



THE AUDIT OFFICE
OF NEW SOUTH WALES

Public Private Partnerships

CEDA Lunch

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Bob Sendt
NSW Auditor-General

INTRODUCTION

Today I would like to briefly talk to you about some of the issues I have come across in looking at Public Private Partnerships in my capacity as Auditor-General.

For those of you who are not aware of my role - the Audit Office of New South Wales reviews all NSW Government agencies' annual financial reports and reviews selected areas of government performance. As part of this role we have reviewed a number of Public Private Partnerships.

We also have a role in reviewing the accuracy and completeness of the Contract Summaries that Ministers are required to prepare and publicly release after entering into a PPP contract.

There are **three simple messages** I hope to leave you with today. In doing so, I've noted that the majority of you here today are from the private sector so I'll structure my comments accordingly.

The **first** message is that just as the Government needs to better understand the private sector, private sector PPP proponents need to better understand government and the political and accountability frameworks in which it operates.

Secondly, public and political views on the acceptability of PPPs can change swiftly. If PPPs are an attractive business opportunity for the private sector, that 'golden goose' can easily be killed off by one or more ill-conceived, poorly managed projects. A private sector seen to be unfairly exploiting the public purse, may risk PPPs being taken off the government agenda for many years.

And **finally** - "ad hoc" projects that aren't based on a strategic plan or infrastructure plan of the government or its agencies will only be seen as opportunistic. Whatever their benefits, they may not be those that the community wants or accepts as part of a well thought out planning process.

My first point is that the private sector needs to better understand how government works. When you sign a contract with another company, the details are largely confidential between your two organisations. You both operate in the same legal framework and with the same commercial mindset.

In dealing with the public sector, you may sign a contract with a particular Minister or agency on behalf of the Government and believe that they and you are the only parties involved. You need to understand that executive government is subservient to parliament and that parliament retains the ultimate power to demand contract details. Even individual members of parliament can make life difficult for the government or a private sector proponent.

And of course, governments can change, so that you may find yourself in partnership with a government that was previously a highly critical opposition.

When government and the private sector contract to provide services, the public will judge the performance of both the government and its private sector partners. The public expects all parties to be open about their activities, and act with the public interest in mind.

Keeping PPP contract details secret, or claiming commercial-in-confidence reasons to hide large sections of the contracts will only make the public, the media and Parliament suspicious. My experience over the years is that the vast majority of information that is claimed as confidential - whether for commercial or other reasons - ultimately ends up being released, either through parliamentary processes or as a result of public or media pressure.

You may also come to the attention of various watchdog agencies, such as my Office, ICAC and the Ombudsman. We are independent agencies, and in my case, I am accountable to Parliament, not to a Minister or to the government of the day. Watchdogs such as myself, review government activities and report directly to Parliament. While we may not have the powers to review private sector organisations, we can, and do review the agencies you are involved with and the contracts they have with you to provide services. Some of the recent audits of PPPs that I have conducted and reported to Parliament on are:

- The Millennium Train
- Northside Tunnel Project
- The New Schools Privately Funded Project

And shortly I will be reporting on the Cross City Tunnel.

My message is clear - once you enter into contracts with the Government you are entering the accountability frameworks of Government. So understand them, and appreciate the impacts they can potentially have on the success of projects you partner with government.

A recent example of where transparency and accountability was not well handled is the Cross-City Tunnel, where neither party seemed to fully appreciate the public needs and expectations. Only a demand for the papers by the NSW Legislative Council and the recommendation by Sir Laurence Street forced the release of the contracts for this deal.

This project has and continues to be a public relations problem for the Government and its private sector partners. While there are other factors that contributed to the Tunnel's current problems, some may have been avoided or limited if the parties had been more open at the outset.

As I mentioned in my introduction, public and political views on the acceptability of PPPs can change swiftly. The public - and possibly the political - mood has certainly turned against PPPs as a result of the Cross City Tunnel.

Well-founded or not, the public view is that PPPs are a licence for the private sector to print money, despite the story on page 1 of today's Financial Review.

In earlier PPPs, I suspect there was a degree of exploitation of the public sector's naivety in dealing with risk allocation and pricing. Some of the substantial profits that ensued on some projects have contributed to the public suspicion of the value of these deals to them - and possibly to the initial suspicion of the incoming State Labor Government a decade ago.

So my message to you is this - by all means see PPPs as a commercially attractive part of your business, but don't unfairly exploit the advantage you might have in designing these deals. If the public views you as ripping them off, you may find they disappear as an opportunity.

What else can the private sector do to support their ongoing involvement with the provision of public services?

Fundamentally when you enter into PPPs with the Government you are involved in providing public services. And the success of any public service depends very much on community involvement. Once you have entered into a PPP with the government, you lose the ability you may normally have to choose who your ultimate customers are. They are the public in total or a significant section of them.

Companies should not rely on the Government and its agencies to handle all these issues, but partner with them, at the beginning, middle and end. They should understand the community's expectations and actively manage them throughout the life of the project. Public expectations will almost inevitably be beyond just the project construction phase. They will be concerned with how well it fits in with the broader public service that is being provided.

Just as important is managing the relationships between the various partners of a project - something I am sure most of you appreciate, irrespective of whether it is a private or public sector partner.

A good example of a PPP where the relationship between partners was handled well was the North Side Storage Tunnel. This was a strategic alliance between Sydney Water and three private sector firms to construct a tunnel to collect sewage overflow in wet weather and store it in the tunnel until treated at the North Head Sewerage Plant.

My Office's 2003 review of the Storage Tunnel found that despite many constraints and technical difficulties, the Northside Storage Tunnel Alliance in the main worked well. This was largely due to the constructive relationships between the various parties and how the alliance was set up.

For example:

- Risk/reward arrangements were set up to pool responsibility, encourage innovation and promote cooperation.
- Financial rewards were linked to achieving community, environment and safety objectives.

- Sydney Water and its partners shared cost overruns and savings. They also co-operatively resolved unpredicted severe construction problems, whereas serious disputes could have arisen under a conventional contract.

I have briefly outlined the importance of being open and accountable, of understanding Government and how it works, and not leaving the government to handle all the community expectations. Despite having signed the deal, the government may leave you to handle adverse public opinion, so be involved, understand the community's expectations and be prepared.

As I mentioned in my introduction, the other key point I would like to make is that PPPs should be part of a broader strategy - an infrastructure plan of the government or its agencies.

Lobbying for or being involved in projects that are not part of a broader Government policy or strategy for providing public services will be seen as opportunistic. Secondly, if you are involved or want to be involved in a PPP, understand what its purpose is in a broader sense. For example, a road project is not just a piece of infrastructure, it part of a broader transport plan and also has impacts on other policy agendas, such as the environment.

Be wary of projects where the objective or outcome is not clear. Be wary of projects that change markedly in nature before or during the approval or negotiation process. The public may well hold you partly to blame for any consequences.

The Cross City tunnel was not simply about promoting a faster route for motorists. Its real objective was to get motorists off surface streets and to create a better urban environment. The Tunnel was the carrot, albeit an expensive one. The stick was the road closures and restrictions.

But after the overall project was first mooted, the tunnel component changed substantially. It was lengthened; its entrance and exit points changed; it became more expensive. The focus became the tunnel itself, rather than the wider objectives. So, it's not surprising that the public lost sight of what the project was originally intended to achieve and their attention and anger switched to the tunnel.

In concluding, I would like to emphasise that be open and transparent and act with integrity, understand community needs and the broader objectives of Government policy and how any PPP fits in with these objectives.

In the end all these aspects will determine how well a public service is provided and the extent of and continued involvement of the private sector in the provision of public services.

Thank you