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# A Programme Approach to PPPs

## Lessons from the European experience

July 2015





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## 1. Introduction

### 1.1. What is a PPP Programme Approach?

A PPP programme approach brings individual PPP projects together to deliver them in a coordinated way. This usually involves projects with a common objective such as a sector focus. A PPP programme uses tools and resources, such as standardised documents or a specialised team, to deliver PPP projects more effectively and efficiently than might be the case with delivering projects individually. PPP programmes have been, and continue to be, used across Europe in a range of sectors.

There are a number of ways in which projects can be grouped together to improve delivery and management. This report focuses on programme approaches that have been used to group projects where there is a strong sectoral basis and consequent benefits for doing so. This is the meaning of the term 'PPP programme' used in this report. Other approaches to delivering groups of projects, which may also be referred to as programmes, but which are not covered in the body of the report include:

- national multi-sector initiatives for PPPs;<sup>1</sup>
- regionally defined programmes using, for example, public-private joint venture companies to support the delivery and management of a range of local public services;<sup>2</sup> and
- groups of, usually smaller, projects bundled within a single contract or contracted with a single private partner.

These approaches to grouping projects may be driven, for example, by geographic or size considerations, as opposed to common sectoral features. They may still share many of the features and benefits of PPP programmes but they also have their own characteristics which are not examined in this report.

### 1.2. Why use a PPP Programme?

A PPP programme can provide benefits and address obstacles in a number of different areas which include:

- *developing market interest and capacity* for projects through improved assessment and engagement with the market. This leads to better matching of the type and number of projects to private sector capacity. This can be particularly beneficial where projects may individually be too small or too unfamiliar to the market to elicit strong interest;

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<sup>1</sup> See EPEC's publication 'Establishing and Reforming PPP Units' which examines the institutional issues linked to delivering national/sub-national PPP programmes (such as the use of standardised processes and contracts), available at:

[www.eib.org/epec/resources/publications/epec\\_establishing\\_and\\_reforming\\_ppp\\_units\\_en.pdf](http://www.eib.org/epec/resources/publications/epec_establishing_and_reforming_ppp_units_en.pdf)

<sup>2</sup> An example is the hubCo model in Scotland.

- *strengthened sector expertise* within the public sector to prepare, negotiate and manage projects more effectively. This can be important where public sector expertise is limited, especially at the procuring authority level, and more efficient deployment of such expertise is required;
- *development of effective programme-focused standard documents and methodologies*, this also helps to reduce costs, which can be spread over multiple projects, and improve transaction times;
- *more effective management of issues*, such as stakeholder engagement and access to sources of funding (such as EU Financial Instruments), that can benefit the programme as a whole;
- *better sharing of data and experience* across projects in the programme, such as the collection and sharing of cost data or feedback from the market on risk allocation issues. This can enable subsequent projects in the programme to be better designed and more efficiently and effectively procured; and
- *improved coordination and promotion across government*, a PPP programme can bring together different public sector entities who may sometimes have different objectives and priorities, such as central and local government bodies.

### 1.3. Purpose of the Report

This report is aimed at public procuring authorities and public decision-makers more generally. Its objective is to:

- set out the key features, benefits and challenges of PPP programmes; and
- promote the sharing of experience and good practice.

The number and range of PPP programmes has grown across the EU. Examples of note include Belgium (sports facilities), France (prisons), Greece (schools), the Netherlands (locks), UK (health, schools, street-lighting, waste) and Ireland (schools). A selected number of case studies (the 'Case Studies') from some of these countries are presented in the report and used to illustrate the features, benefits and challenges of PPP programmes.

### 1.4. EPEC Work Methodology

This report has been based on discussions with, and input from, EPEC members which have experience of developing, managing or being part of PPP programmes. The report also draws on publicly-available information.

## 1.5. Structure of the Report

This report examines the issues associated with PPP programmes through comment and analysis in the following three areas:

- Chapter 2 looks at the potential benefits of using a PPP programme approach;
- Chapter 3 identifies challenges that may arise and how these challenges may be handled; and
- Chapter 4 examines two different models to manage a PPP programme.

The Annex contains the Case Studies of five PPP programmes.

## **2. Features and Benefits of a PPP Programme Approach**

### **2.1. Background**

This Chapter examines how and why PPP programmes are used. To help illustrate the issues, references are made to examples drawn from the Case Studies that are described in further detail in the Annex.

Rather than preparing and implementing projects in a different way, many of the benefits of a PPP programme result from enhancing the activities that take place in each of the steps of the development cycle of an individual PPP project. Accordingly, at the end of this Chapter, a table provides a summary of where and how a PPP programme approach may benefit each of these steps during the project development process (using EPEC's Guidance to Guidance as the reference).<sup>3</sup>

### **2.2. Key Features of Establishing a PPP Programme**

Before establishing a PPP programme, an early assessment of the case for public investment in the sector concerned would usually have been made. Potential projects in the sector can be prioritised in terms of their socio-economic return on investment and their relevance to achieving policy objectives. The assessment might examine how potential projects within the sector fit, both with each other and with projects outside the sector that may be relevant (e.g. one project may be dependent on an existing project or required investment in another area). The assessment might also consider at a preliminary stage which of the identified projects may be suitable for delivering as PPPs. Further, this analysis would look at whether these projects could be best delivered by grouping such projects using, for example, a PPP programme approach.

If a PPP programme approach is considered relevant, the structure of the programme can then be developed. This would take into account the timing and sequencing of projects, the arrangements needed to manage the programme, the associated funding and the entities across government that will own or oversee the programme.

These preliminary elements are a necessary feature of establishing a successful programme helping to ensure that: (i) the economic rationale for the underlying projects in the future programme is clear (avoiding changes later on); (ii) that coordination of projects both across and around the sector is maximised; and (iii) that the applicability of a PPP approach for some or all of the projects in the sector is considered at an early stage.

As the PPP programme approach is developed further, criteria will often be established for selecting those projects that may best be delivered as PPPs. In some

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<sup>3</sup> See the EPEC Guide to Guidance : [www.eib.org/epec/resources/guide-to-guidance-en.pdf](http://www.eib.org/epec/resources/guide-to-guidance-en.pdf)

cases the programme may include both PPP and conventionally-procured projects for a sector, particularly where the nature of the investment may require a range of procurement approaches. This helps to avoid the procurement approach driving the project when it would ideally be the other way round. Box 1 provides an example that includes a schools investment programme where both PPPs (for new school buildings) and conventional projects (for IT and refurbishment) were included depending on the nature of the investment at the project level that was required.

The process of developing a PPP programme can also help to raise awareness of how a programme can address a particular issue in the sector. Examples would include the requirement for more effective asset management (such as better recording and monitoring of the condition of assets and subsequent long-term maintenance) or ensuring delivery of investment across the sector to meet a specific legislative requirement (e.g. EU requirements to reduce landfill for municipal solid waste therefore encouraging investment in waste processing facilities).

Case Study 1 provides an example of where new EU standards for street-lighting highlighted how the existing provision of public lighting was inadequate in England. From this, a significant investment requirement was identified. The PPP street-lighting programme helped to determine how PPPs could play a role in meeting the investment needed as a result of the new standards required for the sector overall.

### **Box 1: The LIFT and BSF Programmes in England**

#### **Local Improvement Finance Trusts (LIFT)**

The LIFT programme for primary and community healthcare is a nationally-sponsored policy delivered by Community Health Partnerships (CHP) that was established in England in 2000. CHP is an independent company, wholly owned by the Department of Health which in turn establishes joint ventures with local National Health Service (NHS) entities and private sector companies. These joint venture companies enter into agreements to build, own, maintain and operate primary and social care buildings which are then leased to healthcare providers such as doctors ('general practitioners'), dentists or social care practitioners.

The programme has proved very successful at delivering a substantial number of small projects as a form of a PPP whilst allowing future projects, not anticipated or clearly specified as part of the original deal, to be developed. Some key characteristics of the programme include local flexibility, such as the ability to choose how the supply chain is organised and value for money (VfM) assessed through extensive benchmarking and market testing coordinated at the national level.

#### **Building Schools for the Future (BSF)**

Established in 2003, BSF was the name of the programme which supported the implementation of a significant multi-annual schools investment until it was cancelled and later replaced by the Priority Schools Building programme in 2011. BSF had a dedicated team of specialists which included not only PPP skills (e.g. procurement, finance, legal) but also pedagogical specialists relevant to the programme. This helped to ensure a clear link between the procurement of a school's physical infrastructure and the ultimate aim of improving education outcomes. The BSF programme and delivery teams were provided with the necessary budget to deliver its extensive commitments.

Schools within the programme were delivered through a mechanism that involved establishing local education partnerships (LEPs) between a private sector partner, the local authority and BSF. The LEP vehicle used a nationally-approved model to procure school buildings, and associated services, with a focus on well-designed school buildings at reasonable cost within a given area. Significant time could be saved by: (i) standardising the procurement process for selecting the private sector LEP partner; (ii) standardising documentation; and (iii) pursuing one procurement for a number of projects. The programme proved successful in delivering a series of large value school building projects within a given local area, both conventionally (usually for IT investment) and as PPPs (usually for new buildings) depending on the VfM case.

Another feature of the programme was the significant effort devoted to the collection and analysis of data on school building construction, equipment and maintenance costs. This enabled the public sector to evaluate bids and negotiate contracts more effectively.

The key benefits from the BSF programme were: (i) the gradual reduction in procurement times and costs; (ii) the development of a sector-specialised public sector delivery body; (iii) the ability to implement a long-term strategic view of the investment required in the sector; and (iv) the flexibility to use PPP or other forms of procurement (e.g. for IT) where appropriate at the individual project level.

### 2.3. Assessment and Development of Market Interest

Developing strong competition for PPP projects is one of the key steps to ensuring that VfM is achieved. This can be a challenge where projects individually are too small or are too unfamiliar to the market to elicit market interest. A PPP programme can enhance engagement with the market in a number of ways, as described below.

*Assessing market appetite:* engaging with the market at a sector level can help to identify potential market constraints and assess the overall level of potential market interest. This avoids launching individual projects where the benefits of PPPs are unlikely to be realised. A PPP programme can help to ensure that this process is carried out more comprehensively than it might be for an individual project and that the benefits are shared across multiple projects. For example, the Flemish Sports Centres programme in Case Study 2 identified that sports centre refurbishment, as opposed to new build projects, were unlikely to be amenable to PPPs and would be better delivered in more traditional ways. This avoided launching certain projects in the first place that would have been unsuccessful if delivered as PPPs, saving time and improving credibility with the market.

Assessing the market at a programme level can ensure that the quality of the process is high, as it is likely to be carried out by sector specialists who can identify the key issues that need to be tested with the market. It may also encourage market assessment to be carried out well in advance of launching the procurement of individual projects so that market feedback is appropriately incorporated in the preparation and design of projects.

From the analysis above, a PPP programme approach can subsequently help to ensure that sector-wide actions (e.g. legislative changes) are taken to address market constraints. This can be more difficult on an individual project basis.

*Optimising the approach to risk in the sector:* a particular feature of market sounding will be assessment of the market appetite for the various project risks and the terms upon which they are allocated to the private sector to maximise VfM. Again, a programme approach can help to ensure that the public sector has a strong understanding of the risks relevant to the sector and how they might be allocated.

Case Study 4 on waste projects in England gives an example of a sector with complexity and specificities that called for a tailored sector-focused approach to procuring multiple projects. The programme approach led to the development of standard contract terms covering the risk allocation on issues such as technology risk.

*Managing the sector pipeline:* a PPP programme can facilitate the development of a clearly identified sequence or 'pipeline' of projects. This can ensure that individual projects go forward on a timetable which best matches the capacity of the public sector to manage the process and the capacity of the market to develop bids and implement the projects. Thus the number of competitors for each project can be maximised and better VfM achieved.

*Stimulating market capacity:* a well-articulated and transparent pipeline can help to raise the visibility of projects in the market and provide the incentive for potential bidders to make the necessary investment (e.g. staff training and recruitment) to prepare high-quality bids and implement projects. They might otherwise not do so if only a single project is expected to be procured. Such an approach can therefore encourage the development of newer, deeper supply capability and capacity.

This approach can be particularly useful for smaller projects that might on their own be unattractive to the market. Case Study 2 (sports centres in Flanders) and Box 1 (primary healthcare facilities in the UK) provide examples of relatively small projects that would have been relatively unattractive and therefore more difficult to procure individually.

## **2.4. Strengthened Sector Expertise**

A programme approach can allow the public sector to establish strong capacity and capability in the relevant sector to help ensure that projects are well prepared and contracted for on the right terms.

*Providing cost-effective technical support to projects:* a PPP programme can ensure that focused sector-specific expertise is available to support the preparation, procurement and implementation of individual projects to a high standard. This approach is likely to be more cost-effective than if such support is mobilised individually for separate projects. It can also improve bidder confidence that well prepared projects will be delivered to the market (helping to ensure strong competition), that the bidding process will be managed effectively and that subsequently those managing the contracts will be properly supported. Such expertise can often be difficult to find and potentially expensive for an individual project to bear.

Developing a pipeline of projects within a sector can also make it easier to attract the right individuals, providing opportunities for experts to work on a longer-term basis (i.e. the opportunity to work on a series of projects rather than on an *ad hoc* single project). This is especially relevant given that a common constraint for the public sector is to attract the right level of sector and PPP expertise.

Case Study 3 on French prisons provides an example of a multi-disciplinary team which was established at a programme level to benefit individual projects in the prisons sector. Case Study 4 on UK waste outlines a programme in a technically difficult area which benefitted from the central experience of the programme team in the form of sector-specific transactor support to projects.

*Improving the public sector's negotiating capability:* through a PPP programme, up-to-date knowledge of market conditions can be shared across projects. Information on current prices, contractual terms, risk mitigation measures, etc. relevant to the projects in the programme can strengthen the public sector's negotiating position.

A programme approach can also help to ensure that a consistent line is taken by the public sector across projects in the programme and avoid the private sector negotiating different procuring authorities down to the 'lowest common denominator'. This issue may also arise during the operational phase of a project in the event of a re-negotiation or a contractor defaulting, with an impact across several projects (and different public authorities) in the sector.

*Ensuring continuity between the procurement and operational stages:* the Netherlands locks programme described in Case Study 5 is expected to use experts already familiar with previous locks projects to help address problems which projects might face in the operational stages. Recycling of expertise through the project cycle can be a particularly powerful way to resource public authority contract management over the longer-term. This form of ongoing support was also available under the LIFT and BSF programmes (see Box 1) and with the waste programme teams in England (Case Study 4).

*Supporting the appointment and management of transaction consultants:* a programme team will not usually substitute for specialist transaction advisers. However, a capacity gap may still exist at the procuring authority level to identify, appoint and manage specialist advisers adequately. A programme approach can help with this process as the programme team will have a close understanding of the requirements and likely sources of expertise for the sector. Experience shows that consultants work more effectively when the client is well informed/prepared.<sup>4</sup>

*Quality control of projects using sector expertise:* a programme approach can also be used to introduce or enhance an effective quality control process, so that projects only reach the market once they are fully prepared and consistent with the sector-standard documentation. This provides assurance to the market that only bankable projects will progress to procurement and that public sector decision-making processes will be well managed. This helps to encourage the participation of high-quality bidders.

## **2.5. Effective Sector Documentation and Guidance**

A programme approach provides the opportunity to develop documentation and guidance material tailored for the benefit of projects within the programme.

*Preparing draft contract documentation and tender documents:* PPP programmes often involve the development of sector-specific standard tender and contract documents e.g. draft contracts, output specifications, notification letters. This can save time and cost for individual projects and lead to consistent and higher quality project documents benefitting from the expertise of the programme team. As the costs of preparing documents can be spread over an entire programme, it may also facilitate the engagement of high-quality advisers, especially where advisory budgets are constrained. However, as a number of programmes have experienced, this will usually involve up-front costs and time invested well ahead of the delivery of projects.

<sup>4</sup> See EPEC's report on 'Role and Use of Advisers' available at: [www.eib.org/epec/resources/publications/role\\_and\\_use\\_of\\_advisers\\_en.pdf](http://www.eib.org/epec/resources/publications/role_and_use_of_advisers_en.pdf)

Once these documents are in place however, project delivery is usually faster than the preparation and delivery of projects on an individual basis.

In Case Study 1 on street-lighting in England, the use of a sector-standard contract played a key role in the standardisation and therefore commoditisation of the sector. This led to the delivery of a significant number of projects in a sector which had previously seen little activity.

*Preparing other common delivery tools:* in addition to standardised project documents, a programme approach can also be used to establish sector-specific guidance material or prescribe ways to prepare and/or procure projects. In Case Study 2 in Flanders, the programme was able to deliver a series of sports centre projects in a similar way through centrally prescribing a common project preparation and procurement approach.

## **2.6. Improved Management of Issues**

A range of preparation and reporting issues will be common across all projects in a programme. A programme approach can provide the opportunity to handle such issues more efficiently and effectively than if done on an individual project basis.

*Managing policy and budgets related to the programme:* policy and budgetary issues can often arise during the preparation, procurement and implementation of a project. However, procuring authorities dealing with individual projects may be too distant from policy-makers to engage with them on such issues. For example, if changes in tax policy would have an impact on the sector (e.g. VAT treatment or landfill tax in the case of waste), a centralised programme approach can help policy-makers better understand the impact of any proposed changes. As shown in Case Study 4 in England, the programme team was able to alert the tax authorities regarding the impact of significant changes to the taxation system in the waste sector. They were able to provide the necessary analysis of impact so that the policy decision reflected the best-available evidence.

*Driving processes and documentation to a required standard:* allocating budgets on a programme basis can encourage projects within the programme to be prepared to a consistent level of performance and quality. Case Study 2 on the Flanders sports centres involved a mechanism to delay or even remove a project from the programme (and therefore the associated project funding) if it was not proceeding satisfactorily. Box 2 (PFI Credits) provides an example of a central government funding and approval mechanism that strengthened quality control processes, albeit across a number of specific sector programmes.

*Providing a coordinated approach to stakeholders and communications:* identifying and managing the wide range of stakeholders relevant to a project can be a significant task for an individual procuring authority. A PPP programme can help to ensure that this is carried out more efficiently and effectively so that stakeholder requirements are well understood, assessed and responded to.

A programme approach can also help to ensure that any positions and messages communicated on policy are consistent across the projects in the programme (e.g. on how projects may be prioritised). This can enhance transparency of decision-making and credibility of the individual projects within the programme.

*Managing the cumulative fiscal impact of projects:* a PPP programme can help provide a clearer picture for a ministry of finance on the long-term and cumulative impact of projects in the sector for fiscal, budgetary and statistical reporting purposes. Furthermore, by using common approaches and models, such as to risk allocation, a programme can help ensure consistency and clarity on how programmes are reported, for example for statistical purposes.

*Managing access to other forms of support:* if projects are presented as part of a programme and administered centrally, rather than individually, access to other forms of support can be improved. For example, in countries planning to combine EU funds and PPPs, national authorities may be able to develop a model that can work for the majority of projects. This can also streamline the application process for EU co-financing and improve familiarity with, and understanding of, the projects at the European Commission level. In Case Study 5 on Dutch locks, the programme manager expects to save considerable time and resources associated with the EU grant-making process by providing administration support centrally.

### **Box 2: Private Finance Initiative (PFI) credits**

'PFI credits' were introduced in 2000 as a mechanism in the UK to provide long-term funding support from central government for local authorities to promote PPP programmes in specific project sectors. The level of PFI credits available was announced every few years alongside the Government's overall spending plans. Funding was allocated by sector, thereby *de facto* creating sector-focused PPP programmes.

Projects wishing to access PFI credits had to meet certain conditions, such as compliance with the standard-form PPP contract and development of a business case and VfM analysis to a prescribed standard.

It was expected that the relevant line ministry's PPP unit would manage the programme for the relevant sub-sector and provide pre-screening for a project's funding allocations. A quality-control and approval body at central government level approved the allocation of funding to individual projects that met the specified criteria submitted by the relevant procuring authority.

A change of government in 2010, and therefore approach to departmental funding mechanisms, resulted in the discontinuation of PFI credits as a funding model.

## **2.7. Sharing of Data and Experience**

A significant benefit of using a programme can come from the opportunities for continuous improvement and creating the economy of scale to collect and assess sector information, such as cost data.

*Promoting and learning from other projects in the programme:* a PPP programme can provide an effective way for lessons and experience learned from one project to be quickly and effectively applied to subsequent projects in the programme. This can take place in a variety of ways: through improvements to project documentation (for example further refinement of key performance indicators based on experience of their application) or simply by the programme team being in a position to develop and apply its sector-specific experience gained on earlier projects to new projects. Approaches used as part of a PPP programme can also have wider benefits for the public sector by improving conventionally-procured projects (e.g. through enhanced understanding of sector risks).

Through the waste programme team in England (Case Study 4), significant transactor support was made available to projects and, through this, lessons from previous projects could be applied to new projects. The opportunity to learn from experience is also one of the driving forces behind the Dutch locks programme in Case Study 5, where much of the work is being prepared in-house with the explicit intention that the experience from developing early projects can be used for future projects.

*Setting out a programme-level methodology for data collection and assessment:* a key benefit of a programme approach is the ability to develop a comprehensive bank of data on costs (such as capital and operating costs), performance and survey-based condition of assets. The cost of collecting such information can be spread across the programme, whereas a single project may find it challenging to be able to bear such a cost, however useful the information.

Access to market-based information on costs can help a procuring authority establish a realistic assessment of the affordability of future projects in the programme, especially in cases where those specifying requirements may be unaware of the full cost implications. It can also enable a procuring authority to provide higher-quality information to bidders, interrogate bids more effectively and negotiate with bidders from a stronger position. Both the Dutch locks programme (Case Study 5) and the UK's previous Building Schools for the Future programme (see Box 1) used this approach to support their negotiations with the market and so improve VfM.

*Coordinating ongoing evaluation:* a programme approach can help provide the necessary impetus to evaluate projects *ex post* and thereby to improve them over time. By providing such a function at a programme level, projects can be compared more easily and cross-project issues can be identified and dealt with at the appropriate level.

As part of Case Study 1, Local Partnerships in the UK provided an operational review service for the street-lighting programme. This was not only to check that projects were performing as expected, and that the original proposed benefits were being realised, but also to determine how projects might be further improved or costs reduced. For more mature PPP markets, a focus on operational management and contract savings can be particularly relevant.<sup>5</sup>

## 2.8. Summary of Issues to Consider

To help summarise the key issues in this Chapter, the list below suggests a number of questions procuring authorities should ask themselves to help identify whether a PPP programme approach might be considered appropriate.

- Is investment at a sector level being considered?
- Is the sector investment requirement expected to involve a number of similar PPP projects?
- Is there a need to develop deeper sector expertise within the public sector?
- Is it expected that the projects will be procured by different authorities in need of sector support (e.g. for project preparation, procurement, management, quality assurance, stakeholder management and communications)?
- Is market capacity likely to be an issue due to the nature and/or size of the projects in the programme?

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<sup>5</sup> See EPEC's report on 'Managing PPPs during their contract life' available at: [www.eib.org/epec/resources/epec\\_managing\\_ppp\\_during\\_their\\_contract\\_life\\_en.pdf](http://www.eib.org/epec/resources/epec_managing_ppp_during_their_contract_life_en.pdf)

- Is there a need to develop and shape the market overall to respond to the sector investment requirement?
- Would competition for projects be enhanced by managing the flow of PPP projects to the market?
- Are policy or legislative changes likely to be needed for the sector as a whole to facilitate PPP projects?
- Are there a number of risk allocation issues (such as technology risk) that are likely to be common across the projects in the sector?
- Can the PPP projects lend themselves to some sector-specific standardisation of contract terms and documentation (and to pool the costs of doing so across these projects)?
- Is there the opportunity centrally to administer access to forms of support for PPP projects in the programme (e.g. access to EU funding)?
- Is there an opportunity to recycle relevant lessons, costs and other data from previous PPP projects and apply these to further projects in the programme?
- Is there a need to bring together a number of different public authorities who have an interest in the investment needs of the sector, but may have differing objectives and priorities?

The decision to use a programme approach will clearly be driven by a range of context-specific factors but the list above seeks to capture some of the various drivers that have been identified in programme approaches to date.

## 2.9. How PPP Programme Tools Support the Development of a Project

The following table summarises the various phases, stages and steps of the PPP project cycle, as defined in the EPEC Guide to Guidance, and how and where a PPP programme approach can assist or improve the project development process.

Phases	Stages	Steps	Examples of the potential benefits brought by a PPP programme approach
<b>1. Project identification</b>	1.1 - Project selection and definition	<ul style="list-style-type: none"> <li>- Identification</li> <li>- Output specifications</li> </ul>	<ul style="list-style-type: none"> <li>- Stronger justification for projects in the programme</li> <li>- Improved analytical basis for choosing a PPP option or conventional alternatives</li> </ul>
	1.2 - Assessment of the PPP option	<ul style="list-style-type: none"> <li>- Affordability</li> <li>- Risk allocation</li> <li>- Eurostat treatment</li> <li>- Bankability</li> <li>- Value for money</li> </ul>	<ul style="list-style-type: none"> <li>- Well-informed cost and finance assumptions for affordability, VfM and risk analyses</li> <li>- Experience-based assessments of bankability leading to a better market response</li> </ul>
<b>2. Detailed preparation</b>	2.1 - Getting organised	<ul style="list-style-type: none"> <li>- Project team</li> <li>- Advisory team</li> <li>- Plan and timetable</li> </ul>	<ul style="list-style-type: none"> <li>- Potential for a high-quality sector-specific team that may be unaffordable for a single project</li> <li>- Potential to develop standardised sector-specific approaches to project preparation to save money, time and improve quality by benefitting from previous project experience</li> <li>- Improve selection and management of consultants at the project level</li> </ul>
	2.2 - Before launching the tender	<ul style="list-style-type: none"> <li>- Further studies</li> <li>- Detailed PPP design</li> <li>- Procurement method</li> <li>- Bid evaluation criteria</li> <li>- Draft PPP contract</li> </ul>	<ul style="list-style-type: none"> <li>- Consistent procurement approach to the benefit of both the public and private sector</li> <li>- Development of standard evaluation criteria and contract terms</li> </ul>
<b>3. Procurement</b>	3.1 - Bidding process	<ul style="list-style-type: none"> <li>- Notice and prequalification</li> <li>- Invitation to tender</li> <li>- Interaction with bidders</li> <li>- Contract award</li> </ul>	<ul style="list-style-type: none"> <li>- Strong public sector procurement team based on knowledge of the market and other similar projects</li> <li>- Consistent approach based on experience and meeting key procurement milestones and deadlines</li> </ul>
	3.2 - PPP contract and financial close	<ul style="list-style-type: none"> <li>- Final PPP contract</li> <li>- Financial agreements</li> <li>- Financial close</li> </ul>	<ul style="list-style-type: none"> <li>- Consistent approach to assessing and approving departures (derogations) from standard terms</li> <li>- Ability to provide a strong negotiating team with experience of market terms/rates/prices</li> </ul>
<b>4. Project implementation</b>	4.1 - Contract management	<ul style="list-style-type: none"> <li>- Management responsibilities</li> <li>- Monitoring service outputs</li> <li>- Adjustments in the contract</li> <li>- Changes to the contract</li> <li>- Dispute resolution/termination</li> <li>- Asset maintenance</li> </ul>	<ul style="list-style-type: none"> <li>- Opportunity to provide sector-specific contract management support based on other similar projects</li> <li>- Opportunity to ensure consistency and coherency in approach to contract changes, disputes, re-negotiations or termination</li> <li>- Provision of high-quality expertise in the monitoring of performance and management of end-of-contract-life issues.</li> </ul>
	4.2 - <i>Ex post</i> evaluation	<ul style="list-style-type: none"> <li>- Institutional framework</li> <li>- Analytical framework</li> </ul>	<ul style="list-style-type: none"> <li>- Distribution of programme-wide information to inform project-level <i>ex-post</i> evaluation</li> <li>- Coordination of ongoing evaluation based on programme experience to ensure benefits are maximised</li> </ul>

### 3. Challenges of a PPP Programme Approach

#### 3.1. Background

Whilst programming approaches can bring benefits, establishing and implementing a PPP programme can present challenges in terms of mobilising the necessary resource, bringing together the appropriate stakeholders, ensuring the governance arrangements are effective and enabling its resources are used effectively.

#### 3.2. Key Challenges

The rationale for using a PPP programme needs to be clear. For example, if an experienced procuring authority already exists, then a PPP programme could be an unnecessary cost, or worse, an additional administrative obstacle. Conversely, a light-touch programming body in a sector where capacity is already weak will have limited impact. The central authority will therefore need to adapt its approach in order to get the best out of the programme. In this regard, a number of issues are useful to consider.

*Balancing local accountability/autonomy and programme control:* project-level ownership and autonomy can provide a strong motivation to work in the best interests of the project. It can help to ensure that issues at the local-level are well understood and responded to. However, this may conflict with programme-level activities such as collective engagement with the market, establishing common PPP contract terms and in the quality assurance of project preparation across the programme.

In some cases, programme tools (such as sector-specific standard documents and methodologies) have been developed but projects have not subsequently been rolled out as part of the programme. This can reflect a concern by individual procuring authorities that they may lose their independence although they may still choose to use some of the documents and methodologies available.

One approach to balance these issues is to share ownership of the programme between central (or those developing the programme) and local levels. Case Study 4 on the waste programme in England is an example of where a programme delivery body was established between the relevant central ministries and the local PPP delivery bodies, enabling the different owners of the programme to work together effectively.

*Establishing an appropriate governance structure for the programme delivery team:* as with any organisational structure, issues can arise if there is a lack of clarity on how the programme team is organised. In these cases, common programme/project management disciplines should be applied. A useful checklist in these circumstances is to ensure that: (i) roles; (ii) responsibilities; (iii) authorities; and (iv) accountabilities

of each member of the programme delivery team are clearly identified and understood by each member of the team from an early stage.

Appropriate governance arrangements are particularly important when bringing different government bodies together in a programme. Consideration needs to be given to such issues as which budgets will be used to fund the programme team and its work, how the programme team will work with the relevant procuring authorities, how will it be staffed (see below) and what approval powers, if any, it will have. Individual projects and the programme itself may also need to be linked, where necessary, to wider PPP policy requirements (e.g. on financing approaches, national level PPP contract terms and project approval processes). Central PPP Units can play an important role in helping to coordinate the establishment of the relevant delivery bodies.<sup>6</sup>

*Managing programme delivery expectations:* the authority establishing a programme may need to emphasise the importance of 'more work up-front means less work later' and manage the expectations of ministers and wider stakeholders. The preparation work as the team is assembled and programme-specific tools are developed may appear in the early stages to be slow and expensive. Ultimately, the flow of projects should be significantly faster as a result of these tools than would otherwise be the case. This requires regular communication with senior policy-makers, particularly in the early stages of the programme's development (this was the belief in the Dutch locks programme set out in Case Study 5).

*Structuring the programme team to deliver its core functions whilst responding to changes at the policy and project levels:* the programme will often be delivered over a number of years and within a wider policy environment. Such an environment can change substantially over the period as a result of elections, funding changes or policy priority changes (as happened with the two English Case Studies, 1 and 4). It is therefore important that the programme is reviewed regularly to maintain relevance and ensure the originally proposed benefits expected of the programme and its constituent projects are being realised.

*Determining the focus (and skills) of the programme management team and the areas for outsourcing to specialist advisers:* early work should be done to assess the nature of work that can be performed at a central level to support the individual projects within the programme and avoid duplication (as was achieved in the programme in Case Study 3 on the French prison sector). This is then used to identify the skills that need to be made available within the programme team or outsourced from specialist consultants at the programme level.

*Judging whether programme benefits come from high-level standard setting or hands-on project-level support:* the capacity and capability of the programme team needs to be matched to the needs of the programme. Smaller projects that are relatively similar and not too complicated could be delivered as a programme using standard documents but with a relatively arms-length approach between the programme team and the procuring authorities (see the street-lighting example in

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<sup>6</sup> See EPEC's publication 'Establishing and Reforming PPP Units' available at: [www.eib.org/epec/resources/publications/epec\\_establishing\\_and\\_reforming\\_ppp\\_units\\_en.pdf](http://www.eib.org/epec/resources/publications/epec_establishing_and_reforming_ppp_units_en.pdf)

Case Study 1). Conversely, complex projects, or those of a large size, may struggle to benefit from a PPP programme approach if transactor support is not made available by the programme at the project level. The relatively large and complex projects in the waste programme (Case Study 4) were provided with on-the-ground assistance by the programme team combined with the standard tools developed under the programme.

*Ensuring continued bidder interest over time:* as projects are delivered to the market under the programme, there may initially be a high level of market interest. However, it is not uncommon for the number of bidders for further projects in the programme to reduce over time as bidders specialise in particular sectors. While this can help to increase the quality of bids, the reduction in bidders can raise concerns of over-reliance of the programme on a limited bidder pool. One of the roles of the programme approach will therefore be developing and using strategies, such as pipeline management and careful design of bidder requirements, to help ensure that new sources of bidder interest are encouraged.

*Locking in obsolete practice:* it is important to ensure that the standardisation of documents and approaches does not prevent improvements to the programme being made and that the programme is able to respond to any changes in the market (such as advances in technology or new financing approaches). Periodic reviews of documents using experience from earlier projects and engagement with the market are necessary to ensure that the programme remains responsive to change.

*Impact of higher level project approval processes:* It may be important to consider wider project approval processes and how these may affect the programme level processes and authorities. For example, if individual projects are each required to have parliamentary-level approval, this may cut across the use of standardised approaches and/or quality control processes at the programme level. On the other hand, a programme approach may be able to provide comfort to such external approval bodies and therefore facilitate faster and more consistent treatment of projects.

### **3.3. Summary of Issues to Consider**

The following list summarises the issues that those considering a programme approach should consider in establishing and designing a programme.

- Is there a capacity gap and are there wider benefits (such as standardisation) that justify the additional costs of establishing and running a programme approach?
- Are the role and skills of the programme team appropriate to the capacity gaps that need to be addressed?
- Is it clear what skills are required in the core programme management team and which skills might be procured externally from specialist consultants?

- Is the focus of the programme clear e.g. is it primarily developing standardised approaches, providing specialist support, developing the pipeline, coordinating/shaping the market , or a combination of these)?
- Have the functions of the programme been considered in the light of any higher-level approval processes that may also be required?
- In designing the programme, has the importance and benefit of local ownership of projects been taken into account? Have ways to share ownership of the programme between central and local government levels been considered?
- Is there clarity around the roles and responsibilities of the programme team and its governance?
- Is the source of funding to support the programme team and its activities clear?
- Have the expectations of senior decision-makers been appropriately managed and aligned in terms of the timing and scope of the programme activities?
- Is there a mechanism in place to review the programme and ensure the continued relevance of its activities over time, including the review and updating of any standardised approaches?

These questions should help to identify potential pitfalls in establishing a programme and ensure that the rationale for the programme and its design are soundly based.

## 4. Potential PPP Programme Models

### 4.1. Identification of Models

This Chapter looks at the issues around organising and staffing the management of a PPP programme. To aid the analysis, two models can broadly be distinguished, although some overlap between them can be expected:

- a *'support model'* that involves the establishment of a source of specialised sector-specific expertise available to procuring authorities who remain responsible for the delivery of their projects; and
- a *'procure model'* that involves the establishment of a team tasked with, and accountable for, the delivery of the projects themselves within the programme.

### 4.2. Support Model

#### Outline

The 'support model' involves the programme team having limited direct responsibility for project delivery. It can involve developing a team with significant depth of sector expertise in order to provide the necessary programme tools. These tools can include the provision of sector-based, project-specific support such as guidance and expertise as well as transaction support. The English waste sector programme described in Case Study 4 is an example of a programme approach that has involved the establishment of a sector-focused project support capability.

This model can be useful in the case of relatively new sectors where procuring authorities are responsible for project delivery but require a central source of sector technical expertise. The extent of variation in projects across the programme and the nature of technical issues will determine the depth of expertise required to be developed within the programme team.

#### Typical activities of the programme team

While the support activities will be driven by the needs of the sector and the capacity issues to be addressed, the Case Studies highlight the following as typical areas of activity of the programme team:

- market engagement at a sector level;
- guidance on sector-specific issues, such as risk allocation;
- provision of guidance on complex issues, such as access to EU funds;
- sharing of key sector data;
- provision of transactor support to the individual projects; and/or
- provision of a helpdesk facility, including support for projects in operation.

## Staffing and governance

The staffing and associated location, structure and ownership of the programme management team are key to its effectiveness.

*Team of full-time dedicated staff:* given the importance of the sector focus, the core team is expected to have a specialised sector background drawing from across the public, and to the extent necessary, the private sector.

In order to attract and retain the specialist skills needed, the programme management team may require greater flexibility than available within existing public bodies to recruit specialists from the private sector. This issue has been addressed in some countries by using an agency structure which can often provide greater budgetary and operational autonomy than a programme unit that is part of a central or local government department.

*Drawing together relevant public sector bodies:* in order to help ensure effective use of the programme team, ownership and even funding of the programme team may involve both national and local bodies. England's Waste Infrastructure Delivery Programme (WIDP) delivery team (in Case Study 4) involved support from both the central line ministry, ministry of finance (HM Treasury) and the local government PPP body (Local Partnerships). This helped ensure that local government procuring authorities would recognise the WIDP team as a skilled and well-resourced source of support for their projects while also ensuring that project support was consistent with national policy requirements and priorities.

## Other issues to consider

The nature and extent of support provided needs to take account of, and work with, other sources of support that may be available. This, in turn, will determine the budgets required and the roles and responsibilities of the programme team.

*Identify and manage the funding sources for programme activities:* a programme can benefit from having a specific budget in place to support, at least, the activities of the programme as a whole, rather than for individual projects (e.g. to fund advisers to assist with developing programme-wide materials). This could be limited to coordinating and facilitating access to central sources of support. More usually, it can involve redeploying existing expertise within the line ministry that may have responsibility for the programme. Other models involve the secondment of experts to the programme team from other parts of government or procuring consultants to perform work of common benefit to projects within the programme.

*Clarify project roles and accountabilities:* it is important to clarify the responsibilities of the procuring authority and the programme support team in relation to the delivery of individual projects. In most cases, the procuring authority will approach the programme team for assistance at its own discretion, but there may be areas where the input of the programme support team is mandatory for certain activities in relation to project preparation.

In some cases the programme team may be responsible for coordinating and delegating certain tasks to other government bodies: Case Study 1 on English street-

lighting is an example where the programme team based in the line ministry delegated some aspects of specialist public sector support to the local authority PPP support body. The support body, in this case, provided project transaction support and some of the standardised documentation for the street-lighting sector.

*Range of tools to limit unnecessary project variation:* the team in the ‘support model’ will generally be able to provide detailed guidance on how successful projects should be structured in line with established terms for the sector. This reduces the risk of variations in project terms that may make them unattractive to the private sector, while also ensuring that procuring authorities’ requirements are fully met. Importantly, these terms may already be shown to be acceptable to the public and private sector based on previous projects in the programme.

### Summary

In summary, the ‘support model’ can be useful to consider if:

- responsibility for project delivery remains with the individual procuring authority;
- projects have sector-specific technical and policy issues;
- the sector is relatively new to individual procuring authorities;
- there are significant economies of scale and quality benefits from sector specialism;
- there is an opportunity or need to bring together relevant national and local-level bodies; and/or
- limited project-level preparation budgets are available.

## **4.3. Procure Model**

### Outline

The ‘procure model’ is likely to include many of the features of the ‘support model’ but will also include responsibility for procurement of the projects under the programme. Projects are prepared and procured to achieve the needs of the programme as a whole and its overall goals. Individual projects may therefore have their priorities adjusted or even be excluded if they do not meet the programme’s wider objectives. The project team is usually responsible for (or at least very closely involved in) the preparation and procurement of individual projects. Such a model can be resource-intensive and require significant funding and political commitment over a sustained period.

The ‘procure model’ is likely to operate in an environment where responsibility and associated authority for the sector is already centralised, such as a national government sector programme. In other cases, there may be a strong recognition across all levels of government that collecting and organising the necessary expertise to deliver complex projects in the sector is best done at a national level (while not interfering in a procuring authority’s autonomy in other areas). Case Study

3 from France illustrates a 'procure model' where an agency was established to deliver a national programme of prison projects on behalf of the Justice Ministry. The agency managed the full spectrum of tasks from identifying available land through to supervising the pre-feasibility and pre-design studies, procuring the PPP contracts, obtaining the necessary approvals from the Ministry and following-up construction works until completion.

Even where projects are transferred to local government bodies after financial close, there will usually be an ongoing legacy commitment on the part of the programme team to provide support on the grounds of their involvement in procuring the project. The team will understand the project structure and terms of the PPP contract and may also be in a position to provide broader sector support.

#### Potential activities of the programme team

The Case Studies highlight some of the typical core activities which include:

- dynamic prioritisation of projects;
- procurement of projects (which can involve a transfer of procurement responsibilities from other parts of government);
- development of project management tools;
- in-depth project-level transaction support; and
- ongoing support to projects in operation.

#### Staffing and governance

Given the degree of involvement in, and responsibilities for, project delivery, staffing and governance arrangements for the team will need to accommodate a wide range of activities with implications for how the necessary skills are organised and funded.

*Well-resourced programme team:* the 'procure model' requires a programme budget that can support close involvement of the programme team with projects throughout the preparation and procurement process. Depending on the delegation of authorities, this can also involve longer-term contract management responsibility. The team established in the Rijkswaterstaat to deliver the locks programme in the Netherlands (Case Study 5) is a good example of a multidisciplinary team that has brought together a range of specialist skills. These skills are organised in a matrix structure and drawn from within the public sector. The programme team is also able to work closely with other relevant specialist teams such as the Ministry of Finance's PPP Unit and the Rijkswaterstaat's own procurement department.

*Managing conflicts of interest:* the programme body will potentially act as both procurer and approver for the programme's projects. It is therefore ultimately accountable for the performance of the programme and underlying projects. To help ensure projects are scrutinised effectively and transparently, the programme is often overseen by an external group of experts. Alternatively, it may make use of a separate project approval board or introduce a strong external presence on any supervisory board.

### Other issues to consider

*Procuring only deliverable projects:* as the programme team is taking on responsibility for the delivery of projects, it needs to ensure that its resources are focused only on projects that are potentially capable of being successfully procured and meet the objectives of the programme. This will require rules that determine which projects are eligible to enter the programme. The implications of following these rules also need to be clear. For example, if standard terms and timetables are not followed, projects may not progress quickly or they may even be removed from the programme. In the Flanders sports centres programme (Case Study 2), there were clear rules of entry to the programme with an approval body reviewing the eligibility of projects for the programme. As projects followed similar procurement timetables, failure subsequently to meet key deadlines could mean removal of a project from that phase of the programme.

*Ensuring a project still meets local needs:* On the other hand, the programme team needs to ensure that it does not become too detached from those who originally sponsored the project and who will subsequently manage and use the project at the local level. If this happens, the project may not ultimately meet local needs (and lose local support) even if it might meet the programme's overall objectives. This means that any changes to the project made by the programme team, whilst it is procuring the project, should be acceptable to those who will have to manage the operational phase of the project or, more widely, use the assets and services being procured.

*Following existing approval stages/processes:* the programme team may need to follow additional processes, for example to quality-assure projects in line with wider requirements that apply across the public sector. This may be required to ensure that the programme itself is being delivered effectively. In the Dutch locks Case Study, the programme team applies the quality assurance gateway discipline (more widely used across government) so that only well-prepared projects progress to market. Wider approval processes may also help to ensure that any conflicts of interest between project preparation/approval and funding are overseen effectively.

### Summary

In summary, the 'procure model' can be useful to consider if:

- responsibility for the delivery of a programme of projects is (or can be) centralised within government;
- a clear pipeline of potential projects exists with similar characteristics;
- there is a need for specialised skills in project preparation;
- there is a concern about overall capacity to procure the programme's projects;
- there is an opportunity for standardising project delivery;
- strengthened quality control in project preparation and documentation is desired; and
- a central budget is available to cover programme activity costs and underlying funding requirements of projects.

## 5. Concluding Remarks

A PPP programme approach can be an effective way to unlock longer-term efficiencies and savings through economies of scale, higher quality standard documentation and reduced duplication. It can help to ensure that the public sector is equipped with strong and relevant sector capability to prepare, procure and manage projects. A programme also helps to ensure that a longer-term and greater strategic view is taken of investment in a sector. Many of the benefits of a PPP programme approach come from enhancing, not changing, the disciplines of standard PPP project preparation.

A PPP programme may need to cut across existing hierarchies within government and therefore the governance and funding arrangements require careful consideration: the programme may need to meet needs at a local authority level whilst un-locking benefits for the programme as a whole. At the same time, a PPP programme approach can be an effective way to bring together the relevant public sector bodies at different levels of government who share a common purpose in investing in a sector.

A programme may involve initial up-front costs such as recruiting and maintaining a core programme team and preparing sector-specific tools such as standard documentation. It may be necessary to manage expectations at the initial stages as programme capacity and tools are established, particularly with senior decision-makers. However, with increasing experience of PPP programme approaches, evidence of the longer-term benefits is also more readily available to justify such up-front effort and expenditure.

Programmes can be managed in different ways: some approaches involve the provision of a core body of sector expertise that procuring authorities can draw upon at their discretion. Other programmes involve much closer involvement and authority of the programme team in the procurement of projects: the choice will reflect the nature of the sector and responsibilities for the sector within government.

To date, programme approaches to help deliver PPP projects have worked well, 'joining-up' and enhancing public sector capability. This report has sought to highlight the importance of considering a programme approach when faced with delivering a long-term sector investment requirement together with the benefits of such an approach, as well as the challenges and associated mitigating factors, so that procuring authorities can deliver successful PPP programmes.

## Annex

### Case Study 1 – Street-lighting (England)

#### Background

Prior to 1998, street-lighting management was operated on an incremental/reactive basis by individual local authorities with little or no central involvement. Through an initial evaluation by the Department (Ministry) for Transport with potential private sector participants and local

authorities, evidence emerged that there was likely to be both local authority demand for, and market interest in, financing and managing street-lighting projects using a PPP structure. This was driven by new EU regulations in 2000, an ageing asset base and emerging technology which offered both energy savings and better performance. Initial analysis suggested such projects were relatively easy to deliver with a high cost-benefit ratio. In particular, the performance characteristics, i.e. light quality, are relatively easy to measure and deliver through a long-term performance-based contractual structure.

These projects were being held back through a combination of their low profile and limited access to funding and finance. Often, those managing street-lighting assets at local authority level were not in a position to take a long-term view and make suggestions for improvements or efficiencies. There was therefore some benefit from a more central body within government raising the profile of street-lighting with its important social benefits (crime reduction for example), highlighting its potential for delivery through a long-term performance-based contract structure outsourced to private sector providers and standardising the approach to improvement (for which the sector was well suited).

Central government was able to provide a source of funding to kick-start the programme. It was then able, as a result, to present to the market a potentially significant pipeline of projects where the project financing needs and risk allocation were likely to be well received by the market. This coincided with the availability of a new funding mechanism which allowed local authorities to think longer-term about relatively large capital projects that would previously have been out of their budgetary reach (see Box 2 in Chapter 2 on PFI credits).

#### Programme implementation

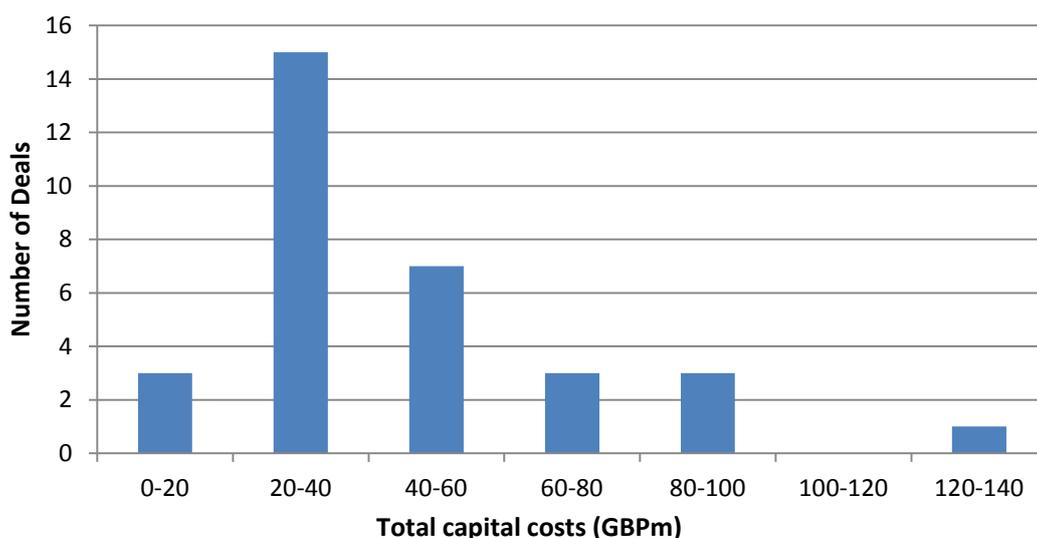
The Department for Transport therefore established 'ground-rules' for accessing the funding and how the projects might be structured. It then began to approach the market through discussions with potential sponsors. It was supported in this by

#### **Case Study Highlights**

- large number of projects delivered
- local projects with national oversight
- dedicated budget for PPPs
- high level of standardisation

England's local authority PPP support body, 4Ps (now Local Partnerships), which had already carried out much of the detailed project preparation work with local authorities and had started to use that experience to adapt central guidance, such as the development of a street-lighting procurement pack.<sup>7</sup> This included a street-lighting sector-specific standard contract adapted from the national standard PPP contract (SOPC4 at the time) used for all English PFI projects. No formal relationship was set up between these bodies but a core set of staff existed within both bodies to support the street-lighting programme.

**Figure 1: UK Street-lighting Deals by Capital Value (1998-2011)**



Source: HM Treasury<sup>8</sup>

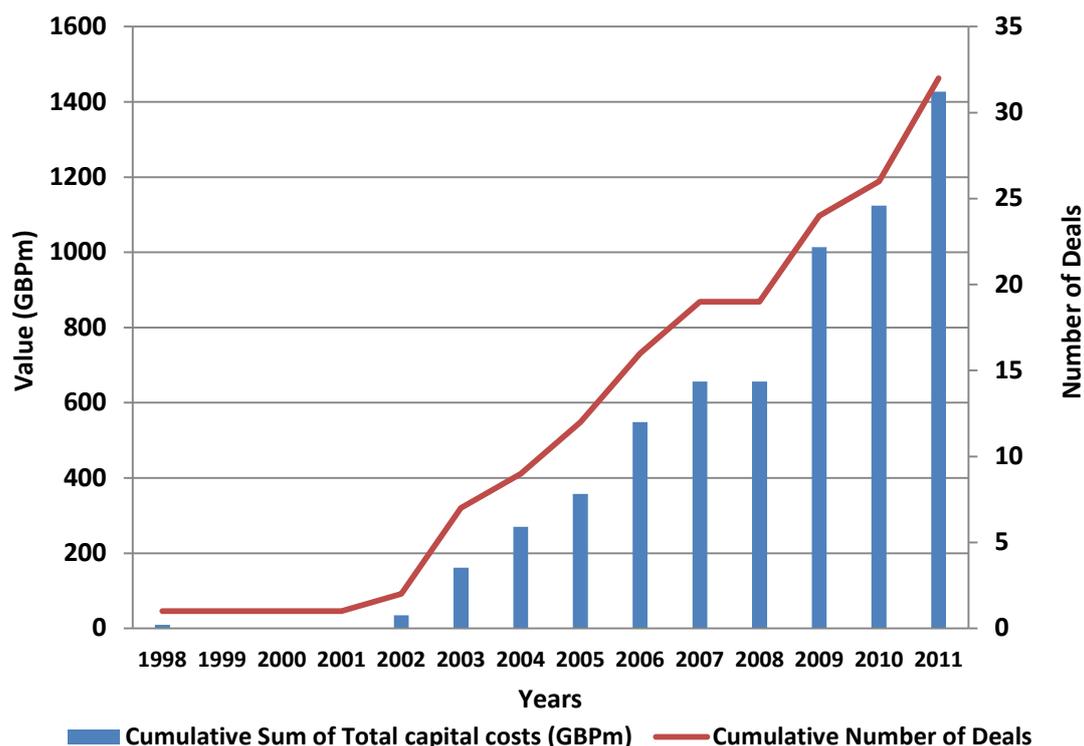
Figure 1 illustrates the capital value of schemes in the programme between 1998 and 2011. The first PPP project was signed in 1998 by the London Borough of Brent, a residential and industrial area in north-west London. This was a relatively small project with a capital value of GBP 9.4 million. The largest, and one of the most recent projects, was Hampshire street-lighting with a capital value of GBP 126 million which reached financial close in 2011. This covered the street-lighting needs for a whole county, involving the replacement of half the street-lighting columns and updating the other half over a five-year period. As the programme developed, the Department for Transport began to group projects into similar time periods of procurement in order to share experiences at similar stages of project preparation. They also sought to incentivise projects to maintain momentum as they could have their funding withdrawn or delayed if sufficient progress was not made.

<sup>7</sup> See [www.localpartnerships.org.uk](http://www.localpartnerships.org.uk) and [www.affinix.com/lppp/](http://www.affinix.com/lppp/) (registration required). Scotland produced a similar procurement pack which also contains case studies from the English street-lighting programme, see [www.scottishfuturetrust.org.uk/files/publications/Street\\_Lighting\\_Toolkit.pdf](http://www.scottishfuturetrust.org.uk/files/publications/Street_Lighting_Toolkit.pdf)

<sup>8</sup> See [webarchive.nationalarchives.gov.uk/20130129110402/http://www.hm-treasury.gov.uk/ppp\\_pfi\\_stats.htm](http://webarchive.nationalarchives.gov.uk/20130129110402/http://www.hm-treasury.gov.uk/ppp_pfi_stats.htm)

Like most UK PFI PPPs, the typical contract period for these deals was 25 years. They were classified as off-balance sheet under UK GAAP and ESA 95.<sup>9</sup> Since the PFI credits system, which supported the schemes, has been withdrawn, the pipeline for future projects has slowed considerably. To date, over 30 projects have been signed with a capital value of over GBP 1.4 billion (see Figure 2 for progress of the programme over time).

**Figure 2: UK Street-lighting deals (1998-2011)**



Source: HM Treasury

### Lessons learned

Lessons learned from this programme approach include:

- *sector-specific standard contracts may need to be developed and can bring benefits*: although Procuring Authorities were keen to use England's Standard PFI Contract (SOPC), this was not found to be suitable in all respects for street-lighting projects, so a sector-specific (based on SOPC principles) contract was developed;
- *central approval increases project credibility*: approval by central government (Department for Transport and subsequently HM Treasury (the Ministry of Finance)) was valued in the market and gave projects additional credibility;

<sup>9</sup> For accounting purposes, these projects are now classified as on balance sheet under IFRS (used for accounting purposes in the UK but not for budgeting or statistics).

- *a pro-active financing strategy helps to deliver a project pipeline more effectively:* the Department for Transport did not initially approach potential lenders. Were it to embark on a similar programme of PPP procurement, it would now do so, to enable it to react more effectively to market changes and changes in the wider economic environment;
- *market engagement should be seen as an ongoing process:* although the quality of the contractors and lenders improved over time as a result of a smaller number of bidders specialising in the sector, there was a concern that such a concentration could limit competition in bidding for projects. If the programme had continued, the Department for Transport recognised it would have needed to consider a strategy to encourage additional bidders into the market (again this type of activity lends itself well to having a programme that can better take such a strategic approach);
- *lessons from PPP programmes can be usefully transferred to conventional projects:* the lessons of better up-front street-lighting project preparation and the coordination of some of that activity at central level fed through to an improvement in conventional procurement in the transport sector more generally;
- *local-level accountability needs to be maintained:* although a difficult issue for a programming authority to manage, accountability and decision-making needed to be maintained at the local level if project improvements and savings were to be generated during the operational phase of the project, especially given the local government nature of the street-lighting sector;
- *a programme approach can lead to improvements in procurement times and costs:* although it is difficult to be absolute as to the effectiveness of the street-lighting programme in this respect, street-lighting projects experienced reductions in procurement times, from three years to 18 months, as the programme developed. In addition, the price per deal increased by less than inflation, suggesting that efficiencies were being generated. It also became clear over time that the programme approach stimulated innovation to the extent that the design of projects improved in areas such as energy efficiency savings and central management systems.

## Case Study 2 – Sports Infrastructure (Flanders)

### Background

A study carried out by the Flemish authorities indicated that there was a large shortage of sports infrastructure across Flanders. However, as this was largely a matter devolved to local authorities, a mechanism had to be found to incentivise local authorities to invest in sports facilities. A sports infrastructure plan was therefore developed to use PPPs as a way to catch-up with the perceived backlog of investment. The plan targeted EUR 225 million of investment to meet 35% of the estimated requirement.

### Case Study Highlights

- centralised funding to drive investment through PPPs
- local projects procured jointly at national level
- selective standardisation
- strong cooperation between key stakeholders

### Programme implementation

The Flemish Government therefore took a programme approach to address this investment gap with the following key features:

- *centralised funding*: a maximum of 30% of the availability fee paid by local authorities was subsidised by the Flemish Government. This brought a strong incentive for local authorities to implement projects which they otherwise might not have had sufficient resources to procure;
- *joint procurement*: the projects were grouped as clusters of different types of infrastructure (e.g. artificial pitches, sports halls). Via joint procurement, a cluster of several (individual) projects was competitively tendered. For each cluster, a partner was selected and a special purpose vehicle (SPV) was established. If the price offered by the partner was higher than the initial price suggested by Government at the outset, individual authorities could remove themselves from the process. If not, authorities could only step out of the procurement by paying a penalty to the Government. This offered comfort to the bidders that these projects would reach financial close in a timely fashion;
- *centralised preparation of documentation*: the Flemish Government prepared tender documentation and acted as the procuring authority. This saved resources by preparing one set of documentation for all projects. It also harmonised the approach and gave clarity to potential bidders, reducing the potential for problems in procurement and negotiation;
- *standardisation where possible*: to enable a more straightforward procurement and construction process, the programme sought to impose standard output specifications whilst allowing variations in individual design at a local level; and
- *coordinated approach of the key players*: the programme was set up as a cooperation between the Department of Culture, Youth, Sport and Media,

the Flemish PPP Unit, BLOSO (sport administrators), PMV (an investment company owned by the Flemish Government focusing on investing in Flemish infrastructure) and, of course, the local authorities.

Local authorities were invited to participate in the programme in 2007 by making an application to the Flemish Government. An advisory committee was established to filter the applications on the basis of:

- real need and demonstrable VfM;
- 'non-exclusive use' to make sure that the facilities were multi-use;
- 'accessibility to all' so that the facilities were widely available;
- 'deliverability by late 2011' so that the projects needed to be delivered quickly; and
- a 'balanced geographical spread' so that a wide area of Flanders would be able to access improved facilities.

The intention of the programme was to cluster projects to promote economies of scale benefits and raise awareness of the projects in a way that would not be possible on an individual project basis. The advisory committee therefore selected more than the required number of projects in order to enable clustering and remove projects that were not progressing sufficiently quickly. The programme contained clusters for artificial pitches and sports halls as well as individual contracts for swimming pools and multi-purpose sports halls.

The projects were structured as design-build-finance-maintain (DBFM) contracts for the artificial pitches, sports halls and swimming pools, and as design-build-finance-maintain-operate (DBFMO) contracts for the multi-purpose sports halls. The contract term selected for the artificial pitches projects was 10 years (therefore no replacement was considered within the contract life). A contract term of 30 years was adopted for the other projects, which were procured using the negotiated procedure. The programme team found that bids offered more value than expected: they were either cheaper or better quality than specified in the tender (mainly in the case of the artificial pitches). Local-level negotiations were conducted on individual design and minor price issues.

### Lessons learned

Lessons learnt from this programme approach include:

- *a programme approach helps to achieve improved VfM*: both quality and price offered by bidders in the Flemish programme were better than anticipated in the tender documentation;
- *the time between the call for interest for local authorities to enter the programme and the procurement of projects should be as short as possible*: once interest in the programme had been stimulated, it was important to maintain momentum of the process in the programme;
- *the level of devolution needs to be carefully balanced and clustering of projects can be difficult*: some central control was essential to deliver a

consistent approach and economies of scale. This needed to be balanced with local accountability for the project in view of the fact that local authorities were close to many of the important project stakeholders (users in particular). Also they wanted to retain some control over how projects were developed as they would be responsible for managing the contracts over their lifetime;

- *a programme approach may often be more suited to new build*: renovation of existing infrastructure required more individual solutions and therefore were difficult to standardise and group with other projects in terms of timing and documentation; and
- *some types of infrastructure are more amenable to a programme approach than others*: whereas the artificial pitches were easy to procure, the bigger sports halls and swimming pools had to be more tailored to the requirements of individual local authorities and required more time to procure and negotiate.

For a number of reasons related to the lessons learned above, not all the projects anticipated at the beginning of the programme were delivered. Nonetheless the Flemish Government still successfully delivered 35 sports pitches, 9 sports halls and a multi-function sports centre through its innovative PPP programme.

## Case Study 3 – Prisons (France)

### Background

By the early 2000s France had accumulated a significant backlog in the maintenance, modernisation and expansion of its detention facilities. This backlog was due to a number of factors including persistent increases in the prison population over time, new European standards and the existing prison stock coming to the end of its asset life. Therefore in 2002, the Ministry of Justice decided to launch a

large investment programme supported by a dedicated budget of EUR 3.65 billion to build 13,200 new prison places and refurbish part of the existing ones. This programme would be a mix of PPP and conventional approaches.

The French Parliament voted through the so-called 'Law for Organising and Programming the Justice system' (LOPJ) which stated, among other issues, that the building programme would also outline and give specific rights to the Ministry of Justice. Derogations from the existing legal framework were included in order to:

- enable expropriation in acquiring the necessary land for construction;
- outsource to the private sector wherever possible, excluding custody arrangements and the administrative management of prisoners; and
- adapt the current rules regarding the mandatory use of public procurement for design and works and, therefore, be allowed to utilise a PPP approach if appropriate.

A number of motivations were publicised for using PPPs to upgrade French prisons, including:

- a good track record in using PPPs in the field of justice (a first initiative had been successful in the mid'80s - the so-called 'Chalandon Plan');
- the need to act quickly, and at a large scale, while containing growth in the number of civil servants;
- the technical complexity of some of the projects being proposed;
- an interest in looking for an optimal risk allocation between public and private stakeholders; and
- the need to speed-up the promotion of a performance culture within the public sector by working alongside the private sector.

### **Case Study Highlights**

- agency created to deliver the programme
- strong programme team with public and private experience
- mix of PPP and non-PPP approaches
- agency did both the preparation and procurement of projects

## Programme implementation

The implementation of this ambitious programme was entrusted to a dedicated public body called the 'Public Agency for Justice Real Estate' (APIJ). APIJ acted as an agent for the Ministry of Justice by managing the full spectrum of tasks such as: identifying available land, supervising the pre-feasibility and pre-design studies, procuring the PPP contracts, obtaining the necessary approvals from the Ministry of Justice and following up construction works until completion.

To meet its objectives, APIJ hired both public and private sector experts and built a multidisciplinary team which included architects, engineers, urban-planners, lawyers and, as appropriate, external advisers. The team was allocated to specific projects supported by a cross-cutting programme management team which coordinated the programme and shared best practice. Therefore the team was responsible not only for supporting the PPP procurement approach but also much of the pre-procurement project preparation work.

Due to the expertise it brought in and the central role it played, APIJ was able to streamline the procurement and delivery processes such as:

- harmonised measurement of performance outputs;
- optimal risk allocation to achieve best VfM; and
- contract drafting which covered common public sector issues.

Once projects were in operation, responsibility was transferred to the Ministry of Justice's Prison Department, which was then tasked with ensuring contracts were managed efficiently at the local level.<sup>10</sup>

Figure 3 below sets out the details of the programme which organised the procurement of 10 prisons into three lots from across France. Each lot was procured as a single contract using competitive dialogue which lasted 20 months on average. Competition is seen to have been maintained as each contract saw at least three consortia bidding.

As regards the legal framework, the earlier lots used the 'Temporary Occupation Allowance - Lease with an Option to Buy' (AOT-LOA) contract. This was subsequently replaced by the more advanced and versatile *Contrat de Partenariat* (CP) which was introduced into the French legal framework in 2004. This was because the AOT-LOA scheme did not allow the inclusion of some soft services within the contract which meant that, in addition to the core responsibilities of designing, financing, and building the assets, the contracts for lots 1 and 2 only covered maintenance, cleaning, energy and water. The CP scheme used for lot 3 offered additional flexibility to include a wider range of soft services (e.g. catering for prison officers and prisoners, vocational training, prison shops and the transfer of prisoners to courts or other prisons).

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<sup>10</sup> The Prison Department's approach is set in more detail in the EPEC report on the management of operational PPPs. See [www.eib.org/epec/resources/epec\\_managing\\_ppp\\_during\\_their\\_contract\\_life\\_en.pdf](http://www.eib.org/epec/resources/epec_managing_ppp_during_their_contract_life_en.pdf)

All contracts were procured for a duration of 30 years (including both the construction and operational phases). In addition, although it was not mandatory for the AOT-LOA contracts, all the contracts were subject to an *ex-ante* assessment aimed at demonstrating they were delivering VfM.

**Figure 3 – PPP lots within the ‘13,200 Prison Places Programme’**

Contracts	Outputs	Legal basis	Date of signature	Value of works (EUR million)
Lot 1	4 prisons - 2,800 places	AOT-LOA	2006	297
Lot 2	3 prisons - 1,700 places	AOT-LOA	2006	205
Lot 3	3 prisons - 2,000 places	<i>Contrat de Partenariat</i>	2008	312

### Lessons learned

In 2010-2011, the programme was subject to a comprehensive review from the French national audit body. In this case study, a summary of their observations is provided, together with the feedback from stakeholders that had been operationally involved in the management of the programme. Areas for potential improvement, where they had a relevance to the programme approach, are also highlighted:

- *by learning from the good and bad experience of previous projects a programme approach can lead to shorter procurement times:* the length of procurement through competitive dialogue was more than counterbalanced by the shorter construction periods delivered by the private partner. However, the review argues that with the programme approach, the competitive dialogue phase could have been managed more proactively by APIJ to reduce procurement times and costs further (e.g. removing weaker bids from the process at an earlier stage, and managing the phasing of projects within the programme more effectively);
- *an effective and ongoing system of programme evaluation can ensure that lessons are learned for future projects:* it was observed that services to staff and prisoners in particular would have benefited from being re-tendered more frequently than was predicted when the programme was designed. As a further example, the approach to forecasting maintenance could also have been improved for future contracts. This would have ensured that the maintenance planning document drafted by APIJ, and contained in the contract, was better fit for purpose;
- *the collection of data at programme level can help inform decisions on future projects in the programme:* the programme approach could have been used further to collect data to feed decision-making about the best solution for future projects in terms of public service delivery and negotiation with the market. This could also help to inform an *ex-post* evaluation of the outcome of a representative sample of fully publicly-managed prisons in comparison with

those procured as PPPs. At the project level it could also improve the accuracy of future *ex-ante* VfM evaluations;

- *a programme approach can help to strengthen the capacity of the public sector in the operational phase of projects:* management of the PPP contract by the public authority was judged to be essential in demonstrating that VfM had been achieved over the lifetime of the contract. For example, the programme approach could provide further opportunity for training at the local level and support of local contract managers by the dedicated programme unit. This would limit the risk of local contract managers failing to enforce the contract effectively or to deal with authority requested changes;
- *if they are taking responsibility for procuring projects, programme managers need to ensure they have sufficient resources to simultaneously handle key phases across multiple projects:* completion by the private sector and acceptance of the new assets by the public sector are key milestones in the contract life. In the review it was considered that APIJ, through the programme approach, could have further coordinated and formalised approaches to handling these critical phases; and
- *a programme approach, where there is a single point of contact, can facilitate the dissemination of good practice and ensure it is implemented effectively across future national programmes:* in order to leverage the experience from around the world, the opportunity was identified to share good practice with other countries that have also used PPPs for their prison programmes. This would have enabled a better use of the experience gained from prison projects in other markets.

The overall success of this first PPP prisons programme was widely recognised. In 2008, the French Government decided to launch a new PPP initiative to address the continuing need for prison capacity. Figure 4 below sets out the characteristics of the subsequent set of contracts. The original programme's success also meant that the PPP approach has since been extended to other buildings in the justice sector, such as court buildings.

**Figure 4 - Content of the 2008 prison programme**

Contracts	Outputs	Legal basis	Date of signature	Value of works (EUR million)
Lot A	3 prisons - 1,600 places	<i>Contrat de partenariat</i>	2012	320
Lot B	1 prison - 600 places	<i>Contrat de partenariat</i>	2012	90

## Case Study 4 – Waste (England)

### Background<sup>11</sup>

The Department for Environment, Food and Rural Affairs (DEFRA) developed a PPP programme for municipal waste treatment in response to the introduction of the EU Landfill Directive of 1999. The Directive set targets for each Member State to reduce the amount of biodegradable municipal waste sent to landfill by 2020 with infraction penalties if these are not met. In the Government's analysis of UK recycling and waste levels, it was estimated that there were over six mega-tonnes per annum of treatment capacity required if the targets were to be met.

#### Case Study Highlights

- successful in delivering projects to meet EU Directive timeline
- agency brought local and national players together
- programme used transactors to support individual projects
- soft control of technical solutions proposed at local level

Given the time required and the scale and risks of the challenge set by the Directive, it was believed that the private sector could play an important role in helping to deliver the programme of investment. Technology risk is a key feature of this sector and VfM was expected from transferring this (and other) risks to private sector providers. DEFRA secured funding from HM Treasury and, in 2006, established a programme delivery unit dedicated to supporting the delivery of the Waste Infrastructure Delivery Programme (WIDP).

### Programme implementation

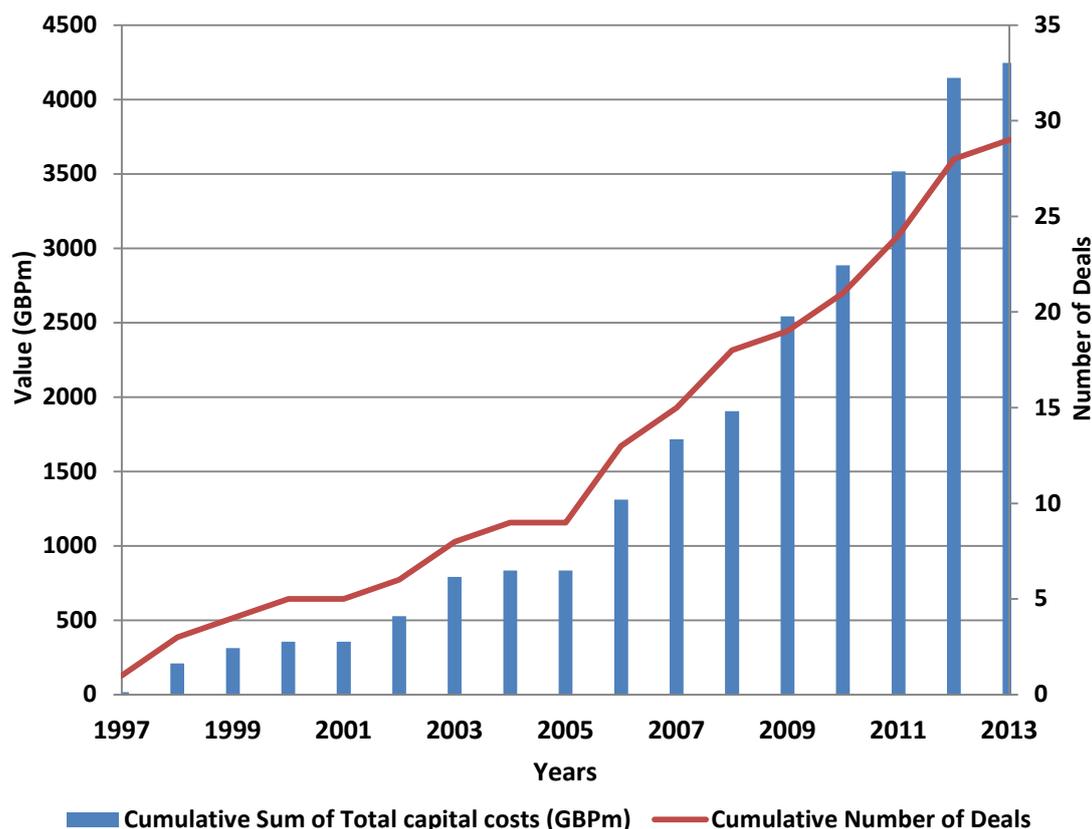
Key implementation features of WIDP included:

- *coordination of different public bodies*: WIDP and its programme unit brought together the resources and roles of DEFRA, Partnerships UK (later Infrastructure UK, a unit within HM Treasury) and Local Partnerships (itself a partnership between HM Treasury and the Local Government Association which represents local authorities);
- *project funding* through a funding allocation process to approved projects which resulted in around GBP 2 billion of support for 29 projects (equating to over GBP 4 billion of support when adjusted for inflation over the lifetime of the projects). Figure 5 illustrates the steady rise in projects over time;
- *information sharing* on other PPP projects (both in the waste sector and more widely) to ensure sharing of best practice in the preparation, application and contracting process and the benchmarking of key market prices;
- *provision of dedicated ‘transactors’* to give guidance and support to individual authorities on their projects (both PPP and non-PPP) throughout the procurement process and in the operational phase; and

<sup>11</sup> See [www.localpartnerships.org.uk/our-work/infrastructure/end-of-landfill](http://www.localpartnerships.org.uk/our-work/infrastructure/end-of-landfill)

- *generic guidance and standardised documentation* for waste infrastructure projects, including a standard contract. A procurement pack was developed for waste projects comprising eight modules: planning, options appraisal, project governance, prudential borrowing, output specification, payment mechanism, project agreement and joint working.<sup>12</sup>

**Figure 5: UK waste PPP deals (1997-2013)**



Source: HM Treasury<sup>13</sup>

WIDP transactor support was made available through the signing of a memorandum of understanding between the local authority procuring the project and the WIDP programme unit. Under this arrangement, transactors were made available free to local authorities for an agreed period of time to supplement skills available within the authority. Areas where transactors (who were usually part of the WIDP programme team) typically provided support included:

- procurement;
- contract management;
- governance/quality assurance;

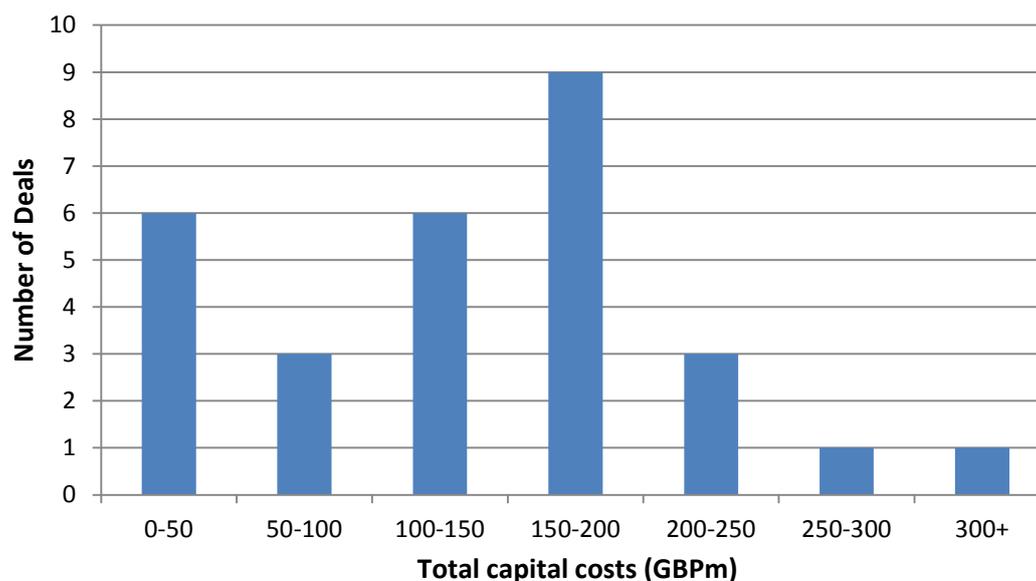
<sup>12</sup> See <http://www.affinix.com/lppp/> (registration required)

<sup>13</sup> See [webarchive.nationalarchives.gov.uk/20130129110402/http://www.hm-treasury.gov.uk/ppp\\_pfi\\_stats.htm](http://webarchive.nationalarchives.gov.uk/20130129110402/http://www.hm-treasury.gov.uk/ppp_pfi_stats.htm)

- sector knowledge, including waste treatment technology options;
- finance knowledge;
- project finance;
- planning applications;
- negotiations;
- project management;
- liaison with central government;
- contacts with industry;
- DEFRA policy;
- multi-authority projects; and
- policy issues.

The procurement of projects was structured in different funding rounds in order to manage private sector capacity for what were quite large projects by capital value (see Figure 6). However, this proved more difficult to maintain with the significant differences that existed between the projects, such as the procurement times involved, so that projects progressed at different speeds at key project phases. Contracting was managed by the local authorities. Due to the complexities of the sector (e.g. obtaining local planning permission for the waste treatment site), waste projects in general can take up to 10 years from pre-procurement through to construction (i.e. going through planning, business case development and procurement).

**Figure 6: UK waste PPP deals by capital value (1997-2013)**



Source: HM Treasury

The WIDP unit also provided significant support post contract signature to check that projects met their objectives and local authorities had the support they needed. In particular the unit:

- provided strong guidance and support to local authorities through methods such as contract management guidance and a VfM reporting system;
- ensured projects followed best practice using approaches such as contract management review;
- assisted local authorities in developing in-house capacity through the provision of training courses and network events;
- optimised/maintained the public/private contract relationship by intervening in projects where necessary and operational savings reviews; and
- collected and synthesised data from local authorities.

### Lessons learned

Although a formal programme evaluation is still due, the following would appear to be some of the key lessons learned from the waste programme:

- *a programme approach can help to address capacity issues particularly where complex projects demand more support:* the complexity and novelty of many of the waste projects often presented capacity challenges for local authorities. The dedicated sector-specific support provided by WIDP was therefore able to ensure that authorities had ready access to capacity and capability to supplement their own resources;
- *programmes can help to encourage collaboration and grouping of need:* the collaboration between different local authorities ensured that project sizes were sufficient to generate economies of scale and quicker, more efficient, delivery of infrastructure. A central support body like the WIDP unit was able to help facilitate this;
- *a programme unit can also support a consistent and bankable approach to key project risks:* in the case of the waste projects, the choice of the processing technology was important, but the chosen solution needed to be bankable. The WIDP unit enabled local authorities to interrogate technical solutions and avoid taking projects to market with untested, and therefore un-bankable, technologies;
- *programmes should help to improve communications with, and management of, key stakeholders:* locally driven planning issues and concerns over methods to dispose of waste, such as incineration, can cause considerable delays in procurement. Effective communications both locally and nationally are required to mitigate concerns that are raised. The programme could have made more of an effort at a national level to raise awareness of the benefits of the waste programme as a whole and allay the wider non-project specific concerns of, for example, NGOs;
- *programmes can be effective in managing the project pipeline and encouraging market development:* managing the pipeline of projects and

providing a predictable deal-flow can help to ensure that private sector capacity is more effectively managed and incentivised than it might otherwise be. This can include a market management action plan focused on the deliverability of the programme as a whole, rather than on piecemeal funding of projects. WIDP did this by organising funding in rounds and prioritising projects within the overall programme according to impact and deliverability. The WIDP unit also provided forward-looking information to the market on the development of the programme;

- *programmes can be used to help provide greater certainty of funding:* The provision of central government funding for such a complex sector (through PFI credits), with resources to support projects during procurement, incentivised local authorities to participate, work together and conform to certain standards, such as using sector-specific standard contract terms; and
  
- *a programme approach can encourage the provision of support throughout the project cycle:* WIDP provides support to local authorities in monitoring projects in operation and managing the PPP contracts. This ensures that the original objectives of the project are delivered, that they are supported in generating further efficiencies and savings, and that these lessons are shared between other projects in the programme.

WIDP has largely delivered most of the projects that are required to meet the 2020 landfill targets. The fiscal situation in the UK also resulted in revisions to landfill projections and a reduction in the amount of infrastructure ultimately required. With the number of projects being centrally supported now reduced, WIDP's work is now primarily focused on supporting the operational phase of projects.

## Case Study 5 – Locks (Netherlands)

### Background

The Ministry of Infrastructure and the Environment (the Ministry) is responsible for ensuring that the building and maintenance of infrastructure meets policy objectives in the Netherlands. This includes the continued development of the network of inland waterways.<sup>14</sup> These priorities are set out by a Directorate within the Ministry in accordance with the Government's Multi-Year Investment Programme (MIRT).

#### Case Study Highlights

- programme management through the whole project cycle
- resource and experience largely kept within the public sector
- centralised EU grant application process
- active market management

The Rijkswaterstaat is the executive arm of the Ministry and is responsible for the design, construction, management and maintenance of the main infrastructure facilities in the Netherlands. Once a project is judged to be ready to move from the MIRT planning phase to procurement, it becomes the responsibility of the Rijkswaterstaat. Once the Rijkswaterstaat receives a project, it will begin the process of preparing the project for market which will include drafting contractual terms and seeking the necessary permissions, such as environmental permits. The Rijkswaterstaat itself is divided into regional divisions. Regional project directors are responsible for their projects, supported where needed at the national level.

The Netherlands has a strong track record in PPPs and authorities are generally comfortable in assessing where a PPP approach might be beneficial against alternative approaches. The MIRT had identified a number of in-land and sea-based lock projects that needed to be delivered over the next few years. A PPP approach was considered likely to be the best way of delivering many of these complex projects on time and on budget. Given a constrained market for these types of projects and their complexity, the Ministry decided that a programme approach would enable the Rijkswaterstaat to save both time and money and improve VfM when compared to a non-programme approach by:

- carefully managing the introduction of projects to the market in a sequential form to avoid higher costs and risks to delivery by the private sector;
- collecting data to enable the comparison between projects over time, such as costs and contractual terms, and make improvements;
- standardising contractual terms wherever possible whilst recognising the different peculiarities of individual projects (e.g. the needs of a sea-based lock versus one on an inland waterway);

<sup>14</sup> See [www.government.nl/ministries/ienm/organisation](http://www.government.nl/ministries/ienm/organisation)

- generating economies of scale by interacting with the market on a programme rather than on a separate individual project basis, thereby reducing tendering costs for both the market and the Rijkswaterstaat;
- spreading limited human resources and public sector expertise more efficiently between projects; and
- ensuring a more efficient and effective management of Trans-European Network Transport (TEN-T) grant applications.

Market feedback had also indicated a programme approach would be likely to encourage greater participation from the market and help the private sector's business planning, because of the uniformity and predictability of future projects. Such an approach would also make it worthwhile for bidders to invest time in understanding the programme in order to bid successfully for future projects.

### Programme implementation

Key implementation features include:

- *quality control*: the programme involves a gateway review approach to managing projects through different stages, assessing what can be delivered and by when. At each review gate, guidelines have to be followed and individual projects cannot not move to the next step in the project cycle they fail to do so. Five projects have so far been identified by the programme for implementation by 2020 worth collectively over EUR 3.2 billion (excl. VAT) - see Figure 7 below;

**Figure 7: Projects in the Programme**

Name	Type	Cost (EUR m)	Status
Limmel	Inland Lock	60-70	Financial Close Q1 2015
Beatrix	Inland Lock	200-225	Pre-Qualified Proponents Q1 2015
Eefde	Inland Lock	60-70	Launch estimated Q3 2015
IJmond	Sea Lock	800-900	Preferred bidder Q3 2015
Afsluitdijk	Sea Defence	800	Launch estimated Q4 2015
Gent-Terneuzen	Sea Lock	1,000*	Launch estimated Q4 2015

\* together with Flanders, no longer as a PPP

Source: Rijkswaterstaat<sup>15</sup>

<sup>15</sup> See <http://rijkswaterstaat.nl/water/>

- *standardisation*: establishing a standard contract is important and it took over a year to prepare before any individual project was launched. A standard availability-based contract is available for road projects. However, for locks the concept of availability is different: the multi-functional nature of the locks, for example, as flood defences as well as a means of transport, means that a simpler availability payment regime used in the roads sector is unlikely to be appropriate. Despite the differences between the different lock projects themselves, most of the contractual terms are likely to be the same across the different projects;
- *market engagement*: in engaging with the private sector so far, the programme team held bidders and market information days. As this is a sector with limited market interest, only five to ten core bidders (both domestic and international) could be relied on to participate. The programme team did not hold separate stakeholder events for financing issues as responsibility for this was considered to be that of the project sponsors;
- *staffing*: the staffing structure of the programme is relatively straightforward. The programme is coordinated by a Programme Director to whom the rest of the team of specialists and managers report;
- *matrix approach*: the programme is a temporary cooperation between the relevant Rijkswaterstaat staff delivered in a matrix structure rather than a stand-alone and separate programme department. Once the programme is complete, the experience gained should be able to be deployed in other projects more widely across the Ministry;
- *development of internal expertise*: apart from the appointment of advisers on specific issues at a project level, such as finance (for which there is a framework arrangement), the major work is performed by public sector employees of the Rijkswaterstaat. All the technical, procurement and management expertise required is deemed to be available within the Rijkswaterstaat. This encourages Rijkswaterstaat staff to develop their expertise on projects and enables them to apply lessons learned on more than one project when moving from one project to the next. The programme approach not only allows for the development and recycling of internal expertise but also allows for limited resources to be spread more efficiently through the sequence of projects;
- *operational support*: although ultimate responsibility for operating the locks is with the regional teams, an ongoing role for the programme team is anticipated to support the programme during the operational phase. Individual regional-level project directors are each responsible for their own project throughout the procurement and contract management stages, ensuring continuity and a clear understanding of the contract terms over the contract life;
- *use of contracting specialists*: to improve the procurement processes, the programme team use contracting specialists from the Rijkswaterstaat's dedicated Procurement Department to evaluate bids during the tender process; and

- *budgeting*: the budgeting of projects is also clearly an important issue, for which a constructive relationship with the central PPP Unit in the Ministry of Finance is essential. The PPP Unit grants overall approval for pursuing a project as a PPP. The PPP Unit is also involved in managing the long-term budgeting requirement for a PPP, such as reduced government funding requirements over the construction period (though a completion payment is made as a capital contribution) and the increased funding levels required in the future to meet availability payments.

### Lessons learned

Although the programme is still in its early stages of development, the following benefits and issues have already been identified as key to its potential success:

- *a programme approach can support the development of cost data*: in order to help deliver VfM, the programme approach has enabled the team to collect cost data for projects which is then used by the Government's Costs Department to assess bids and make estimates on future costs in an informed way;
- *a programme approach can strengthen the negotiation of key terms with the private sector*: by developing a standard contract and engaging with the market on this basis, the programme managed to deploy a well-informed and sector-focused team to establish key contract terms with the market. By negotiating the terms for a EUR 2.2 billion programme rather than individual smaller projects, its negotiation position on risk allocation issues was considerably strengthened;
- *a programme can help to simplify and improve the EU grant application process*: by utilising the programme approach, the Rijkswaterstaat has been able to manage the TEN-T grant application process more efficiently. Although bids for funding for each project had to be separate, considerable time has been saved by having one team manage the applications for funding and the interface with the TEN-T Executive Agency (now INEA);
- *a programme approach can help to phase the delivery of projects to make better use of both private and public resources*: phasing projects has reduced the risk of the market not being able to respond competitively, as demonstrated by the healthy market response so far. In addition, it has improved the use of limited staff resources on the public sector side, such as technical or procurement experts, as they are able to move relatively seamlessly from one project to another as soon as their particular role is completed;
- *a programme approach can save costs on the need to procure external advisers*: a programme approach has helped to catalyse the development of in-house expertise. Not only does this build a cycle of continuous improvement across projects as the programme progresses, it has also saved costs by reducing expenditure on external advisers;
- *a programme can strengthen project approval processes*: the use of a programme-specific gateway review process has enabled a well-informed

project review process to be established, focusing on key issues that are relevant to the risks of delivery of this complex set of projects;

- *a programme can improve relationships with other areas of government:* having a single point of contact rather than one for each project and a central coordinator of key issues which are common to more than one project (such as for approvals), has helped to ensure that discussions with, and requests for approvals from, other parts of government are consistent and have worked well; and
- *if managed well, a programme can balance central control with local ownership and get the best from both:* the combination of programme support from the programme team and ownership of the individual projects at the Rijkswaterstaat regional level has helped establish a strong balance of ownership and technical support.

The programme is still ongoing, so there are still lessons to be learned but thus far one project has reached financial close whilst a further two are in the later stages of procurement. Perhaps demonstrating the flexibility of the programme, a further project has been added to the programme while a project which was previously earmarked for procurement as a PPP, the Gent-Terneuzen sea-lock, will now be conventionally procured and therefore not formally form part of the programme.







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