

Public Accounts and Estimates Committee
Submission No. 15



Centre for Regulatory Studies
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PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE :

Inquiry into effective decision making for the successful delivery of significant infrastructure projects.

Wednesday, November 09, 2011

Dear Committee Members,

Thank you for your invitation to make a submission to the Government's Inquiry. This Inquiry tackles a series of important topics for Victoria's infrastructure projects. In respect to the terms of reference provided, we make the following comments:

(a) the competencies and skills that public sector managers require for the effective evaluation, decision making and oversight of significant infrastructure projects and protection of the public interest;

This item includes a potentially huge range of issues. Competencies and skills may pertain to high-level matters concerning infrastructure projects such as governance, transport planning, urban design and public policy analysis matters, all of which can help to underpin infrastructure delivered in 'the public interest'. Broad based skills involve the integration of both policy and commercial acumen as well as a detailed understanding of the specifics of particular service delivery requirements and a healthy dose of common sense to interpret the context of the day. It also contains narrower concerns around project choice, infrastructure design details and characteristics of the commercial deal undertaken using skills from disciplines such as law, contracts, engineering and finance, for example. These later skills can enable commercial matters to be dealt with at the highest standards of technical capability and at the highest standards of integrity with respect to the public interest. Both high level skills and narrower skills are required to meet the public interest.

Another way of viewing this range of skills is in respect to timing. For example, one could presumably consider matters concerning initial planning, urban design and public policy matters, ex-ante evaluation matters, political and bureaucratic decision-making matters, and then ex-post evaluation matters along with long-term institutional and infrastructure monitoring concerns. This division of skills again suggests that a wide range of competencies are necessary, varying from skills required 'up-front', to those required amidst the initial project construction phase, to those needed throughout the long-term delivery of contractual specifications, along with overall governance.

A third way of viewing these skills and competencies might also be from the perspective of the institutions involved in meeting and protecting the public interest. Presumably those concerned with the matter of the public interest are not only public servants under ministerial control, but others such as the necessary regulators and oversight bodies including auditors, general reviewers, and a network of bodies as well as the public. Inclusion of this wide range of institutions acknowledges the place of 'networked governance' in protecting the public interest, as well as the traditional view of the minister as the current elected guardian of the public interest.

In addition, a high level of managerial skill is required to sensibly communicate and integrate the legitimate interests of a diverse range of internal and external stakeholders into the decision making framework. The balancing of internal versus external expertise or resources, hired on an as needs basis, becomes a most strategic area of management if the long term interests of the community are to be managed in a cost-effective manner.

(b) the extent to which Government policies such as the National Public Private Partnership Policy and Guidelines and the Partnerships Victoria Requirements specify these requisite competencies and skills, and support the Department of Treasury and Finance's application of these across the public sector;

Our reading of such government policies and guidelines are that they generally imply, rather than state explicitly, the skills required. In some areas, the skills applied are obvious, such as commercial skills, financial analysis skills and legal skills. In other areas, skills required are not as obvious – public policy analysis, policy evaluation, auditing, planning and evaluation of long-term governance and monitoring and contract control in the public interest are examples here. The point is made, however, that the latter skills are clearly as important as the former.

The development and use of such policy and guideline documents does, however, provide a crucial mechanism for government to lead industry into new areas of expected competency. From our perspective, the PPP guidelines as initially developed under the Partnerships Victoria label, provided clarity on decisions required within government for major investments and demonstrated the expected depth of information and analysis required to make informed decisions. These particular documents have since become international best practice for PPP projects and more broadly, many of the processes and practices described have migrated into other forms of project procurement.

Such policy and guidance documents have also become a focal point for formal education both explicitly on the content of the documents and on the background and premise for the documents. The messages articulated in these policies ultimately filter into the market place through direct education and training and via general upskilling and discussion.

(c) strategies in place within the public sector for the development of such requisite competencies and skills and for their ongoing refinement and enhancement through knowledge-building from the sharing of best practice examples and guidance in the public sector;

No comment is made on the strategies in place to share best practice examples and guidance aside from making the important observation that what exactly constitutes “best practice”, “best practice examples” and “guidance” are themselves to a degree in the eyes of the beholder. What is considered more important is that the competencies and skills within the public sector market continually improve. The manner in which practice is judged as “best” and the admission that many best practices exist rather than one sole way and guidance given are all contestable. It is important that discussions around what constitutes best practices and best practice examples are transparent and open to professional and community discussion, rather than being determined narrowly or through either a disciplinary or bureaucratic edict. What is particularly important to avoid here is taking the advice as to what makes up best practice from those consulting in the arena (and hence interested in ongoing consulting fees) or those financing or providing PPPs (and hence involved in the infrastructure transactions themselves from which fees are drawn.)

As educators, we are of the view that free and frank discussions (in a neutral environment) as to the merit of particular approaches and the underpinning theory and drivers for their introduction have a long lasting impact on the ability of the sector to improve.

Very successful, specific educational material has been developed around policy and guidance content,

e.g. Contract Management for PPPs (run exclusively for government by Melbourne) or the Alliance Contracting program organized by the Federal Department of Infrastructure and Transport. The excellent feedback from these programs and their longevity is testament to their perceived worth. Yet the larger dimension of upskilling relates to the opening of minds to the need for holistic consideration of the multidimensional issues surrounding the delivery of significant infrastructure programs. Victoria's major universities have had some success in these areas with their specialist programs, e.g. Master of Regulatory Studies (Monash), Master of Construction Law or Master of Engineering Project Management (Melbourne). However, the most in-depth advances to competency have come from candidates who glimpse the breath of effective public sector decision making through the completion of multi-disciplinary research. There is still some work required to develop suitable mechanisms to assist potential candidates to understand the value in transitioning from vocational focused training to philosophical thought leadership.

(d) whether particular significant infrastructure projects have been developed and implemented in a manner which aligns with the public interest and maximises transparency and accountability for the life-cycle of the project;

This is an important issue and one in which there does not appear to have been much independent evaluation. Indeed, significant evaluations and actions could be mounted for all three groupings here – the manner in which projects have been developed and implemented aligning with the public interest, the manner in which such projects have maximized transparency (including financial arrangements and returns to the public), and the manner in which projects have been developed and implemented with long term public accountability.

The overriding thread of these three dimensions needing to occur 'for the life cycle of the project' is an important additional discipline. What is required on this matter, however, is an analysis of the degree to which the above three dimensions have been met to date for current projects as well as our plans for meeting the above three conditions over the future life cycles of projects and the attention given to our empirical actions underway, rather than the assertions that particular project methodologies deliver arrangements over life cycles better than others. The infrastructure financing and supply sector is a large one, and there are significant interests at work in pushing claims of one sort or other. Perhaps this is not surprising, but the result is that there are many, many more claims made than there is strong evidence.

(e) relevant infrastructure delivery strategies and practices, including in public-private partnerships, in relation to enhancing public sector expertise in place in other Australasian jurisdictions and relevant jurisdictions outside Australia;

No comment can be made in terms of relevant expertise in the public sector. However, a number of anecdotal observations have been made of other jurisdictions adopting and/or taking learnings from practices developed or refined in Victoria. These observations include: policy borrowing, international delegations visiting to learn for Victorian practice, business opportunities for Victorian companies, multi-jurisdictional working parties and committees, and international key note addresses by observers (such as academics) and practitioners.

This level of interest and activity supports the concept that Victoria's delivery strategies and practices are of relevance to other jurisdictions and such interest creates opportunity for enhancing Victoria's reputation as a leader and may stimulate opportunity for Victorian based organizations.

(f) the merits of centralisation versus decentralisation of available skilled experts in the Victorian public sector during the life-cycle stages of public-private partnership projects, including considering any benefits that may be derived from greater flexibility to contract specialist services from external sources;

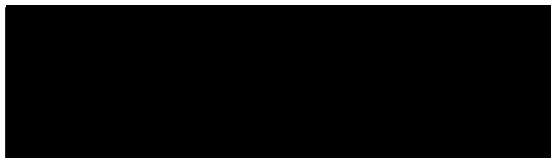
The decentralisation argument has been one of the many longstanding governance debates over the past several decades. Presumably, centralized expertise is crucial, so that the state has sufficient policy, legal and project engineering capacity to use its intellect in pursuit of the public interest. This is particularly the case given traditional concerns that private sector contract expertise is greater than the expertise of government. And whilst this concern has existed for some time with traditional contracts for government services, it continues with major infrastructure deals. Indeed, in this case, the concern is that whilst government can in concept buy in contract expertise, there is insufficient long-term alignment of contracted expertise with the longer term public interest governance.

The degree to which contracting specialists are currently used is also not transparent at present. It is therefore difficult to comment on the need for 'greater flexibility' to contract specialist services from external services. And given the already high transaction costs associated with PPP methods, the argument that additional outsourcing is required is a sensitive public policy matter and decisions to be made in this respect should be transparent. No government would not want to invite a criticism where, because it had so little skills and expertise internally it was forced to outsource its own brains to the private sector, which itself clearly has ongoing interests in pursuing greater commercial deals in future.

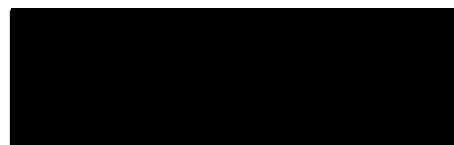
The issue of sustainable knowledge management has therefore become pivotal in this discussion as knowledge tends to migrate, to some extent, with the transience of staff. Thus, to effectively manage, it is beholden on government to have equivalent skills to the private sector to communicate and direct what is required by government, by when and for what cost. This question then opens the internal structure within government. In our view, the best project management incorporates sound generic delivery processes and systems in the context of detailed knowledge of one's business. Some elements of project management are generic and thus it may be sensible to have a central pool of resources. Other aspects, however, are sector specific and are likely to require specialization.

We trust that these comments are of assistance, and we would welcome the opportunity to discuss these matters further with your Committee.

Signed,



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