the only available option. In other words, PPP/PFI was the "only game in town". The Commission on PPPs which published its comprehensive report on the UK experience with PPP/PFI in 2001 was particularly critical in this respect.

PPPs are sometimes 'the only game in town'. Much of the antagonism towards PPPs is the result of widespread and at times justified suspicion that PPPs are still being used simply to get public investment 'off-balance sheet'. Worse still, the desire to press ahead with PPPs for these reasons has sometimes led to short cuts being taken in relation to accountability and value for money procedures (2001, p. 19).

This paper provides evidence of a similar approach to PPP policy in the case of Ireland. Focusing on the water services sector it examines value for money (VFM) procedures used as the basis for the adoption of PPP. It draws attention to the fact that the sponsoring government department (the Department of the Environment, Heritage and Local Government (DoEHLG)) explicitly refers to the Design, Build, Operate (DBO) model of PPP as the "preferred model of procurement" in the water services sector in Ireland. Although official guidelines on the assessment of PPP projects require that the potential for VFM must be demonstrated before PPP is adopted this paper presents evidence from individual water service projects which demonstrate how VFM assessments are used (or misused) in order to arrive at recommendations in favour of PPP. The case study evidence demonstrates clearly that PPP is indeed the "only game in town" in the Irish water services sector.

II THE GLOBAL POPULARITY OF PPP

Cooperation between the public and private sectors is nothing new but in recent years the label PPP has been commonly applied to a host of different forms of cooperation. Hodge and Greve (2007, 2009) illustrate this point by describing five different “families of such partnerships” (2009, p. 33). These include institutional cooperation for joint production and risk sharing (such as the Netherlands Port Authority) and urban renewal and downtown development (such as in the USA where a range of local economic development and urban renewal measures are pursued). PPPs for infrastructure such as water and wastewater plants represent another form of PPP. Vining *et al.* (2005) assert that such partnerships are typically characterised by a written contract between the government and one or more private sector organisations where the private sector agrees to design, build, operate and in some cases finance a facility for a specified period of time. Such agreements are also characterised by durability as well as “... some degree of joint decision making and financial risk sharing” (2005, p. 200). A range of different acronyms have been adopted to describe such PPPs. These include DBO (Design, Build, Operate), DBFO (Design, Build, Finance and Operate) and concession PPPs with the precise label applied depending on the exact roles and distribution of risks between the public and private sectors.

Infrastructure PPPs, which command the focus of this article, have become increasingly prevalent over the last two decades as governments around the world grapple with the challenge of providing much needed infrastructure without threatening fiscal sustainability. In Europe alone, Blanc-Brude *et al.* (2007) report that in the last 15 years over a thousand PPP contracts have been signed with a capital value of approximately €200 billion. The same authors report that the UK has been the undoubted leader in terms of PPP activity accounting for three-quarters of the number of PPP projects in Europe and 58 per cent of the total value. Elsewhere, PPPs have taken a hold in the USA, Canada, Australia and South Africa, particularly since the mid-1990s while the model is also gaining popularity in emerging and developing economies.

III PPP OBJECTIVES, VALUE FOR MONEY AND ACCOUNTABILITY

Governments adopting PPP tend to offer similar justifications for adopting this model rather than more direct forms of public provision. One of the key justifications for PPPs is that they serve to control public expenditure. Under appropriate conditions (in relation to risk transfer) PPP investments do not

count towards public borrowing thereby providing off-balance sheet financing. Second, where PPPs are structured on the basis of the private finance, governments can avoid up-front capital costs. Spreading these costs over a longer period can assist in meeting fiscal targets. A third rationale for PPP is that they provide a model for providing infrastructure and services at lower cost (VFM) resulting primarily from superior private sector scale efficiencies and technical efficiency (Vining *et al.*, 2005). A key driver of VFM is the scope for risk transfer under PPP. This scope for risk transfer provides a fourth argument in favour of PPP. If risks are appropriately allocated between public and private contractors, this provides an alignment of incentives that encourages greater efficiency. A fifth justification for PPPs is that they provide scope for better innovation and accrual of dynamic efficiencies as bids are tendered on the basis of an output specification instead of detailed input specifications that characterise traditional procurement.

Whether PPPs succeed or fail in the achievement of these objectives is open to question. Evaluations of PPP outcomes have only started to emerge in recent years. These tend to focus on the question of VFM and while the findings tend to be mixed, the quality of evaluations is undermined by the fact that most PPP contracts are at early stages and there are no published studies based on statistical analysis of a reliable sample of PPP projects.

Accountability is an important issue in the PPP debate. As PPPs are institutions "... exercising public powers, using public resources and providing public services, they need to be accountable to those on whose behalf they act" (Jones and Stewart, 2009, p. 59). Accountability is therefore required if PPP is to serve as a legitimate tool of governance but the international experience with PPP suggests that PPPs are characterised by shortcomings in relation to expectations in this regard. In their review of the international experience with PPP, Hodge and Greve (2007) note that:

PPP also seem to have provided only limited levels of transparency or public participation. With limited transparency and complex adjustment formulae in PPPs, the clarity of partnership arrangements can also be difficult to fathom. This does not give citizens confidence in the arrangements, when despite the rhetoric of risk sharing with private financing, a significant financial role for the government is often the reality (2007, p. 552).

One of the key mechanisms of accountability under PPP is the VFM assessment process. Ball *et al.* (2007) define VFM in the context of the PFI as

... related to the idea that the PFI scheme can produce a flow of services of at least equivalent quality to that which could be provided by the public sector, but at a lower overall cost (taking into account, particularly the allocation of risk).

A quantitative assessment of VFM generally involves a comparison of the cost of the PPP with a hypothetical scenario that estimates the net present value (NPV) of the expected lifecycle costs if the project were to be pursued by traditional procurement (Morillos and Amkudzi, 2009). This hypothetical scenario which is generally referred to as the public sector comparator (PSC) has been the subject of some critique in the PPP literature. A full discussion of such issues is beyond the scope of this paper but specific concerns in this regard include the possibility of errors in estimating cost and revenue flows and associated probabilities. In addition, the identification and quantification of risks is an inexact exercise and there is evidence to suggest that this element of the VFM exercise can be used to swing decisions in favour of preferred outcomes (Ball *et al.*, 2001). It has been argued that the PSC concentrates on aspects that can be easily quantified and expressed in monetary terms and that insufficient attention is paid to issues such as service quality (Kintoye *et al.*, 2002). Moreover, the importance of transaction costs in the context of PPP procurement has been highlighted by a number of writers (Lonsdale, 2005, Reeves, 2008) and this aspect is rarely given adequate attention in VFM assessments. The Commission on PPPs in the UK (2001) has drawn attention to the questions of transparency and accountability in relation to VFM assessments. They recommend that at the very least a PSC should be constructed and that the PSC should be discussed regularly throughout the negotiation process and should be fully disclosed at the appropriate time. VFM decisions can therefore be "... assumed to be a function of accountability. More and better accountability is therefore expected to yield improved VFM decisions (assuming resources input (sic) remains the same) in PFI" (Demirag *et al.*, 2004, p. 15). The remainder of this paper focuses on the PPP experience in Ireland. It describes the guidelines for assessing potential PPP projects for VFM and examines the practice of VFM assessment in the water services sector.

IV PPP ACTIVITY IN IRELAND

Ireland has followed the global trend towards PPPs for the provision of infrastructure and asset-backed services. Table 1 shows that in May 2009 there were roughly 150 PPP projects at different stages of the procurement and project life-cycle. Attaching reliable values to these PPP projects is not possible before contracts are awarded. Some indication of the value of PPP projects can however be gauged from the last two national development plans, which covered the period 2000-2013, and included provisions of €14.8 billion in private finance under PPP.

Table 1 also shows that PPP is being adopted in areas such as road and rail transport, waste management (including incineration), education (school and university buildings), health (a national radiotherapy network), social and affordable housing and courts facilities. While the scale of PPP investment appears ambitious it can be noted that progress to date has been slow with just six projects outside the water and wastewater sector at the stage where assets are in operation.

Table 1: *Estimate of the Number of PPP Projects in Ireland in May 2009*

	<i>Pre-Tender</i>	<i>Procurement</i>	<i>Construction</i>	<i>Operation</i>	<i>Total</i>
Roads	0	1	6	3	10
Rail	3	1	0	0	4
Waste Management	1	1	0	0	2
Courts	1	0	1	0	2
Education	3	0	1	3	7
Health	1	0	0	0	1
Arts	1	1	1	0	3
Government	2	0	0	0	2
Prisons	2	0	0	0	2
Housing	3	5	1	0	9
Harbour Re-Development	1	0	1	0	2
Water/Wastewater	26	34	16	30	106
Total	44	43	27	36	150

Notes: (1) Data derived from the PPP website housed by the Department of Finance in conjunction with available data of water and wastewater projects from the DoEHLG. (2) Data for water and wastewater is for June 2007. (3) Pre-tender projects are at various stages of the appraisal procedures for investment under PPP.

V PPP AND VFM ASSESSMENT IN IRELAND

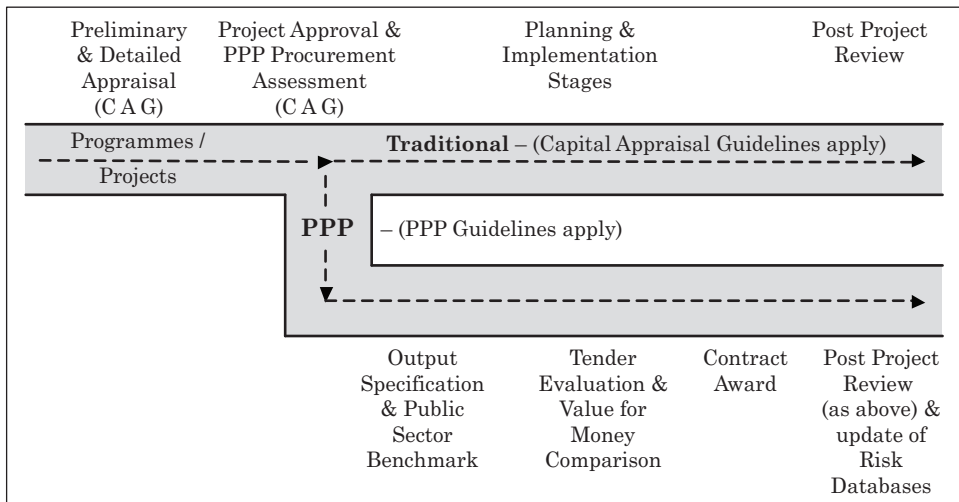
In Ireland, the rollout of the PPP programme has been accompanied by the development of a detailed institutional architecture designed to support its implementation. This architecture includes a number of organisational features (e.g., the establishment of PPP units within government departments), as well as the publication of a number of official guidelines for the provision of infrastructure and capital investments through PPP (e.g., procedures for the assessment, approval, audit and procurement of projects as well as guidelines on stakeholder consultation). According to its website, the Central PPP Policy Unit at the Department of Finance is the central point of access to the PPP process in Ireland. The key function of this unit is to develop the legislative framework, technical and policy guidance to support the PPP

process and to disseminate best practice in PPPs. In its main guidelines for procurement under PPP the Department of Finance places much emphasis on VFM.

[A]n overarching consideration in the procurement and delivery of every public investment project is the achievement of value for money (2006a, p. 13).

The steps in the procurement process for PPP projects are illustrated in Figure 1.

Figure 1: *Traditional and PPP Procurement Stages – Summary*



Source: Department of Finance (2006b).

The most recent guidelines in relation to VFM assessment, issued in October 2007, describe four separate VFM tests which take place at the following stages:

1. VFM Test 1: takes place at the detailed appraisal stage which applies to all capital projects that fall within the capital appraisal guidelines. When a project is under consideration for procurement under PPP the detailed appraisal includes a *PPP Procurement Assessment* (discussed below).
2. VFM Test 2: involves compilation of a detailed public sector benchmark¹ (PSB) prior to commencement of the procurement process.
3. VFM Test 3: takes place when the PSB is compared to private sector bids as part of the tender evaluation process.

¹ The public sector benchmark is the equivalent of the public sector comparator conducted in other countries including the UK.

4. VFM Test 4: takes place when the PSB is compared to the final bid after negotiations with the preferred bidder are complete and before awarding the contract.

Assessing PPP projects for VFM is therefore a central element of the PPP procurement process and constitutes what is arguably the key accountability mechanism under PPP. Evidence in relation to the practice of VFM assessment is however scarce. The following sections seek to illuminate this issue by examining the practice of VFM assessment in the Irish water services sector.

VI PPP IN THE IRISH WATER SERVICES SECTOR

Table 1 shows that the water services sector accounts for a significant majority of PPP projects in Ireland. This can be attributed to two factors. First, high levels of investment have been directed to the water services sector since the early 1990s due to the legacy of historically low levels of investment; rapid growth in the demand for water services due to inter alia very strong demographic and economic growth; increased tourism numbers; record levels of new residential growth and the requirement to meet environmental standards set out in EU directives. The DoEHLG oversees the provision of water services and is currently responsible for the *Water Services Investment Programme* which is a three year rolling plan for the provision of major water and sewerage schemes.² The scale of planned state investment in water services since 1994 is provided in Table 2.

Table 2: *Provision for Investment in Water Services, 1994-2016*

<i>Period</i>	<i>Planned Investment (€ billion)</i>
1994-1999	€1.22
2000-2006	€2.495
2007-2013	€4.75
2010-2016	€3.468

Note: Time periods covered by the last three national development plans (NDPs). Planned investment for the period 2007-2013 was revised in July 2010. The re-prioritised spending envelope covers the period 2010-2016.

² The largest component of the Programme relates to the provision of water and sewerage schemes with a view to complying with both the *EU Urban Waste Water Treatment Directive* and the *Drinking Water Directive*. The other main component is rural water services and group schemes.

Second, the relatively high incidence of PPP projects in the water services sector can be attributed to the DoEHLG's stated policy of considering PPP as the preferred method of procurement for water and wastewater treatment works. According to the DoEHLG, PPPs in the water services sector can

... offer value for money through the use of more technically innovative and lower cost solutions and greater efficiency and cost effectiveness in the operation of works ... the Department informed local authorities in January 1999 that the Department's policy will be to favour the DB/DBO approach for projects involving the provision or upgrading of major water or waste water treatment works, unless there are strong reasons against it (DoEHLG, 1999, p. 19).

This stated preference for the PPP model is clearly at odds with the guidelines on VFM and PPP Procurement summarised in Figure 1. These guidelines are based on testing for VFM at four different stages of the procurement process and VFM must be demonstrated before procurement under PPP proceeds. There is a clear conflict between a declared preference for PPP and the requirement for an objective VFM test. This following section presents three case-studies of the practice of VFM assessment in this context.

VII THE ONLY GAME IN TOWN – CASE STUDIES OF VFM ASSESSMENT IN IRISH WATER SERVICES SECTOR

The analysis in the cases presented in this section is based on the details of the VFM assessment reports which are a critical component of the wider *PPP Procurement Assessment* conducted at the early stages of the procurement process (see Figure 1).^{3,4} To assess VFM, local authorities are required to compare the hypothetical cost of procuring the project under traditional procurement referred to as the Public Sector Benchmark (PSB) with the hypothetical costs under different forms of PPP (normally DB and DBO).⁵ Both estimates are based on calculation of capital costs, operating and

³ In addition to a VFM assessment, the Procurement Assessment Report covers issues such as: initial output specification; preliminary risk assessment and stakeholder consultation.

⁴ The analysis also draws on additional information gathered in interviews with trade union officials involved in stakeholder consultation on proposed DBO projects.

⁵ These details are based on recommendations contained in "Policy Framework for Public Private Partnership (PPP) in Ireland – Project Implementation in the Local Government Sector" published by the DoEHLG in November 2003. A more recent guidance titled "Value for Money and the Public Private Partnership Process" was published by the Department of Finance in October 2007. The earlier guidance indicates that a comprehensive PSB is required at PPP Procurement Assessment Stage whereas the more recent guidance does not require a comprehensive PSB until just before the call for tenders. The cases examined in this paper conducted their assessment on the basis of the earlier guidance.

maintenance costs over the life of the project and an adjustment based on the allocation of risk. In cases where this assessment indicates that PPP is likely to achieve VFM the project can be expected to proceed as a PPP. In such cases the PPP guidelines issued by the Department of Finance apply.

Case Study 1 – Tell Them What They Want To Hear!

The local authority covered in this case is procuring two separate works: a water abstraction and treatment plant and a water and wastewater treatment works. Both plants have whole-life costs of approximately €20 million. The local authority commissioned separate *PPP Assessment Reports* from private consulting engineers which were completed in December 2007. In both cases, the *PPP Assessment Reports* were prepared in accordance with guidelines issued by the DoEHLG and the Department of Finance. The principal guidelines used in the preparation of *PPP Assessment Reports* were those issued by the DoEHLG in 2003 (see footnote 5).

The principal findings from the VFM assessments of both projects are presented in Table 3. It shows that the whole life costs for the water treatment plant (plant 1) were estimated to be 5.3 per cent lower under DBO than costs under traditional procurement. In the case of the water and wastewater treatment plant (plant 2) it was estimated that whole life costs under traditional procurement would be 2.4 per cent lower than costs under the DBO option.

Table 3: *Summary of VFM Assessment Findings (DBO Versus Traditional Procurement) for Two Water Service Projects – Case Study 1*

	<i>Plant 1 – Water Treatment Works</i>	<i>Plant 2 – Water and Wastewater Treatment Works</i>
Capital Cost	No difference	No difference
Operating & Maintenance Costs	1.6% lower under DBO	26% lower under traditional
Risks Retained by Public Sector	87.5% lower under DBO	73% lower under DBO
Overall Saving	5.3% lower under DBO	2.4% lower under traditional

Note: Risks retained by the public sector are estimated under both procurement options. As the DBO option seeks to transfer risk to the private sector it can be expected that risks retained by the public sector will be lower under DBO.

A host of questions arise with regard to the derivation of these estimates. For example, as risk retained by the public sector is significantly lower under

DBO for both plants, it is noteworthy that these estimates were not subjected to sensitivity analysis. Notwithstanding such issues, the focus of this paper concerns the use (or misuse) of the *VFM Assessment Report* in terms of deciding on the procurement model.

In the case of the water treatment works (Plant 1) the *VFM Assessment Report* states that:

... the accuracy of the Value for Money Assessment is not sufficient to determine that traditional procurement is unsuitable in this instance.

However the report makes the following final recommendation:

... the assessment of the procurement options has indicated that DBO is suitable....However the assessment is not conclusive that DBO should be the preferred method. DBO is the preferred methodology for Water Services projects of this type. Consequently, in the absence of any conclusive evidence indicating that traditional procurement offers distinct advantages, the selected procurement method should be DBO.

In relation to the water and wastewater plant (Plant 2) it was estimated that traditional procurement would yield VFM compared to DBO. However, the *VFM Assessment Report* recommended the following:

The assessment showed that in terms of the overall cost of the scheme Traditional Procurement is marginally more economically advantageous.... However given the difference of only 2.4% in the figures and the fact that the figures in the estimate could only be considered to be accurate within 10% we consider that the exercise could not be considered to demonstrate that traditional procurement would be the most economical design. We have concluded therefore that even though the figures show Traditional Procurement to be the cheaper option ...(the) council should proceed on the basis of DBO procurement which was the recommendation in the Preliminary Report and is in line with the policy of the DoEHLG that water and wastewater treatment plants of this nature are procured by Design Build Operate Contracts.

The recommendations in both reports demonstrate clearly that the local authority and the consulting engineers that were commissioned to prepare PPP Assessment Reports were guided by the DoEHLG's official preference for the DBO model of procurement and that the objectivity of the reports have been compromised. Whether the DoEHLG accept the recommendations in both reports remains to be seen but the evidence presented in the following cases suggests that this is likely.

Case Study 2: You Can Have Any Procurement Model As Long As IT's DBO!

The local authority in this case is seeking to replace a wastewater treatment plant that will double the capacity of the existing plant and serve a population of approximately 5,000. The expected whole life cost of the plant is approximately €7 million. The first step in the project appraisal was the completion of the Preliminary Report. This was completed in April 2002. Whereas this report mainly covers engineering issues it does include a short qualitative section which examines the applicability of the DB/DBO models of procurement. The assessment concluded that the benefits accruing to a DB/DBO model apply to medium or large scale treatment plants or a group of smaller treatment plants in the same region. As this did not apply in this case it was recommended that the scheme be implemented using the traditional approach which would allow the new works to be completed within the shortest possible period.

The local authority sought approval for the Preliminary Report and its recommendation (in favour of traditional procurement) from the DoEHLG. This request resulted in a protracted dialogue between both parties with the result that the facility remains undelivered. Initially the DoEHLG requested that the local authority examine the option of bundling a number of plants into one possible DBO scheme. This local authority responded to this request by outlining the severe inadequacy of the existing plant and pressures arising due to a growing population. Over the following months it advanced other arguments against the adoption of the PPP model. These included:

- the introduction of DBO contracts will lead to duplication of resources and subsequent increased operational costs.
- the question of the local authority being contractually tied for 20 years without committed financial resources in place;
- industrial relations implications (e.g. redundancies and/or re-deployment);
- interface problems between the contractor and the local authority (which will continue to hold responsibility for maintenance of networks and water treatment plants).

These concerns were rejected by the DoEHLG which re-iterated its preference for the DBO model and that the funding of such schemes is conditional on compliance with policy in favour of DBO. Almost two years after the completion of the Preliminary Report the local authority acquiesced and agreed to proceed with the contract in the form of a DBO.

A number of issues arise in relation to this case. First, it appears that the DoEHLG was willing to dismiss local concerns in favour of the 'preferred' DBO model. This has resulted in considerable delay in procuring the much needed plant. In this case tenders were submitted over six years after the completion of the Preliminary Report. In addition, it is worth noting that the local authority was given permission to proceed with procurement using the DBO model on the basis of the initial Preliminary Report. Notwithstanding the fact that this report recommended traditional procurement, the DoEHLG did not insist on the completion of a PPP Assessment in accordance with government guidelines (see Stage 2 in Figure 1).

Case 3 – If At First You Don't Succeed (In Demonstrating VFM) Try, Try Again!

In this case a large urban local authority is seeking to procure the replacement of the city's only water treatment plant with a new plant with a significantly higher capacity. The whole life cost of the new plant is expected to be in the region of €80 million (in net present value terms).

The circumstances surrounding the preparation of the *PPP Assessment Report* differed significantly from those that prevailed in the other two cases covered in this paper. In this case the local authority agreed to detailed consultation regarding the content of the report with existing employees. This consultation consisted of a series of round-table meetings between the consulting engineers who prepared the report, management and engineering staff in the local authority, existing employees in the water treatment plant, trade union officials and advisors. The starting point for consultation was the first draft of the report completed by the consultant engineers. The round-table meetings provided the opportunity for all stakeholders to raise questions about the content of the report and to make necessary changes on the basis of consensus.

The rationale for this form of consultation can be traced back to one of the official guidelines on PPP issued by the Department of Finance. The central guideline "Public Private Partnership – Stakeholder Consultation for Employees and their Representatives" was issued in January 2005. The content of this guideline was interpreted by the local authority and trade unions as allowing for detailed consultation regarding the content of the *Procurement Assessment Report*.

Table 4 provides a summary of the VFM Assessment contained in the *Procurement Assessment Report*. Prior to consultation it was estimated that the DBO model would yield VFM amounting to 9.5 per cent of traditional procurement costs. However, a detailed scrutiny of all costs during the

consultation process led to changes in the estimates and a reduction in the estimated savings to less than 1 per cent. The report concluded that

... there is little if any financial advantage available for the DBO option, especially in terms of value for money. For this reason it is recommended that the project is instead procured by the traditional route.

Table 4: *Summary of VFM Assessment Findings (DBO Versus Traditional Procurement) Before and After Stakeholder Consultation – Case Study 3*

	<i>Before Stakeholder Consultation</i>	<i>After Stakeholder Consultation</i>
Capital Cost	10.24% lower under-DBO	10.24% lower under-DBO
O&M Cost	7.8% lower under-DBO	0.9% lower under traditional
Risks Retained by Public Sector	39.6% lower under-DBO	25.6% lower under traditional
Overall Value for Money	9.5% lower under-DBO	0.8% lower under-DBO

The report was submitted to the DoEHLG in January 2008. In June 2008 the DoEHLG responded with a list of 24 issues for the local authority to review. It is striking that the list is overwhelmingly negative in relation to traditional procurement. All 24 issues point to asserted weaknesses with the traditional model of procurement. Potential risks or problems with DBO are not considered.

Two examples of these issues illustrate this point. First, the DoEHLG makes the point that under DBO the operator is obliged to maintain equipment and ensure that it is “fit for purpose”. Under traditional procurement the standard set for design is “reasonable skill and diligence”. It is asserted that this is an advantage under DBO. However, it is important to remember that the DBO operator must be paid for ensuring that the facilities are “fit for purpose”. If provisions are to be made to pay the DBO contractor for maintenance of equipment a question that arises is whether the same provisions can be made if the local authority is responsible for maintenance under traditional procurement. The argument that the local authority must pay the contractor under DBO but is unlikely to finance in-house maintenance is difficult to sustain.

A second issue raised by the DoEHLG is that the DBO contractually provides for necessary upgrading and renewal of equipment (using a Maintenance Reserve Fund or Capital Replacement Fund) whereas tradi-

tional procurement does not provide equivalent guarantees. The DoEHLG fails to explain why capital replacement funds under traditional procurement cannot be robust. If the DBO operator sets funds aside for capital replacement and maintenance the local authority will be contractually obliged to pay for this. If local authorities are permitted to make such financial commitments under DBO, can such commitments be permitted under traditional procurement?

VIII CONCLUDING REMARKS

Governments world wide are under pressure to address deficits of physical infrastructure. Given the constraints in relation to funding such projects as well as the urgency of infrastructural investment it is not surprising that governments are turning to private sector participation as one means of addressing the problem. The adoption of the PPP model, however, results in a significant re-drawing of the boundaries between the public and private sectors. In the case of Ireland the use of PPP has resulted in private sector involvement in sectors that have previously been the exclusive preserve of the public sector. Many of these sectors are important in terms of determining the overall welfare of society (e.g. education, health, prisons, transport and environmental services such as water treatment and provision). Such changes pose significant challenges for accountability.

The Commission on PPPs in the UK asserts that:

Public accountability is a pre-condition for the legitimate use of public authority. It is the basis on which citizens are willing to delegate power to others to act on their behalf. It underpins government based on consent. Without proper accountability mechanisms organisations delivering services are not subject to democratic oversight and control, the rights of citizens are uncertain and services are unlikely to reflect the needs of service users. Accountability is therefore an end as well as means. (2001, p. 231.)

The challenge of accountability is greater under organisational forms such as PPP. In the Irish case policymakers have sought to ensure accountability under PPP through a combination of market-oriented mechanisms such as contracts and competition and public sector instruments such as rules of transparency and public control that apply to the public sector (Flyvberg *et al.*, 2003). Serious concerns have however been expressed about the quality of accountability mechanisms in place. For example, in 2007, the Public Accounts Committee of Dail Eireann (Irish Parliament) expressed the view that:

The PAC in recent years has held several plenary sessions relating to significant PPP projects. These meetings of the committee were informed by particular chapters of the annual reports of the Comptroller and Auditor General, as well as a number of Value For Money reports that also emanated from his office While the circumstances applying to each of these projects vary widely, and the history of each differs, some common threads have appeared. The largest common factor has been the frustration expressed at the Committee of either not having appropriate access to information relating to these projects, or being publicly unable to refer to information deemed to be commercially sensitive. This committee believes that this obstacle needs to be overcome. Public accountability and value for money are very important issues. (2007, pp. 7-8.)

The evidence presented in this paper adds weight to the argument that the Irish PPP programme is failing to meet the challenge of accountability. While a detailed set of guidelines exists in relation to the fundamental requirement to test PPP projects for VFM the cases from the water services sector examined in this paper demonstrate that the mere existence of guidelines provides no guarantees. The DoEHLG's explicit consideration of PPP as the preferred procurement method in the Irish water services sector has in some cases led local authorities to reject its own VFM assessments or preliminary reports where they were found to favour traditional procurement methods. The evidence presented indicates that some local authority decision makers see no point in submitting such reports. As a consequence, PPP projects are not receiving the degree of scrutiny required in the official guidelines and the PPP model is indeed the only game in town in the water services sector.

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