

Chapter 5

Central Government

Financial Commitments under Public Private Partnerships

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5.1 A Public Private Partnership (PPP) is an arrangement between public and private sector partners for the delivery of public infrastructure and/or public services.

5.2 Typically, a PPP project involves a formal contract between a government agency and a private partner, where the latter undertakes to deliver specified facilities and/or services over the life of the contract. This is usually 25 to 30 years, although some contracts in the roads sector may be up to 45 years in duration. Project risks, which are a feature of all long-term projects, are shared between the public and private sector partners, depending on which partner is in the best position to manage them. Under the PPP process, the State retains ownership of the assets throughout the contract period. At the end of the contract period, the sponsoring Government agency assumes responsibility for the ongoing maintenance and operation of the assets.

5.3 The structure put in place to compensate the private sector partner for developing the assets and delivering the required services varies, with different implications in terms of the financial commitments involved for the sponsoring public bodies (see Figure 21). 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.

Figure 21 Financial Nature of PPP Arrangements

Unitary payment projects

This is where the sponsoring public agency makes regular payments (monthly, quarterly or annually) over the term of the contract to the private sector partner, subject to satisfactory performance in providing agreed facilities to the required standard. Typically, part of this unitary (or all-in) payment amount is fixed over the life of the contract, with the remainder varying in line with price fluctuations (usually the Consumer Price Index). The split between the fixed and variable elements varies from project to project.

Up-front capital payment projects

In the water and wastewater sector, many PPP projects are procured on a design, build, operate and maintain (DBOM) basis. In these cases, the Exchequer provides up-front capital funding (as with traditional procurement), so there are no capital or financing costs to be paid back over the life of the project. Annual operating costs (paid by the relevant local authorities) are based on the volume of water/wastewater arriving for treatment.

Concession projects

In concession projects, the users of the service pay fees to the private sector partner e.g. motorists using toll roads. The State may pay a contribution towards the capital costs of providing the infrastructure, and may also pay operating subventions during the contract period. Where user payments exceed projected levels, there may be scope for the additional income to be shared between the public and private sector partners.

Asset-based schemes

In this kind of project, the public sector contribution to the project includes provision of an asset (usually land), with the private partner developing the asset e.g. social/affordable/private housing projects. Ultimately, much of the funding for this kind of project depends on sales or rentals on the open property market, and the ongoing difficulties in the property market have made many proposed developments unviable. Such projects are usually of shorter duration (five to seven years) than concession or unitary payment projects.

Chapter Focus

This chapter has been compiled to provide information about the financial commitments entered into by central Government departments and agencies under PPP contracts.

Summary of Expenditure and Commitments

5.4 Annex A lists the major²⁷ PPP projects, as at the end of December 2009, in respect of which central Government departments and agencies had entered contracts as the sponsoring agency, or had otherwise made financial commitments to the projects.

5.5 Up to the end of 2009, the total expenditure incurred by central government departments and agencies under PPP contracts was just over €1.5 billion (see Figure 22). Expenditure in the year under contracts amounted to €321 million²⁸.

Figure 22 Expenditure and Commitments under PPP contracts in place at end December 2009, by department/agency

Department/agency	Number of projects contracted	Expenditure		Outstanding commitment ^a
		prior to 2009	in 2009	
		€m	€m	€m
Education and Skills ^b	3	139	29	525
Courts Service	1	—	—	634
Tourism, Culture and Sport/Office of Public Works	1	—	—	754
National Roads Authority	10	614	230	2,116
Environment, Heritage and Local Government ^c	18	460	62	68
Total	33	1,213	321	4,097

Source: Annex A

Notes:

- a Assumes inflation will average 2% a year over the remaining lives of the contracts.
- b Excludes a new schools bundle project contracted in 2009 and due to commence service in September 2010. The Department of Education and Skills is not yet publicly disclosing the commitment figure in relation to that project for commercial reasons.
- c Amounts shown in relation to projects sanctioned by the Department of the Environment, Heritage and Local Government are the contributions by the Department towards the capital cost of local authority PPP projects. They do not include expenditure under the contracts by the relevant local authorities, or the outstanding commitments that will have to be met by the local authorities from

²⁷ Projects where the capital cost of asset creation was less than €20 million are not included.

²⁸ There was additional expenditure by departments and agencies in 2009 in relation to the development of PPP projects, but this did not form part of the contract with the private sector partner. For example, the Department of Education and Skills spent €11.7 million in 2009 on PPP-project related costs such as site acquisitions, technical and legal advisors, etc.

their own future budgets.

5.6 The total outstanding commitments of central Government departments and agencies in respect of contracted PPP projects at end 2009 is estimated at €4.1 billion. This excludes the commitment incurred by the Department of Education and Skills under a March 2009 PPP contract for provision of a bundle of four second level schools which are due to come into service in September 2010 (see below).

5.7 Based on expenditure incurred to end 2009 and the estimated outstanding commitments, the aggregate Exchequer expenditure in respect of the currently contracted PPP projects is projected to be €5.6 billion.

Potential Future Commitments

5.8 A further significant number of PPP projects were in development at the end of 2009 but had not yet reached contract stage²⁹. A contract has since been agreed for a further schools project. The financial commitments under the PPP programme are expected to increase as more projects reach contract stage.

5.9 Given the complexities involved in the PPP process and payment mechanisms, it is difficult to estimate potential future commitments of projects that are still in planning. The cost of a project depends on a range of factors, including the project specification, perspectives on risk pricing and the cost of borrowing in the project finance market. These are not finally settled until projects reach contract stage.

5.10 The Department of Finance has projected the State's likely costs for PPP projects, based on the assumption that they will progress as scheduled at July 2010. While stressing the inherent uncertainty around such projections, it estimates that the potential total expenditure on currently contracted projects and projects expected to commence construction by 2016 will be approximately €24 billion over the period 2010 to 2053. Expenditure is projected to average €730 million a year over the 30-year period from 2010 to 2040³⁰.

PPP Contracts in 2009

5.11 Two PPP projects reached contract stage in the course of 2009. These were

- a bundle of four second level schools
- a contract for the development and operation of motorway service facilities.

First Schools Bundle Project

5.12 In September 2005, the Minister for Education and Science announced a plan to provide 27 new schools by means of PPP projects — 23 post primary and 4 primary schools in 22 locations (the Schools PPP Programme). The stated aim of the Schools Programme is to deliver new schools in rapidly developing areas, to replace existing schools with new accommodation and to provide new accommodation for schools that are an amalgamation of existing schools.

²⁹ The Department of Finance maintains and publishes a project tracker database, listing all PPP projects with an estimated capital value of over €20 million each. The tracker includes projects where a contract is in place, and those for which project advisors have been appointed. The information on each project is provided by the relevant sponsoring authorities. See www.ppp.gov.ie

³⁰ These projections do not include payments in respect of water/wastewater projects, or the costs associated with the operate-only LUAS contracts.

5.13 The first bundle of schools identified for procurement via PPP comprises four post-primary schools on three sites in Ferbane, Banagher and Portlaoise (two schools) catering for a total of 2,700 pupils. The scope of the project is similar to that of the pilot schools PPP project (2001) i.e. design, build, operate, and maintain the schools, and finance the project over its lifetime.

5.14 A notice was published in the Official Journal of the European Union seeking expressions of interest for the first bundle of schools on 27 September 2006. Following a competitive tendering process, Macquarie Partnerships for Ireland (MPFI) were awarded the contract for the project on 6 March 2009. Construction of all four schools is due to be completed by September 2010. The contract runs for 25 years from the date the schools open.

5.15 A second schools bundle project, involving five second level and one first level school, and also with MPFI as the private sector partner, reached contract stage in June 2010.

Motorway Services Project

5.16 In 2005, the National Roads Authority (NRA) was asked by the Minister for Transport to undertake a review of policy with regard to the provision of service areas on motorways and on high quality dual carriageways of the national roads network. Arising from the review, the Authority announced a strategy to provide service areas at intervals of approximately 50 to 60 kms, where feasible, through a combination of facilities located on-line and off-line (i.e. at or close to interchanges). In September 2006, the Authority announced that it would become directly involved in developing on-line service area facilities as PPP projects.

5.17 The first project under the programme encompasses the design, construction, operation and financing of three motorway service areas: two on the M1 motorway and one on the M4 motorway. Each of the locations is to be served by facilities on both sides of the motorway, or provide access from both sides of the motorway. The facilities will include extensive parking, restaurant/food outlet, fuel station, toilet facilities, and Garda enforcement area. The private partner will earn revenues from the operation of the various retail services offered and the NRA will receive a share of those revenues.

5.18 A contract notice for the first service area project was placed in the Official Journal of the European Union on 1 May 2007. In October 2009, the NRA awarded the PPP contract to the Superstop Consortium, which is currently developing the facilities at Castlebellingham and at Lusk (on the M1) and at Enfield on the M4. Service provision is expected to commence in late 2010.

5.19 The NRA has confirmed that the total public financial commitment under the contract will amount to €47 million by way of a capital contribution following completion of construction. No unitary payments are envisaged, and the NRA will receive an ongoing share of the overall revenues.

Financing of PPP Projects

5.20 The National Development Finance Agency (NDFA) was established in 2003 to advise State authorities on the optimal financing of large scale public capital investment projects³¹. In 2007, the remit of the Agency was widened, mandating it to undertake the procurement and delivery of PPP projects in all sectors, apart from transport and local government. The NDFA operates under the aegis of the National Treasury Management Agency.

Impact of Financial Crisis on PPP Projects

5.21 Prior to the financial crisis, the arrangements for all PPP competitions required each of the consortiums bidding for the deal to submit committed funding terms at the time of the tender. Bank support letters were submitted with tenders, confirming the proposed banking terms and the banks' satisfaction with the legal documentation and all technical aspects of the project. These banking terms were then normally held until financial close — an undefined period, but generally six to twelve months³². As banks normally operated exclusively to support the bids submitted by each consortium, the number of banks involved in each competition could be significant. This approach to funding provision was in line with international market practice.

5.22 The ongoing global financial crisis has adversely impacted the funding for all investments, and has led to a significant decrease in the number of banks willing to provide long-term funding for all projects. Banks are now generally unwilling to hold terms for longer than two to three months at most, if at all, and the amounts on offer for participation in individual projects are generally lower than in the past. This results in more banks being needed to draw together the required funding. Additionally, syndication arrangements where one or more banks underwrite the debt are now no longer available, and all participating banks negotiate funding terms and conditions individually in so-called club deals. Consequently, prospective tenderers have generally been unable to provide fully committed funding terms at the time of tenders.

5.23 The NDFA has stated that, in order to address this liquidity problem, it has introduced a 'preferred tenderer funding competition' arrangement in more recently procured PPP projects, in keeping with current practice in other jurisdictions competing for limited PPP private funding. This involves postponing the requirement for committed funding terms until after the appointment of the preferred bidder, based on evaluation of tenders. This approach serves to reduce the length of time banking terms have to be held, and the number of banks from whom commitments have to be raised. The NDFA considers that this is particularly applicable where there may be planning obstacles for the PPP company.

5.24 The preferred tenderer funding competition approach may prolong the timeframe to reach final contract agreement. It also carries a risk that the preferred tenderer's proposal at tender stage may require renegotiation following bank due diligence examinations when compared to the option of seeking committed funding at tender stage. In the latter case, project amendments required by the bank(s) would already have been incorporated into the proposal at tender stage.

³¹ The scale of projects within the remit of the NDFA was originally defined as those with an expected capital value of €20 million or more. This was subsequently amended to those with an expected capital value of €30 million or more.

³² The proposed terms normally allowed fluctuations in market interest rates between the date of tender submission and financial close. Consequently, the sponsoring agency carried interest rate risk until the contract was signed.

Pension Fund Investment in PPPs

5.25 The National Pension Reserve Fund (NPRF) was established with the objective of meeting as much as possible of the costs to the Exchequer of social welfare and public service pensions to be paid from 2025 to at least 2055. The National Pension Reserve Fund Commission is responsible for the investment of the NPRF in accordance with its statutory investment policy of seeking the optimal financial returns. As a long-term investment, infrastructure is a natural asset class for the NPRF, and it is keen to access PPP investment opportunities where the risk/return characteristics satisfy its statutory commercial investment mandate. The use of preferred tenderer funding competitions offers the NPRF a market entry opportunity.

5.26 Both the NDFA and the NPRF operate under the aegis of the National Treasury Management Agency. However, NDFA and NPRF are separate bodies, with their own boards, legal remits and decision-making processes. In any discussions between the two bodies, especially in relation to PPP funding competitions, there is a strict obligation to ensure that the NPRF does not become privy to any information that would give it an advantage over other potential providers of finance.

5.27 A potential funding opportunity for the NPRF is not expected to arise until at least late 2010.

Conclusion

The total outstanding commitments of central Government departments and agencies in respect of contracted PPP projects at end 2009 is estimated at €4.1 billion. A further significant number of PPP projects were in development at the end of 2009 but had not yet reached contract stage.

Based on the assumption that the projects will progress as scheduled at July 2010, the Department of Finance has estimated that the potential total expenditure on currently contracted projects and projects expected to commence construction by 2016 will be approximately €24 billion over the period 2010 to 2053. Expenditure is projected to average €730 million a year over the 30-year period from 2010 to 2040.

Annex A Expenditure up to end 2009 and outstanding commitments on large PPP project contracts, by public sector agency and by project

The table lists the individual projects reported by the respective departments/ agency. Only commitments/expenditure in relation to projects which have an estimated capital development value of €20 million or more are included.

A summary outline of the individual projects contracted up to the end of 2008 was included in the Comptroller and Auditor General's Annual Report 2008 (pages 29 to 34).

Inflation

The commitment amounts are projected based on the assumption that inflation will average 2% a year over the remaining life of each project. All amounts include VAT (unless otherwise stated)

Scope of PPP projects

The elements within the scope of the project (indicated on the table) may include some or all of the following

- 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.

Sponsoring authority/project name	Scope of project	Key project dates			Expenditure			
		Contract signed	Service commencement	Contract end	Pre 2009	2009	Future commitment	Projected total expenditure
					€m	€m	€m	€m
Department of Education and Science								
Pilot PPP schools bundle	DBOFM	November 2001	2003	2027	74.3	11.7	197.0	283.0
Maritime College	DBOFM	February 2003	2004	2029	45.6	8.7	137.4	191.7
Cork School of Music	DBOFM	September 2005	2007	2032	19.3	9.0	190.7	219.0
First bundle PPP schools ^a	DBOFM	March 2009	2010	2035	—	—	Withheld	Withheld
Second bundle PPP schools	DBOFM	June 2010	2011	2036	—	—	Withheld	Withheld
Courts Service								
The Criminal Courts of Justice	DBOFM	April 2007	2009	2035	—	—	634.1	634.1
Department of Tourism, Culture and Sport/Office of Public Works								
National Conference Centre	DBOFM	April 2007	2010	2035	—	—	754.0	754.0
National Roads Authority^b								
Kilcock/Kinnegad	Concession	March 2003	2005	2033	168.4	0.9	7.9	177.2
Dundalk Western Bypass	Concession	February 2004	2005	2034	0.2	2.0	4.3	6.5
Rathcormac/Fermoy	Concession	June 2004	2006	2034	90.9	7.0	52.7	150.6
Waterford City Bypass	Concession	April 2006	2009	2036	94.5	12.5	95.5	202.5
Limerick Tunnel	Concession	August 2006	2010	2041	115.6	44.9	88.7	249.2
Clonee/Kells	Concession	April 2007	2010	2052	111.2	124.1	479.7	715.0
Galway/Ballinasloe	Concession	April 2007	2009	2037	18.5	25.3	319.4	363.2
Portlaoise/Cullahill	Concession	June 2007	2010	2037	15.0	12.9	58.9	86.8

Sponsoring authority/project name	Scope of project	Key project dates			Expenditure			
		Contract signed	Service commencement	Contract end	Pre 2009	2009	Future commitment	Projected total expenditure
					€m	€m	€m	€m
M50 upgrade	DBFOM	September 2007	2007	2042	—	—	961.5	961.5 ^c
Motorway Service Areas	Concession	October 2009	2010	2034	—	—	47.0	47.0
Department of the Environment, Heritage and Local Government^d								
<i>Sewage treatment projects</i>								
Dublin Bay treatment plant	DBM	March 2001	2003	2024	194.8	6.4	15.5	216.7
Wexford treatment plant	DBOM	July 1999	2004	2026	18.3	—	—	18.3
Cork treatment plant	DBOM	December 2001	2004	2027	65.2	—	—	65.2
Balbriggan/Skerries treatment plant	DBOM	September 2004	2006	2028	23.8	—	—	23.8
South Tipperary treatment plant group	DBOM	March 2003	2007	2029	11.9	1.3	0.4	13.6
Dungarvan treatment plant	DBOM	April 2004	2007	2029	11.5	—	2.2	13.7
Sligo treatment plant	DBOM	September 2006	2008	2030	18.0	—	—	18.0
Donegal (A) treatment plant group	DBOM	June 2006	2008	2030	22.8	—	1.3	24.1

Sponsoring authority/project name	Scope of project	Key project dates			Expenditure			
		Contract signed	Service commencement	Contract end	Pre 2009	2009	Future commitment	Projected total expenditure
					€m	€m	€m	€m
Waterford treatment plant	DBOM	September 2006	2010	2033	18.0	1.1	13.6	32.7
Portlaoise treatment plant	DBOM	December 2006	2009	2031	16.0	2.1	1.5	19.6
Meath villages treatment plant group	DBOM	October 2007	2010	2032	12.3	9.0	0.3	21.6
Mullingar treatment plant	DBOM	April 2008	2010	2032	6.4	9.7	—	16.1
Castlebar treatment plant	DBOM	September 2008	2010	2032	0.6	4.8	6.0	11.4
Shanganagh treatment plant	DBOM	September 2008	2010	2034	6.7	19.9	25.5	52.1
Wicklow treatment plant	DBOM	September 2007	2009	2031	10.9	7.3	1.2	19.4
Water treatment scheme								
Clareville water treatment project	DBOM	December 2006	2010	2030	22.5	—	—	22.5
Area development projects								
Fatima Mansions redevelopment	DBF	June 2004	2006	2009	—	—	—	—
Greystones harbour development	DBOF	December 2007	2012	2042	—	—	—	—

Notes:

- a The Department of Education and Skills is not yet publicly disclosing information on the projected financial commitments under these contracts for commercial reasons.
- b In the case of NRA concession contracts, the Projected Total Contract Value represents the total payments expected to be made to the PPP companies concerned over the life of the contract. The PPP companies also benefit from user charges which contribute to their capital and operational costs. The contracts incorporate a revenue sharing mechanism whereby the NRA receives a portion of toll revenue.
- c Excludes VAT.
- d Expenditure/commitments data excludes those of local authorities.