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Shrouded in Secrecy

The Queen Elizabeth II Hospital Redevelopment and the Privatization of Nova Scotia's Health Care Infrastructure

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Executive Summary

THIS REPORT EXAMINES the Nova Scotia government's decision to devote over $764.4 million to two design-build-finance-maintain (DBFM) public-private partnerships (P3), as part of its $2 billion commitment to update the aging Queen Elizabeth II Health Sciences Centre. Specifically, the report details the lack of transparency and accountability in this P3 decision-making process and identifies a number of concerns about the implications of a P3 hospital for Nova Scotians.

First, there has been a great deal of secrecy and obfuscation surrounding the P3 decision, including withholding crucial information from the public. The Nova Scotia government has refused to release the controversial and confidential value for money (VfM) report it says proves the P3 model would provide financial and service-level benefits until *after* the contract with the successful consortium is signed. Moreover, the government has refused to make public tender documents, known as Requests for Proposals (RFP), which reveal important information about the project design and scope, arguably in violation of the *Public Procurement Act* that states all tenders be made publicly available.

Second, there does not appear to be a commitment to effective oversight and accountability within government to protect this crucial public policy decision from being dictated by private interests. The government has, for example, failed to follow-through on recommendations by the province's Auditor General to improve its internal oversight capacity of large development contracts. Instead, it has outsourced decision making to large multinational companies, such as Deloitte and Kasian, who are members of the Canadian Council for Public Private Partnerships (CCPPP), and have a vested interest in promoting P3 projects. Internal government documents, furthermore, suggest a deeply entrenched institutional bias in favour P3s and against public procurement.

Third, the Nova Scotia government's justification for pursuing these two P3s rest on misleading claims about P3 advantages and public procurement flaws. Among these are claims that P3s offer more value for money and are more reliable in delivering services on time. In fact, data retrieved from provincial audits and Infrastructure Ontario show both of these justifications to be false. Moreover, claims about the value of transferring risks associated with these projects to the private sector overstate the risks of public procurement, such as the likelihood of cost overruns, and understate, or ignore altogether, the risks the government assumes in entrusting its infrastructure to private consortiums. One such risk is corporate bankruptcy, another is reduced safety and cleaning standards associated with corporate profit maximization behaviour.

This report estimates that in the case of the Bayers Lake and Halifax Infirmary projects, the cost of private sector borrowing will be 125% more than financing these projects publicly. Far from adding value to public infrastructure, P3s take money away from future governments, services, and infrastructure projects.

Key Recommendations

This report recommends that the province of Nova Scotia reverse its decision to pursue a P3 build for the five new buildings associated with the QEII redevelopment process.

Considering the poor track record of P3s in Nova Scotia and P3 Hospitals in Canada and the U.K., **this report concludes that the government should revise the bidding process for the QEII to limit the project to a design-build. The government should finance the redevelopment through the normal process of debt servicing and publicly manage the operation and maintenance of this health care infrastructure as it does other health care facilities.**

If the government insists on going forward with a P3 build, it must comply with the Public Procurement Act and act in an open, consistent and transparent manner. The Requests for Proposal should be posted to the procurement website in accordance with the legislation. The government should provide the public with concrete and transparent information on its decision-making process, the results of its VfM study and its internal methodology. These steps should be taken immediately, and before the selection of the preferred proponent. Other provinces, such as British Columbia, release all these documents before the selection of the preferred proponent and signing of the project agreement without any impact on the competitive bidding process.

Introduction

The Queen Elizabeth II Health Sciences Centre ("the QEII") is Atlantic Canada's premier research and teaching hospital located at the centre of the Halifax peninsula. It provides primary and secondary care services to people in the HRM and specialized tertiary care — including heart surgery and cancer treatment — to residents from across Atlantic Canada, as well as quaternary services such as organ and stem cell transplantation. The QEII encompasses 10 buildings located on two separate sites: the Victoria General site ("VG") to the south and the Halifax Infirmary ("HI") site, which is approximately 900 metres to the north. The QEII currently has over 950 inpatient beds, 700 physicians, 7,000 staff and 1,200 volunteers.[1]

The health sciences centre is undoubtedly the centrepiece of Nova Scotia's public health care system and public interest in plans for its redevelopment to ameliorate problems associated with aging buildings is understandably high. Nova Scotians are wary of anything that will reduce the number of beds, compromise quality of care, or result in critical public health dollars being diverted away from their optimal application to serve patient care.

For these reasons, the October 2018 announcement of the government of Nova Scotia for a **$2 billion** redevelopment of the QEII has drawn strong public interest. Brushed over in the initial announcement, with few additional details released since, is the fact that the government is planning to commit over one third of this money (approximately **$764.4 million**)[2] to the privatization of essential health care infrastructure. All new construction associated with this redevelopment (at least five buildings) will be procured and operated through a design-build-finance-maintain (DBFM) **public-private partnership (P3) model**. This has raised significant concern amongst residents, public health care advocates, and others familiar with the poor track record of P3 hospitals in other jurisdictions, and the P3 model in general.

One such concern is the high cost of financing and inflated project costs that come with private borrowing. At a time when governments can borrow at historically low interest rates, handing over project financing to private financiers for public infrastructure has the potential to result in a 60% increase in nominal financing costs.[3] This is money that is desperately needed for aspects of health care delivery such as recruiting doctors and nurses, funding long-term care beds, procuring new medical technology, and improving primary care delivery. These projects appear to free up short-term resources only because they defer the costs to future governments and residents. Bankruptcy of a private contractor can, moreover, throw the facility into crisis and leave the government and local taxpayers to pick up the pieces.

A second concern relates to the loss of Nova Scotians' control over our public infrastructure. P3 contracts are not only more expensive, they also tie governments and patients to private consortiums with long-term contracts that last decades. This means that residents lose access to democratic channels to address any infrastructure modifications as population needs inevitably shift and technology and space requirements evolve. It can also mean that core services, such as cleaning and laundry, will be subcontracted out to the lowest bidder. This portends all sorts of problems including lower job security and protections for local workers, as well as concerns, especially relevant in a health care facility, that corporate profit maximation behaviour will lead to relaxed safety and operational standards, and poorer infection control outcomes. These contracts also cut out Nova Scotian businesses who are unable to compete with large multinational corporations for local contracts.

A third pressing concern is erosion of democratic accountability and transparency in this policy process. Throughout this process crucial information has been withheld from the public. Already there is an indication that decisions about the structure of the cancer care centre are being made according to what would best attract interest from private sector bidders. The government has refused to release the confidential report it says proves the P3 model would provide financial and service-level benefits until *after* the contract with the successful consortium is signed. Moreover, the firms hired to conduct these analyses, such as Deloitte — the company hired to conduct the value for money assessment of the QEII Redevelopment — have a vested interest in promoting P3 projects.[4]

The government has yet to release the Requests for Proposals, (RFP) which are important public tender documents that reveal crucial information about the project design and scope, despite legislation that public tenders must be made publicly available.[5] The RFP has been released to the qualified bidders, but it remains hidden from the public. As long as corporate interests dictate public policy and as long as these processes are shielded from public access and scrutiny, we set ourselves up for poor policy outcomes that are wasteful and do not serve the public interest. Democratic accountability and the public's trust in government will continue to erode.

This report draws on media reports, thousands of pages of tender documents, as well as internal government correspondence and documentation to provide a snapshot of what is currently known about the P3 aspects of the QEII Redevelopment project. This snapshot includes but is not limited to: projected P3 costs, P3 decision-making timelines and public announcements, building plans, corporate players, as well as those aspects of the project that have appear to have been deliberately hidden from the public eye such as the crucial Value for Money (VfM) assessment.

To put these concerns into context, the report offers a brief overview of the failed history of P3 policies in the UK where they originated, in other Canadian provinces, and perhaps most relevantly, within recent memory in Nova Scotia. The report then critically examines the government's public justifications for the P3 model in light of these pressing examples of failures. It finds that far from offering meaningful insight into an objective policy process, the justifications betray a series of empirically and methodologically flawed assumptions that consistently overstate risks of public delivery and understate the financial, safety, and social risks of P3s. This report concludes by identifying the multiple strengths of traditional public sector delivery, and recommends the government halt its decision to go ahead with P3 builds until it can offer substantial evidence that it has engaged in a fair, open, and objective policy process. Nova Scotians deserve a transparent and meaningful consultation with policy makers about what the government has planned, what it will cost, and what the alternatives might be.

What We Have Learned

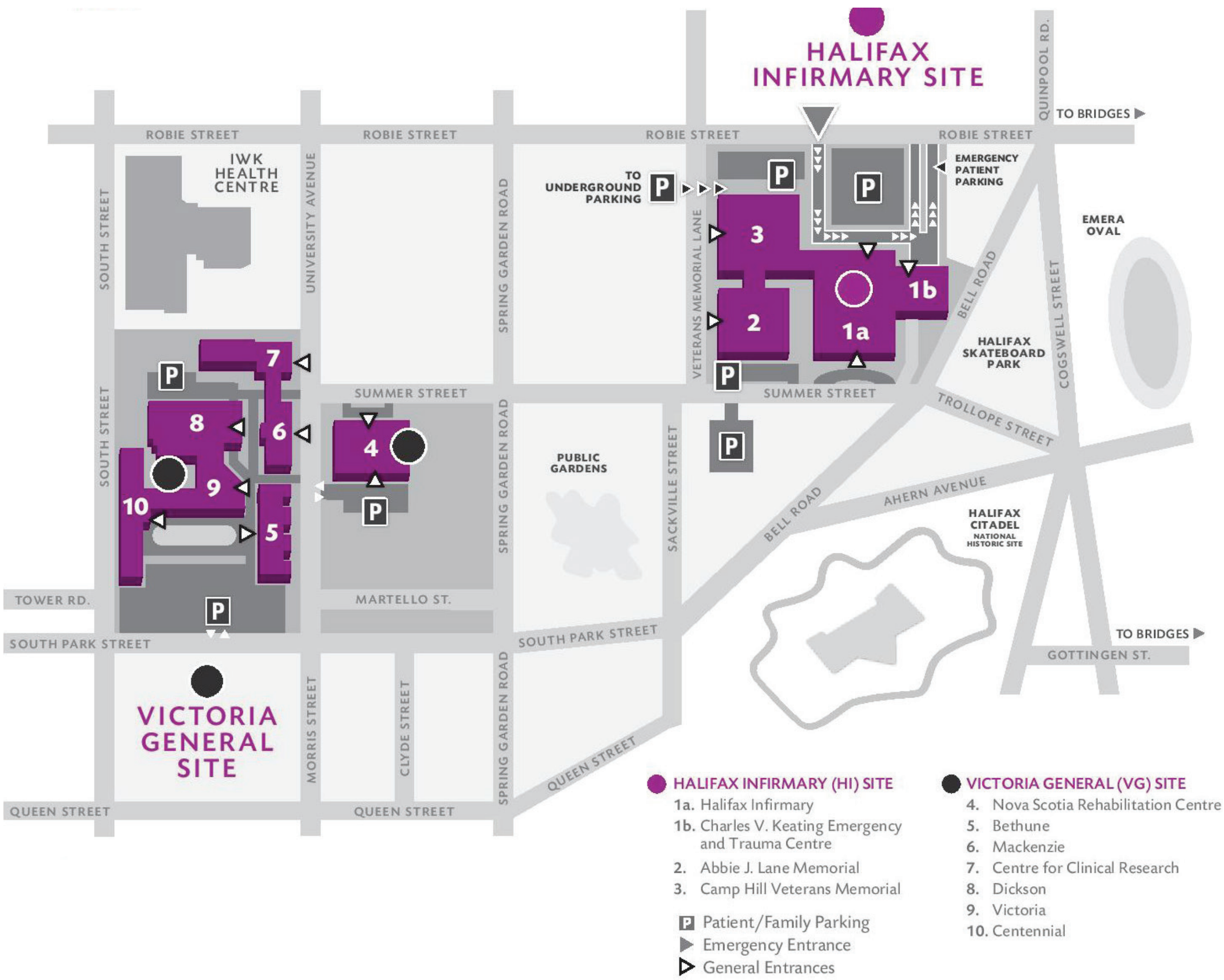
The QEII Redevelopment Timeline

AT THE HEART of the Queen Elizabeth II Health Sciences Centre on the Victoria General (VG) campus, there are two prominent buildings: the Victoria (built in 1948) and Centennial (built in 1967). Both have had serious structural and safety issues for a long time. In 2016, the Auditor General noted concerns with "exterior cladding, heating and ventilation, plumbing, and electrical in both the Centennial and Victoria buildings as well as serious issues such as floods, legionella bacteria, and heating concerns."[6] In April 2016, the Premier's Office outlined a general plan for the QEII redevelopment project, noting that the development was intended to address "the aging Victoria-General site."[7] They were clear at the time that they were already considering a P3 model.[8]

In November 2016, the Nova Scotia government awarded Kasian Architecture (currently a board member of the Canadian Council for Public Private Partnerships) what was supposed to be a $1.9 million contract to develop the QEII Master Plan. The original plan proposed by Kasian aimed to "decant" services at the VG site to a new Inpatient/OR and new Ambulatory Care building at the Infirmary site, as well as a new Outpatient Centre. Cancer care was to be consolidated at the Dickson building (built in 1983) on the VG site.[9]

In April 2017, the government made a controversial purchase of **15 acres of land in Bayers Lake for $7.5 million from a Nova Scotia Liberal Party**

FIGURE 1 The Current Queen Elizabeth II Site Map



Map retrieved from: https://www.nshealth.ca/files/qeii-building-finder-map

donor and QEII board of trustees' member. Critics argued that 178 acres of land in the same location was listed for less money.[10] The government has denied anything inappropriate but has not released information on how or why the land was selected for this project.

In July of 2017**, the Nova Scotia government hired the consulting firm Deloitte (a member of the CCPPP) for a total cost of $500,000** to evaluate Kasian's Master plan, and to conduct a Business Case Analysis, Market Sounding exercises, and a Value for Money (VfM) assessment of the proposed P3 DBFM aspects of the project.[11]

At an unspecified time in **mid-2018, Deloitte completed their study of the P3 model** and reported their findings to the government.[12] The Nova

Value for Money: A Primer on "Voodoo Accounting"

The Value for Money (VfM) assessment is a common methodological analysis used to compare the predicted cost of the P3 project to the cost of traditional public procurement. Typically conducted by an external advisory board or consultancy firm, in order to achieve greater objectivity, the assessment is intended to provide "a comparison of the estimated, total risk-adjusted cost of delivering a public infrastructure project using alternative financing and procurement relative to the traditional public sector project delivery method."[*] This assessment, together with the Business Case Analysis, provides the fiscal justification needed for governments to consider moving forward with a P3 project.

And yet, while VfMs are intended to provide an unbiased and comparative assessments of value, they have been criticized as methodologically designed to privilege P3s. One such tactic involves using a high discount rate in the VfM to measure the present cost of future private sector borrowing. Discount rates allow borrowers and lenders to account for the way factors such as interest rates and inflation change the value of money over time.[**] The higher the discount rate, the lower the perceived present value of future spending. However, provincial auditors have found that VfMs often rely on **excessively high discount rates** to measure the cost of P3 investment over time, making P3 options appear significantly cheaper than public procurement.[***] As a result of these criticisms, industry practices have shifted to adopt more appropriate discount rates that are equal to the cost of government borrowing.[†]

While the shift to lower discount rates is somewhat promising, other serious issues with the methodology remain. Perhaps most pressing is that the firms hired to conduct these analyses, such as Deloitte—the company hired to conduct the VfM for the QEII Redevelopment—have a vested interest in promoting P3 projects.[‡] As a member of the Canadian Council for Public-Private Partnerships (CCPPP), Deloitte is beholden to that organization's mandate to promote "evidence-based public policy in support of P3s" to "educate stakeholders and the community on the economic and social benefits of public-private partnerships" and to "influence the way in which public services are financed and delivered in Canada."[¶] In short, Deloitte and other members, such as Kasian (which currently sits on board of directors), are encouraged to use data in a way that is advantageous to P3s and unfavourable to public procurement as a form of advocacy.

As long as members of the CCPPP conduct these analyses, value for money reports will continue to be methodologically unreliable.

* Infrastructure Ontario. "Assessing Value for Money: An Updated Guide to Infrastructure Ontario's Methodology." March 2015.

** Blair Mackay Mynett *Valuations Inc. Evaluation of Public-Private Partnerships: Costing and Evaluation Methodology*. Prepared for the Canadian Union of Public Employees British Columbia, 2009:2; Siemiatycki & Farooqi, 2012, 288.

*** Aidan Vining, and Anthony Boardman. "Why Public-Private Partnerships Do Not Work as Well As Expected." CESifo DICE Report. 2014: 19. See also John Loxley. "Public-Private Partnerships After the Global Financial Crisis: Ideology Trumping Economic Reality." *Studies in Political Economy* 89 (2012): 21–23; Siemiatycki & Farooqi, 2012: 286.

† Documents retrieved through access to information requests indicate that Deloitte recommended the Discount rate used in its assessment be "based on the Provincial cost of borrowing." Deloitte. QEII Redevelopment P3 Advisory: 439.

‡ Loxley, John. "Public-Private Partnerships After the Global Financial Crisis: Ideology Trumping Economic Reality." Studies in Political Economy 89 (2012): 21–23.

¶ From the Canadian Council for Public Private Partnerships website: https://www.pppcouncil.ca/web/About_Us/web/About_Us/About_Us.aspx?hkey=98be3d80-2b17-4dab-800c-63bcffe76aa7.

TABLE 1 Summary of QEII Commitments and Announcements

Date	Item Description	Amount
November 2016	Kasian Architecture to Develop Master Plan	$3.4 million
April 2017	Purchase of 15 Acres of Land in Bayers' Lake area	$7.5 million
July 2017	Deloitte Awarded Value for Money Contract	$0.5 million
October 2018	Legal and Preparatory Costs for P3 build	$151.4 million
May 2019	Bayers' Lake Contract: Bidders Announced	$100 million
June 2019	Demolition of old CBC Site	$1.6 million
July 2019	Halifax Infirmary Site Contract: Bidders Announced	$500 million
Future Dates	Amount of monies budgeted for QE II redevelopment for which government has not released any details	$1.236 billion
	Total	**$2 billion**

Scotia government has yet to release Deloitte's VfM or any of the methodology used to conduct this assessment, despite formally announcing **in October 2018 that it was committed to a P3 model for the new builds**.

An Order in Council approved on Oct. 3, 2018 reveals an additional **$151.4 million dedicated to legal and preparatory** costs associated with the P3 process.

As of October 2018, **Kasian's Master plan had expanded** to include **five new buildings** at **two sites** (the new Infirmary site and a second site outside the downtown in Bayers Lake), to be delivered through a P3 design, build, finance, and maintain (DBFM) model. This revised design included plans to shut down the newer Dickson building, and to move all cancer care from the VG to the Halifax Infirmary site. **The final bill from Kasian was reportedly $3.4 million—more than 78% over budget.**[13]

According to the government's QEII Redevelopment website,[14] the larger of the two P3 projects—the **expansion of the Halifax Infirmary site**—will now include the following **four buildings**:

- a **new Cancer Centre** with 48 examination rooms, 15 counselling rooms, 60 chemotherapy chairs, and some palliative care;
- an **expanded inpatient care centre** with over 600 hospital beds, 28 operating rooms, 33 intensive care beds, and 15 intermediate care beds (*note that the current QEII complex has over 950 inpatient beds, so this "expansion" may in fact be a reduction in total Inpatient beds.

It is not clear how many, if any, inpatient beds will be located in the new Cancer Centre);

- **a new outpatient centre** that will deliver services that do not require an overnight stay in the hospital; and,
- a **new innovation and learning centre**.[15]

The second P3 development at Bayers Lake, will be a new Outpatient Centre devoted to primary and paramedical care.[16]

Since announcing its decision, and despite public objection,[17] the government has continued to move forward in its search for companies interested in securing these lucrative P3 contracts.

On May 31, 2019, the government announced **three short-listed candidates** for the smaller **Bayers Lake Outpatient Centre, budgeted as a $100 million project**:

- Bird Integrated Health Partners,
- Community Health Partners, and
- EllisDon Infrastructure Healthcare.[18]

On July 25, 2019, the government further announced it was **only accepting two bids for the larger $500 million Infirmary P3 Project:**

- EllisDon Infrastructure Healthcare, and
- Plenary PCL Health.

In June 2019, $1.6 million was approved for the demolition of the CBC building to facilitate the expansion of the Infirmary site through new P3 builds.[19]

On July 15, 2019, the government announced in a press release that the Request for Proposals (RFP) — competition documents that contain important project parameters — for Bayers Lake had been released. Yet, **despite legislation to make all tenders publicly available, neither this RFP nor the Infirmary RFP have been made publicly available on the procurement Nova Scotia website**. Government officials responsible for this file have not responded to email inquiries asking about the status of these tenders.

According to an addendum to the tender documents awarded to Deloitte, the government hopes work on the QEII redevelopment will be completed by 2022.[20]

According to the CBC, “The province will pay 50% of the cost of the project when it reaches ‘substantial completion’ then pay the balance in regular payments to the private partner over the course of the 30-year agreement.”[21]

While the government has not offered any clarification on how much of the $2 billion will be devoted to P3 builds, these publicly announced figures add up to $764.4 million.

Lessons from Home and Abroad

Major Problems experienced with P3 Hospitals

IN RECENT YEARS, P3s have come under fire as costly, at times risky, and administratively opaque alternatives to traditional public procurement. Canada's approach to P3s is based largely on the U.K.'s similar Private Finance Initiatives (PFI), initiated in the early 1990s. But from their inception, these public-private contracts were beset with setbacks and cost overruns. For example, the first British PFI hospitals held far fewer beds than the older hospitals they replaced including an averaged 27% reduction in acute-care beds. Efforts to correct this problem resulted in the forced closures of non-P3 hospitals and diverted resources from other necessary health services, such as mental health and primary care.[22] In January 2018, the UK National Audit Office found financing PFI projects cost approximately 40% more than the estimated cost of financing these contracts with government money.[23] As a result of these ongoing challenges, in October 2018 the Chancellor of the Exchequer announced that it "will abolish the use of PFI and PF2"[24] — formally ending that country's 26 year experiment with public-private partnerships.

Here in Canada, P3s have a similarly poor track record. In 2014 the Ontario Auditor General released a searing report of Ontario's entire P3 program and methodology, arguing that the program had cost $8 billion more than if these projects had been publicly financed and operated. The report also

Key findings of CCPA-NS P3 schools report, "Private Profit at a Public Price"

P3s schools cost Nova Scotians an estimated 15% more than traditional public procurement. The total known cost of these P3 contracts (including just lease payments, interests, and the buy-back) was over $900 million. This number does not include hefty transaction fees associated with P3s (contract fees, lawyer fees, oversight fees, etc.).

P3 schools were negligent when it came to public safety. Many of the P3 corporations subcontracted work to other companies without ensuring adequate safety checks, including, most egregiously, the absence of a child abuse registry and criminal records checks of sub-contractors. Furthermore, problems with the safety of drinking water afflicted at least three P3 schools. In one case, high levels of arsenic was discovered in a school's well, which forced the Province to pay $15,000 for a new filtration system.

P3 profits meant added costs and inconvenience for taxpayers. In one instance, developers subcontracted services back to school boards for significantly less than the Province had paid, resulting in a $52 million profit for the service provider over the 20-year lease at taxpayer's expense. In another case, when closures forced two schools to share a common building and extended school hours, the province had to pay a premium to rent the space for every additional hour the school was open (in addition to operating costs). These arrangements also left students and families without access to resources, such as gymnasiums, after the school day concluded.

found that each of Infrastructure Ontario's 74 P3s were justified on the basis that they transferred large amounts of risk to the private sector, but there was little effort to support these claims in crucial value-for-money assessments (VfM).[25] In 2014, the British Columbia Auditor General raised concerns about **the high cost and levels of debt associated with P3 projects** after examining 16 different P3 projects in that province. They also found that in comparing a P3 with a public sector comparator, Partnerships BC consistently used the most expensive possible method of public sector delivery, rather than the most likely one.[26]

Likewise, in 2010, the provincial auditor of Quebec found "major inaccuracies" in the cost analysis used to justify the use of a P3 model to build the McGill University teaching hospital and Université de Montréal research centre. Indeed, the contract for that P3 project — awarded to SNC-Lavalin — turned out to be facilitated by a $22.5 million bribe that implicated officials and CEOs at both the McGill hospital and SNC-Lavalin.[27] Even after $172 million in cost overruns, the hospital was still left scrambling just before its scheduled opening in April 2015 when the wrong wiring was found to have been installed in its new operating rooms, potentially compromising the use of heart-lung perfusion machines used during coronary bypass surgery.[28] These are just a few examples that serve to highlight mounting concern with excessive costs, lack of transparency and oversight, and compromised safety and utility that have been echoed by Auditors General, academics, health coalitions, and concerned residents across the country.[29]

Nova Scotia's Disastrous Experience with P3s Schools

NOVA SCOTIA HAS had its own expensive and troubled relationship with P3 delivery. A 2010 Auditor General review of 39 Nova Scotian P3s revealed substantial problems with the cost, administration of contracts, delivery, and safety of its P3 schools.[30] As recently as 2016, the current Auditor General, Michael Pickup, criticized the government for failing to "appropriately manage P3 decisions to date."[31] That same year the Canadian Centre for Policy Alternatives-Nova Scotia (CCPA-NS), released a scathing report outlining the extensive costs of this program as well as issues of negligence, poor oversight, and safety risks. In the end, **the province yielded to these criticisms and bought back 37 of the 39 schools to end these P3 contracts at a cost of $215.9 million**. The overall waste of public dollars over the 20 years of the contracts is unknown as the government has never released all the relevant information.

When Premier McNeil announced his government's decision to proceed with a P3 model for all new construction in the QEII redevelopment plan, he insisted this "is a very different model than what we did around the P3 schools."[32] Yet, given the province's history with P3s and growing evidence that exposes P3s as more costly, more inflexible, and less accountable than public procurement, it is not clear the province has learned anything from its past P3 disasters. In fact, just this spring, Christopher Majka examined the Cobequid Pass Toll Highway project and reported that it cost $232 million more to build, finance, operate and maintain the highway as a P3 rather than a traditional build.[33]

There is no evidence — at least not that has been publicly released — that the QEII redevelopment will be different from the P3 schools model, nor that plans for QEII will be any different from other costly P3 failures provincially, nationally, and world-wide.

Privatizing Nova Scotia's Most Significant Health Centre

Purported Justifications for a QEII P3

THE COST-BENEFIT ANALYSES that has presumably shaped the government's intention to pursue a P3 project is likely be found within the confidential Deloitte business case analysis and its VfM assessment. The document has been referred to by the government, but never produced as evidence. As is often the case with VfM assessments,[34] the government has indicated that it will not release Deloitte's report until after the extensive process for the two P3 sites is complete and a contractor is selected for these projects.

The government also has yet to respond to requests for information about any other methodology it might have used to determine if public-private partnerships were the best course of action for the province. For example, even if it feels it cannot release the figures related to this project, surely the government should be able to release the **formula** and the **factors** it takes into consideration when deciding to pursue a P3 model.

Having not released the VfM report or its methodology, we are left parsing the government's public justification for the decision to pursue a P3 model. The government has returned time and again to six themes:

- **On budget, on time:** "The government believes P3 delivery gives the greatest certainty for work to be done on budget and as ordered."[35]
- **Lack of capacity**: "We have not built something like this in our province in a very long time, if ever."[36]
- **More financial flexibility:** The government has indicated P3 delivery will mean more flexibility for continuing with the rest of its capital plan for projects such as schools and roads.[37]
- **Risk Transfer:** Risks associated with large infrastructure building and maintenance are transferred to private corporations.[38]
- **Value for Money**: The government is looking for the **"**best value."[39]
- **Lessons have been learned**: The government has learned from the P3 schools debacle and will have mechanisms in place to ensure oversight and accountability.[40]

The balance of this report will critically analyse these public justifications by looking to data available on this project as well as data gathered from similar P3 hospital builds, compiled by academics, journalists, and Auditors General. The results of this analysis indicate that, far from having learned from past lessons, the Nova Scotia government is stubbornly committed to a P3 model that has been proven to be more expensive, less flexible, less accountable, and more risky than traditional public procurement.

On Budget, On Time?
Depends on where you draw the starting line

When the McNeil government announced its decision to go with P3s last October, they relied on a common assumption that P3 projects provide the greatest certainty for "work to be done on budget and as ordered."[41] The data, however, tells a different story.

P3 projects are able to claim to be "on budget and on time" because the completion date is set after the lengthy and expensive process — usually years — it takes to reach the contract stage. During these lengthy consultation processes private companies work together with government officials to adapt project budgets to meet evolving contract demands. Because budget estimates are not released to the public until after this process is resolved and all parties are satisfied, there is a perception that P3 budgets do not fluctuate. In reality, there is often a great deal of fluctuation and sometimes substantial cost increases that take place out of the public eye during the negotiation phase of these contracts.

For example, the Abbotsford Hospital and Cancer Care Centre in BC started with a budget of $211 million, but by the time the contract was signed the budget had soared to $335 million.[42] Similarly, a 2008 Auditor General report shows estimates for the Brampton Civic hospital, Ontario's first P3 experiment, ballooned between initial estimates of $381 million in October 2001 (for a 716 bed hospital) to $525 million in November 2004 (for a smaller 608-bed hospital),[43] but there was little accounting for this increase.[44]

By contrast, public procurement estimates are often announced early in the negotiation process as officials look to "sell" their plans and gain approval from decision makers. This has led to the perception that there are large cost overruns when, in reality, the original budget was premature. As Matti Siemiatycki has argued, such budget underestimates are a common product of "strategic misrepresentation."[45] Politicians and project promoters have an incentive to make their proposals attractive to voters by strategically proposing low estimates, knowing that once a project is approved the budget can be adapted. This tendency is encouraged by the perception that there are few consequences for politicians and bureaucrats when project costs escalate.

The Colchester Regional Hospital in Truro Nova Scotia is a perfect example of such "strategic misrepresentation" influencing the public's perception of cost overruns. The original budget was announced as $104 million—approximately $80 million less than the final cost of $184 million (not including the cost of furniture and equipment). Yet, as then Auditor General Jacques Lapointe observed, the original budget was unrealistic.[46] It did not take into account basic costs like inflation, space contingencies, and physicians' offices (which together totalled $22 million). These costs were cut from the preliminary budget before Cabinet approval was requested, presumably to make the budget appear more attractive to decision-makers. But, as Lapointe stressed in his audit, "[t]hese decisions ultimately made the initial approved budget a meaningless number for planning purposes."[47]

The assumption, moreover, that there are no penalties for cost-overruns or incentives for delivering projects on time with public procurement are false. Penalties and sanctions for companies who run over budgets or experience delays have been successfully incorporated into public procurement contracts; there is also evidence that appropriate oversight measures successfully incentivise traditional procurement to stay on time and within budget.[48] Further, according to a 2015 Infrastructure Ontario report on 45 Alternative Financing and Procurement (AFP) (Ontario's term for P3) projects and seven traditional direct delivery projects (with project costs between $10 million and $50 million), the public procurement comparators (PSC) were 71% on budget and 86% on time (PSC) whereas 98% of the AFP projects were on budget and 73% were on time.

If we account for the long negotiation processes that AFP/P3 projects have to adapt their budgets, and weigh this against the added incentive public decision makers have to under-estimate budgets in order to gain approval for their projects, the "on budget" discrepancy between these two options is less meaningful. Given, however, the emphasis that P3 advocates place on corporate and financial incentives that facilitate faster delivery of P3 projects as compared to the public sector (for example, P3 payments are often withheld until the project is complete or construction milestones reached), it *is* striking that this report found **PSCs to be significantly more punctual than AFPs**.[49]

Another study of 1,600 public procurement projects (over $100,000 in value) assessed their on-time and on-budget performance. The targets for these measures were on-time performance of >90% and a budget variance of ±5%. In the fiscal years ranging from 2011/12 to 2014/15, Infrastructure Ontario's on time performance for public procurement ranged from 87% to 94.5% and its on budget variance ranged from — 0.9% to 0.9%. This performance exceeded targets in all cases except in one instance of an 87% on time performance in 2011/12.[50] In sum, while P3 advocates continue to cast public procurement in a "negative light,"[51] these trends show significant improvement in performance measures for traditional public delivery that are often overlooked by decision makers and P3 advocates.

We do not have access to the 30 Nova Scotian examples officials provided Deloitte to conduct their analysis,[52] however the data we do have indicates that "on time, on budget" claims systematically misrepresent and decontextualize data to favour P3s.

Does a Capacity Gap Exist?

There is a common presumption that the public sector is inherently less efficient and less competent in building infrastructure than the private sector. This bias is self-fulfilling: public sector expertise is being eroded by the government's reliance on private sector delivery.

Going with P3s does not, however, get around this perceived capacity gap. These large-scale projects involve complex contracts that require consistent and skilled oversight and monitoring. As Matti Siemiatycki puts it,

> recent PPPs in Canada are not immune to procurement, contract management problems and even outright project failures, regardless of the financing structures followed and incentives and penalties built into the PPP contract. This includes police uncovering evidence of an alleged multi-million-dollar corruption scheme during tendering of the billion-dollar McGill University Health Centre PPP. It also includes the Herb Grey park-way project in Ontario where the PPP concessionaire installed steel girders that did not meet Canadian highway building codes, and ultimately was required to replace them at their cost by the procurement agency.[53]

However, as P3 expert Heather Whiteside has noted, even in cases where jurisdictions have the capacity to provide oversight of P3 projects through established P3 units, such as Infrastructure Ontario or Partnerships BC, these organizations often have a mandate to promote P3s and may not, therefore, act in the public's best interest.[54]

In fact, Auditors General in this province and in Ontario have long advocated for the creation of neutral government bodies to oversee *all* development contracts. For example, when offering his account of the cost overruns at the Truro hospital, the Nova Scotia auditor partially blamed the government's reliance on third party advisors rather than building their own oversight capacity. He argued that expensive cost overruns associated with this project could have been avoided if the project were overseen by a central government body with "a high level of construction expertise."[55]

Ontario's Auditor General 2014 report made a similar point, noting that traditional procurement would be cheaper than alternative financing and procurement (AFP) if it were better managed by the province:

> Based on our audit work and review of the AFP model, achieving value for money under public-sector project delivery would be possible if contracts for public-sector projects had strong provisions to manage risk and provide incentives for contractors to complete projects on time and on budget, and

> if there is a willingness and ability on the part of the public sector to manage the contractor relationship and enforce the provisions when needed. Total costs for these projects could be lower than under an AFP, and no risk premium would need to be paid.[56]

Yet, despite these clear recommendations to improve **internal oversight capacity**, Nova Scotia's government has relied on Deloitte's recommendations, apparently without independent critical analysis within the government bureaucracy. Instead of a clear oversight mechanism, internal government documents released through Freedom of Information requests reveal a diffuse network of officials already predisposed to a P3 model. This partisanship is exemplified by the Executive Director of Corporate Initiatives, a lead bureaucrat on this file, who blurs government and corporate interests when describing his position as supporting the "business case for using a P3 approach for aspects of the QEII Hospital Redevelopment Project".[57]

Not only has Nova Scotia failed to implement the Auditor General's 2011 recommendation to create a centralized agency responsible for overseeing large development contracts, it has failed to ensure that its internal processes are streamlined, transparent, and, above all, neutral.[58]

Nova Scotia needs to develop its own in-house capacity to oversee complex construction projects and it is imperative that this oversight function not be beholden to P3 lobbyists and multinational corporations but operate to advance the best interests of Nova Scotian residents.

Do P3s Free-Up Resources for Other Capital Development?

Perhaps the most seductive argument used to justify this project is that somehow P3s access 'free money' that wouldn't be available otherwise. By going with a P3, the government argues it is freeing up resources for other capital projects. Nova Scotia is in the midst of a health care crisis. Daily news reports draw attention to individuals being turned away from the services they desperately need. One viral video shared globally on Facebook revealed a young mother, Inez Rudderham, who was unable to find a primary care physician and was turned away three times from emergency rooms, only to discover that she had stage three cancer.[59] Women in Yarmouth have been told to call ahead when they go into labour due to a shortage of anesthesiologists.[60] A provincial patient registry lists 52,000 Nova Scotians currently looking for a family physician.[61] Decision-makers are highly motivated to find a fix to these problems. And yet, residents and decision-makers should not fall for a short-term fix which will tie Nova Scotians to more expensive long-term contracts with private companies and consortiums.

Faced with these challenges, it is important to recall that balanced budget legislation that limits the amount of debt governments are willing to take on to provide social services — or powerful political norms against debt accumulation, as is the case in Nova Scotia — are a relatively recent phenomenon. These policies, which emphasize reduced government services, public works and expanded markets, became institutionally entrenched and normalized within the Canadian bureaucracy in the mid 1990s in the wake of Reagan, Thatcher, and Mulroney, all of whom placed emphasis on government austerity and aggressively promoted an ideological commitment to balanced budgets.[62]

In 2017 the federal government founded the Canada Infrastructure Bank (CIB) with a mandate to invest up to $35 billion to advance public-private partnerships in Canada.[63] And yet these policies have been criticized around the globe, including in a research paper put out by World Bank, which argued that "relaxation of these rules could in fact improve economic performance if the bias against capital investments is lessened."[64] Financing infrastructure through a P3 model, "cannot actually reduce the financial obligations of the state."[65] These deals only **appear** to free up resources because they defer the cost of projects to future governments and taxpayers, almost always at greater expense.

In the case of the QEII redevelopment, the government has indicated that 50% of the project will be paid when the building is complete (anticipated by 2022) and the rest will be paid in annual increments over a thirty-year time horizon. Such long-term contracts have historically proved inflexible and have left future taxpayers beholden to outdated contract requirements. For example, Whiteside notes several examples in the UK, discovered through a series of freedom-of-information requests in 2011, where the government was locked into protracted agreements and forced to pay exorbitant prices for basic services, such as £242 for a padlock on a garden gate, £75 for an air freshener, and £15,000 to install a laundry door.[66] Moreover, the high costs of P3s have, in some cases, caused service cuts and a shrinking scope of publicly covered services. According to the Canadian Union of Public Employees (CUPE), the project financing costs of the North Bay Regional Hospital led to the closure of 50 hospital beds and contributed to significant re-structuring, which led to multiple rounds of employee layoffs.[67]

Recall that the controversial P3 schools project in Nova Scotia cost taxpayers over $900 million due to significant cost overruns, lack of project oversight, and developers sub-contracting services to make a profit. Crucially, residents are still paying for these failures. In the current provincial budget, the Nova Scotia government identifies the cost of buying back 37 out of 39 of these P3 schools (in order to force an end to terrible P3 contracts)[68] as one of the chief sources of capital spending over the next four years. We are still paying private companies for the construction costs of public infrastructure decades after the schools were built. Such a scenario is not fiscally responsible.

In fact, the most recent provincial budget attributes the increase in forecasted Net Debt over the next four years almost exclusively to P3 commitments: "The increase in debt is reflective of government's capital plans over the four-year period, which includes twinning Highway 104 between Sutherlands River and Antigonish, two health care redevelopment projects in Halifax and Cape Breton, and the purchasing of P3 schools."[69] Given these considerations, it is worth asking the question: Could Nova Scotia *afford* to deliver this project through traditional procurement?

The simple answer is yes.

As of March 31, 2019, the reported grand total outstanding debenture debt for the Province of Nova Scotia was $15.96 billion and the Government of Nova Scotia's *Budget 2019-2020* reported estimate of $15.275 billion.[70] The Treasury Board projected that net debt would increase year on year. Debt to GDP ratios are reported to be on a downward track to between 31–32%, and increased borrowing is reported for 2019-20 due to refinancing, with $171.5 million for Cash Operating Requirements. Nova Scotia's credit rating has improved.

In short, net debt is rising, but the debt-to-GDP ratio is falling. The province is in a good position from which to issue long-term debt. Interest rates for government debt are at historic lows. The province can afford to issue additional debt at lower rates than what a private consortium would charge the province. We should publicly finance our infrastructure in such a manner as to not place a heavier burden on future generations. At the very least, this is a conversation that is worth having publicly, before more public money is committed to long-term P3 infrastructure contracts.

The Chimera of Risk Transfer

Given the known costs of P3 infrastructure, the most persuasive justification for choosing more expensive P3s is that the risk of undertaking large infrastructure development is theoretically transferred to the private sector. The value of risk transfer is in placing the onus for project delays or other project cost overruns on the private provider. As Premier McNeil noted: "We've seen huge overruns. We believe this is the best value for the taxpayers of Nova Scotia."[71] This justification means that taxpayers pay a premium to transfer risk to the private sector equivalent to an insurance premium. Yet it is often unclear what risk is being transferred.

Heather Whiteside, for example, lists common risks attributed to P3 projects as "site (tenure, access suitability, design) and construction (delays, access, cost-overruns), operation and maintenance (cost overruns), and financial risks (interests rates, inflation)."[72] Many of these presumed risks are, notably, associated with the design and build phase of construction (i.e. a traditional procurement model).[73]

The Ontario Auditor General's 2014 Report notes, moreover, that risks are often overestimated and subjective (not based on verifiable data or independently verified) and also that there is a bias against public sector delivery "resulting in significant differences in the assumptions used to value risks between the public sector delivering projects and the [Alternative Financing and Procurement, or P3] approach."[74] That audit shows that Infrastructure Canada assumed that the risks of public procurement were approximately five times higher than the AFP delivery and that this assumption gave AFPs an overall positive VfM. And yet, the report notes that no empirical data supports this assumption and, even more problematically, the calculation for risk transfer involved significant errors including double counting and false attribution of risk transfer. When these more egregious errors were corrected for, 17 of the projects originally discounted show a positive VfM for public procurement at an estimated savings of $350 million.[75]

The following table from the Auditor General's report shows the extent to which such inflation of private risk has been used to tip VfM reports in favour of P3s.[76]

In reality, however, the risks incurred by P3s are rarely transferred to the private sector. As Toby Sanger puts it, all "P3s in Canada are structured as Special Purpose Vehicles (SPVs). This means the larger companies behind P3 projects can walk away at any time, risking only the equity they have put into the project, which is typically 10–15% of the initial cost. Meanwhile the

TABLE 2 Combined Results of the Latest Value-for-money Assessments Conducted by Infrastructure Ontario ($ billion)

Component of Project Cost	Public-sector Comparator (PSC)	Alternative Financing and Procurement (AFP)	Difference*
Base costs	26.0	26.0	
Premium	—	1.9	
Competitive neutrality	0.8	—	
Subtotal	**26.8**	**27.9**	**(1.1)**
Financing costs	0.5	7.0	(6.5)**
Ancillary costs	0.7	1.1	(0.4)
Subtotal	**28.0**	**36.0**	**(8.0)**
Retained risks	18.6	4.0	14.6
Overall Total	46.6	40.0	6.6

***** Numbers in parentheses show components where the cost of PSC is cheaper than the costs of AFP.
****** AFP financing costs are typically higher than public-sector financing costs, primarily because the provincial cost of borrowing included in the latest value-for-money assessments (VFMs) is lower than the private-sector cost. This difference in borrowing costs, extended over the long term of project agreements (where the AFP contractor may be responsible for maintaining and operating the facility) results in the AFP financing-cost component being $6.5 billion higher.
Source Government of Ontario. *2014 Annual Report of the Office of Auditor General of Ontario*, p. 203, Figure 5.

amount of "risk" that is assumed transferred to the firm averages about 50% of this base project cost."[77] In other words, companies build a premium into their contracts in the face of contract disputes with future governments. The ultimate responsibility for delivering a project or service therefore rests with the government or another public entity.

Additionally, there are a number of **risks *specific* to P3s that most risk transfer calculations completely ignore:**

- **Re-financing:** Refinancing of projects is a significant risk in comparison to public procurement. Companies may choose to re-finance P3 hospital deals, which is a profit driven action. If a consortium terminates a contract, it increases the cost to the public.[78]
  - In fact, refinancing P3 hospital deals proved to be so controversial in the United Kingdom that in May 2006, Edward Leigh, the Conservative chair of the Committee of Public Accounts, labelled one of them as "the unacceptable face of capitalism." The re-financing gain on the Norfolk and Norwich Hospital was £116 million ($224.7 million) and Leigh noted that essentially "lined the pockets of investors."[79] Re-financing may, however, be regulated or legislated by government entities to

Estimating Borrowing Costs: Public Borrowing vs. Private Borrowing

The Nova Scotia government has not released the RFPs, VfM report, or business case documents which may contain financing estimates or information about the financing structure of the Bayers Lake and Halifax Infirmary projects. In the absence of information about the QE II proposed P3s, this calculation draws on information from a recent hospital project that is of similar size and engaged one of the qualified bidders.

The Royal Inland Hospital Patient Care Tower Project is a tertiary level acute care hospital that serves Kamloops, BC and operates as the referral hospital for a large Health Services Delivery Area. In 2018, the Interior Health Authority (BC) entered into a project agreement with EllisDon Infrastructure Healthcare. EllisDon is one of the two qualified bidders for the larger $500 million Halifax Infirmary project, as well as for the smaller Bayers Lake site.

In May 2019, Partnerships BC published the Royal Inland Hospital Project Report.[*] In the project report the Internal Rate of Return (IRR) for the Royal Inland Project for EllisDon is listed as 5.4%. This is used as the discount rate for the project Net Present Value. This discount rate (IRR) incorporates the cost of EllisDon to borrow, but also the return on their own money invested in this project.

EllisDon has a A3 rating for its corporate bonds as determined by Moody's (credit rating agency). As of September 20, 2019, EllisDon's yield on 33-year bond due in 2052 is 3.268%. Leaving the difference of 2.132% to be additional return above borrowing cost. In other words, 39.48% of the cost to finance this project through EllisDon is not for borrowing at all is not for borrowing at all, but for return on investment:

Internal Rate of Return of 5.4% - Yield on 33 year bond 3.268% = additional return of 2.132%

prevent significant profits. P3 companies may therefore look to a second option for profit: equity flipping.

- **Equity Flipping:** Equity flipping is the act of purchasing an asset, such as a P3 infrastructure project, with the intent to sell the same asset within a short period of time to increase profits or savings. Corporations are responsible, after all, to their shareholders, not voters. They are motivated to increase profit margins wherever they can. In the case of equity flipping, each new owner has added incentive to drive down the operating cost of the project to continue to make a profit on their investment. The risk, as Keith Reynolds observes, is that we allow "our public services and facilities [to be] turned into poker chips in the international finance market."[80]

Estimating Borrowing Costs: Public Borrowing vs. Private Borrowing (continued)

In the absence of information related to the Halifax Infirmary and Bayers Lake projects, it is not certain that bidders in the process will submit IRRs of 5.4%. However, it is a likely scenario, given similarities in scale and timing between these two P3 hospital projects.

To obtain an idea of the additional cost of financing a project through a private partner, the difference between government financing and the discount rate can be compared.

Nova Scotia is rated Aa2 on Moody's (Aa2 is better than A3). As of September 20, 2019, the yield on a bond due 2051 (in 32 years) is 2.396% (taken from Bloomberg). Therefore, the difference between government financing and private sector financing would be:

5.4% (EllisDon) - 2.396% (Government of Nova Scotia) = 3.004%

The percentage difference between private sector borrowing over government borrowing cost is:

3.004% (the difference between EllisDon IRR and the NS gov bond yield), divided by 2.396% (the yield of a 32 year Nova Scotia government bond)

3.004% / 2.396% = 1.25 or 125%

Private Sector borrowing will cost Nova Scotians 125% more than the equivalent government borrowing cost.**

* Project Report: Royal Inland Hospital Patient Care Tower Project, Partnerships British Columbia, May 2019. Retrieved from: http://www.partnershipsbc.ca/projects/projects-under-construction/royal-inland-hospital-patient-care-tower-project/

** This conclusion is in line with the findings of the BC Auditor General in her October 2014 report that found that government debt had a weighed average interest rate of 4% but that P3 debt had a weighed average of 7.5%, a 87.5% difference between government and private rates. See, The 2014 Summary Financial Statements and the Auditor General's Findings, Office of the Auditor General of British Columbia, October 2014. Retrieved from: https://www.bcauditor.com/pubs/2014/special/2014-summary-financial-statements-and-auditor-generals-fi

- Dexter Whitfield, a researcher, founder, and Director of the European Services Strategy Unit, found that equity flipping in the UK (of 1,229 P3 projects and multiple sales) was valued at £10.0 billion (CAD $16.5 billion) and the average profit on these transactions was more than 50%.[81] Keith Reynolds's research of P3s in British Columbia shows a similar trend emerging. He notes that the Abbotsford Hospital, the province's first big P3, changed hands four times in six years, "presumably with profits being made in every transaction, with ownership ending up in a tax haven."[82] Because the BC government does not require the release of information relating to these sales, we do not know how much money was made.

- **Bankruptcy**: Even though private corporations assume risk, they can still seek bankruptcy protection and avoid contractual commitments. When this happens, governments must scramble to maintain public services and taxpayers are stuck with the higher costs of private sector operation.[83]
    - For example, Carillion, a major global player in the promotion of Public-Private Partnerships (P3s) went into liquidation in the UK, triggering the UK's decision to end its P3 program.[84] Carillion's Canadian operation employs 6,000 Canadian workers and is "heavily involved in 10 P3s in Canada with total capital assets of $3.25 billion, eight in Ontario and one each in Saskatchewan and the Northwest Territories."[85] As one critic put it, "[T]he fundamental issue raised by Carillion's failure is that vital public services cannot be outsourced to private contractors, without Government underwriting the risks of collapse... So-called risk transfer, where financial risk associated with infrastructure construction and operation was transferred to the private sector, to justify the higher interest on PFI (PPP) loans (double the interest rate on Government loans) is, and always was, a massive con."[86]
- **Safety:** Under a P3 model, essential support services such as food provision, laundry, and cleaning are often "reconceptualized" as "being akin to hotel services rather than unique health care-specific services" that require high standards of sanitization.[87]
    - One such risk occurred in BC's Nanaimo Regional General Hospital development when an outbreak of C. difficile caused five deaths and dozens to fall ill. As Whiteside notes, "the BC Centre for Disease Control reports that as the result of under-staffing and improper training by the private contractor, the privatized cleaning support staff made several crucial errors in their sanitization attempts, which greatly exacerbated an outbreak of antibacterial-resistant super bug C. difficile, causing dozens to fall ill and five deaths in 2009."[88]
    - It is already the case that crucial cleaning services such as laundry are contracted out at the IWK Health Centre in Halifax and the current Victoria General site. It seems likely that this

model will persist and expand under a P3 system, introducing the potential for compromised service and safety.[89]

Are P3s the Best Value?

On May 14, 2019 Deputy Minister of Transportation and Infrastructure Renewal, Paul LeFleche, told the legislature's standing committee on health that the government is not "ideologically wed to things" "We're looking for the best value," LaFleche told reporters following the meeting, "We've modelled what results we should anticipate and we're hopeful that we get those anticipated results. If we don't get those anticipated results, we'll go back to treasury board and have a conversation with them."[90]

Of all the justifications provided by the government, the claim that P3 would provide the most value for money is the most outlandish. It is well established that P3s cost more than traditional procurement because borrowing is more costly for even the most stable companies than it is for governments. As explicitly noted on the Canadian Council for Public-Private Partnerships, "P3 transaction costs are higher than the traditional bid-build contracts and the private sector's borrowing costs are higher than those available to the public sector." The CCPPP goes on to justify these costs as better value for money with the assumption that the private sector is presumably more "incentivized to perform"[91] than the public sector. Yet, as this report has shown, public sector incentives to meet deadlines continue to improve and, in a number of cases, public procurement has proven to be **more efficient** in delivering services than P3 alternatives. Similarly, metrics that justify P3 value, such as risk transfer, are also frequently inflated based on P3 biased data.

While efficiency (and other corporate pillars such as profit) are features of public infrastructure "value," they are not the only important measure of public infrastructure performance. Public sector indicators of performance success extend beyond corporate efficiency and profit maximization matrices. These include, but are not limited to, public engagement, transparency and democratic accountability, population health and safety, job stability and security, infrastructure and environmental sustainability, neighbourhood integration, and contract flexibility. It is, however, difficult to grasp the true value of public procurement as compared to P3s when the methodology that governments and P3 advocates rely on to calculate value for money (VfM) is so often skewed to favour P3s.

Have Any Lessons Been Learned: Where is the Democratic Accountability?

There are several reasons to be skeptical that the government has learned from its past mistakes and is committed to accountability and transparency throughout the P3 process. The following are examples of lack of accountability in the process so far.

In September 2017, government documents obtained by the Nova Scotia New Democratic Party Caucus revealed that the Liberal government was being lobbied by private firms to use a P3 model for the QEII hospital redevelopment project.[92] No commitments had been made, no updated figures provided, and Deloitte had not completed their assessment at this time. While Premier McNeil seemed unconcerned, the influence of lobbying conducted without public oversight can contribute to unfair advantages for firms with a vested interest in specific issues or projects.[93] Lobbying activities also have an impact on public trust in government, since residents are left to speculate about the extent to which private lobbies influence public policy—especially those policies that seem counterintuitive, poorly justified, or counter to the public interest.

There is evidence that the government was aware prior to hiring Deloitte that the value for money assessment it had hired Deloitte to conduct was problematic and likely to be criticized by the public. Instructions to Deloitte (found in the public tender documents) acknowledge that "value for money analysis are highly debated in public and political forums.[94]" Deloitte was thus tasked with identifying risks that may be associated with a value for money analysis to take into account the results of critical evaluations (of VfMs) elsewhere and how they will mitigate the risks and adjust their approach to ensure a higher level of objectivity, accuracy and reliability.

There appears to have been an institutional bias toward P3s before the decision was confirmed in October 2018. Confidential reports penned by Deloitte in January 2018 and a confidential information note released September 25, 2018, dated August 2018, reveals both Deloitte[95] and Executive Director of Corporate Initiatives for the Transportation and Infrastructure Renewal, Gary Porter, the lead bureaucrat responsible for this file, (in a confidential note to the Minster of Transportation and Infrastructure Renewal)[96] stressing advantages for a DBFM delivery model, such as scheduling, price certainty, long term maintenance benefits, and risk transfer of components of the project to the private sector while the government was still ostensibly in the decision-making process.[97]

In fact, it is clear that P3s (and the P3 lobby) have dramatically influenced the procurement process. Consider, for example, the long list (twenty-three items) of justifications for "alternative" financing in the NS Procurement Protocols report — many of which require a judgment call by staff and government.[98]

Perhaps unsurprisingly, it is difficult to find information on this project. Researchers had to spend a great deal of time digging up many of these numbers — time that the vast majority of residents would not have to invest in researching such important policy decisions. Procurement Nova Scotia does not provide any visible or overtly accessible guide which can help educate the public on how to navigate their Tender Notices page. Furthermore, Tender Notices lack any form of comprehensive summary to inform readers as to their specific purpose and desired outcome beyond the type of Tender and the title. It is worth restating that, at the time of the writing of this Report, **the RFPs for Bayers Lake and the Infirmary P3 projects are still unavailable on the Procurement Nova Scotia website**, despite the fact that Bayers Lake RFP was publicly announced on July 15, 2019[99] and qualified bidders for the Infirmary were announced on June 25.[100] The official listed on the website as responsible for the file has yet to respond to email inquiries asking about the location of the RFP. These convoluted and often deliberately obscured processes shroud P3 procurement information in secrecy and make them inaccessible to Nova Scotian residents.

The government's refusal to publicly release the tenders for the QE II redevelopment arguably breaks the province's legislation governing public procurement. The Nova Scotia *Public Procurement Act, 2011* sets out in Section 2(a):

> The purpose of this Act is to
>
> (a) provide for the procurement of goods, services, construction and facilities by public sector entities in a fair, **open, consistent and transparent manner** resulting in best value [emphasis added];

The Act further sets out in Section 12(1)(a) that:

> A public sector entity shall
>
> (a) publicly tender for all goods, services, construction and facilities in accordance with the applicable regional, national or international trade agreements by public advertisement on the procurement web portal;

Protecting Public Health Care: The Case for Keeping the QEII Public

Three reasons why the QEII redevelopment should be carried out as a traditional design and build contract:

1. Democratic accountability: Traditional procurement is trackable, and information is accessible to the public in a timely fashion. Moreover, if there is a strong public appetite for infrastructure amendments such as in the creation green buildings, the retention or expansion of public garden spaces, or for-service contracts to be awarded to local unionized employees, Nova Scotians have a direct line of communication through their elected representatives. By contrast, once a P3 contract is awarded, decisions related to design, construction, finance, and maintenance rest with private contractors who are accountable to shareholders, not residents.

2. Financial Flexibility: Public procurement means greater flexibility to adapt contracts and infrastructure to reflect shifting financial and technological climates. This is possible because the government assumes all responsibility for the infrastructure once the building phase is complete. By contrast P3s lock governments and taxpayers in long-term contracts that inevitably become quickly antiquated.

3. Value for Money: The financial value of traditional procurement is easily captured by properly adjusted VfM assessments that don't selectively inflate risk transfer to the private sector. The true value of public sector delivery of public infrastructure, however, goes far beyond cost-benefit metrics used by large corporations to assess their bottom-lines. It includes the wider benefits any infrastructure project might bring to the local population, including but not limited to, the provision of well-regulated and safe service provision, sustainable and environmentally friendly building design, the creation of a secure and appropriately compensated local labour force, appropriate financial and managerial oversight (i.e. by a dedicated government body rather than a third-party contractor), opportunity for robust public consultation, long-term flexibility and adaptability to shifting population needs and concerns. Public health infrastructure, in other words, includes far more than profit and bricks and mortar. It is as an investment in the well-being of the community, writ large.

The Act clearly sets out that the procurement of construction and facilities should be carried out in an open and transparent manner with tenders publicly posted on the procurement web portal. The government appears to be in contravention of the Act. In such cases, it is up to the Chief Procurement Officer Chris Mitchell to enforce compliance with the Act.

Compare, for example, the level of transparency for P3 projects in another Canadian province. British Columbia releases a comprehensive set of documents related to a P3 project *before* the preferred proponent is chosen. For example, the current webpage for the Broadway Subway Project P3 (which at the time of writing remains open for proposals) makes the following documents publicly available:

- RFQ Process — Report of the Fairness Advisor (June 2019)
- Broadway Subway Project: Request for Proposals (June 2019)
- Broadway Subway Project: Request for Qualifications (June 2019)
- Millennium Line Broadway Extension Project: Business Case (March 2018)
- Millenniumm Line Broadway Extension Project: Cost Report (March 2018)
- Millennium Line Broadway Extension Project: Procurement Options Identification Report (March 2018
- Broadway Subway Project: Project Overview (September 2018)
- Millennium Line Broadway Extension Project: Risk Report (March 2018)
- Millennium Line Broadway Extension Project: Strategic Options Whitepaper (March 2018)

A number of additional documents are also publicly available. The ability of the British Columbia government to publicly post all these documents without compromising the competitive process for the Broadway Subway raises significant questions about the veracity of the Nova Scotia government's claim to the contrary.[101]

Freedom of Information and Protection of Privacy (FOIPOP) requests have yielded some documentation (originally released in 2018, but not available on the Freedom of Information website, which will be down until 2020), but the lack of adequate digital infrastructure have made FOIPOP requests difficult. The documentation that is currently available is heavily redacted and it is therefore difficult to draw any firm conclusions about the methodology used in this VfM or any biases that might have influenced the analysis of PSCs.

The following information has been discerned from these heavily redacted packages:

All numbers related to discount rate(s) have been redacted. However, it appears that Deloitte has adapted its methodology so as to not arbitrarily inflate the value of P3s using a high discount rate.[102] The following information was available that directly pertains to inflation rates and lifecycle costs: "certain cash flows in the Appraisal Period, such as FM and lifecycle costs, will be included in the PSC and Shadow Bid in current year form (i.e. 2018 dollars) and will need inflating over the Appraisal Period. In Canadian P3 business cases, the annual inflation assumption is assumed to be in the range of 2% to 2.5%."[103] The NS Treasury Board has its own approach to determine discount rate assumption which they implied they would provide to Deloitte, along with accompanying methodology, making Deloitte's business case consistent with other capital planning.[104] This information suggests that the Nova Scotia Government and Deloitte were attentive to and wanted to avoid the perception of bias in the VfM and worked to mitigate this risk.

Part of the Deloitte Business Case financial model required making assumptions on the **Scope of the P3 proponent**. Specifically, Deloitte made assumptions about whether the government or the private sector proponent will be responsible for delivering certain facility maintenance services. However, a column indicating "Inclusion or Exclusion of Service," in which the government identified services it anticipated being included and/or excluded in the Request for Proposal tenders (RFPs) potential private responsibilities were redacted.[105] Deloitte's business case analysis indicated that a design, build, finance, maintain, and operate model was considered for these projects, but it failed an unspecified pass/fail criterion because ancillary services would have been controlled by the private sector.[106] The Request for Supplier Qualifications (RFSQs) for Bayers Lake and the Infirmary site suggest that the government intends to provide essential maintenance services such as laundry. If this is still the case by the time the contract is signed, it would indicate the government has benefitted from past experience in service delivery, however this cannot be verified until the RFPs are made public.

It seems the decision to incorporate the cancer centre in the new P3 build (a decision that was just arrived at this spring) was a focal point for discussion. Records show that during a meeting with Executive Director of Corporate Initiatives for the Transportation Department, and other officials working on the QEII redevelopment file dated April 23, 2018, the cancer centre was a major point of interest for the province. Specifically discussed was whether or not to include its development as part of a business case analysis and larger build package, and whether inclusion of the cancer centre strengthened the business case. It also appears that replacing the services in the existing Dickson building was seen as advantageous from the perspective of attracting P3s. According to records found in an access to information request package, a civil servant working on the file is quoted in an e-mail writing:

> I thought we had already decided to do business case without cancer care at HI site given the uncertainty about the timing for that decision (whether care [sic] care remains at VG site or moves to HI).
>
> Also it was generally agreed that adding cancer care as new construction on HI site could on [sic] strengthen business case. (if there is a good business case already for the 1Million +/- se [sic] ft of new build planned for HI site, excluding cancer care.)
>
> Nevertheless we do have two options for cancer care on HI site. Both involve new construction in buildings that are primarily house cancer care services.e [sic] do have sq footage of both options and costing.
>
> I am not opposed to adding it to scope of business case work but I am concerned about few things. 1) if it delays the business case timeline, 2) if it cost much more money, 3) we need to be able to separate the business case work so we can see the business case for the separate and combined scopes.[107]

While there are, therefore, some indications that the government — and the P3 industry — is attempting to learn from past mistakes, such as the apparent effort to use a more fair discount rate, the information provided by the government on their methodology and decision-making process has been so heavily redacted that it is impossible to confirm even these potential areas of progress. It is, moreover, clear from justifications offered in favour of P3s, as well as persistent demonstrations of obfuscation and secrecy, that this process was not as aboveboard as the government would have Nova Scotians believe.

Recommendations

HAVING REVIEWED THE information available and the track record of P3s in Nova Scotia and other jurisdictions the report makes the following nine recommendations:

1. We recommend that the province of Nova Scotia reverse its decision to pursue a P3 build for the five new buildings associated with the QEII redevelopment process.

2. Considering the poor track record of P3s in Nova Scotia and P3 Hospitals in Canada and the U.K., this report concludes that the government should revise the bidding process for the QEII to limit the project to a design-build. The government should finance the redevelopment through the normal process of debt servicing and publicly manage the operation and maintenance of this health care infrastructure as it does other health care facilities.

3. If, in face of all the evidence to the contrary, the government insists on going forward with a P3 build, it must provide the public with concrete and transparent information on its decision-making process, the results of its VfM study and its internal methodology before a contract is signed with a construction firm.

4. The government should immediately release all tender documents associated with this project to the public for review. This would put the province of Nova Scotia in line with its own legislative obligations for transparency and public accountability.

5. If the government continues to pursue a P3 agenda for Nova Scotia, as indicated by recent announcements regarding a P3 Highway between Sutherlands River and Antigonish,[108] and two P3 health care facilities[109] announced for Cape Breton, Nova Scotians require much more robust legislative protections. The government should introduce and adopt legislation similar to that passed in Manitoba in 2012 before being repealed by the new Manitoba government in 2017.[110] The *Public-Private Partnerships and Accountability Act* brought in requirements for transparency and accountability requirements such as:

- Undertaking a preliminary analysis, outlining the risks, costs and benefits of using a P3 agreement.
- Holding public consultations (including a public meeting) and releasing a report on the public proceedings.
- Appointing a fairness monitor to oversee purchasing processes and releasing a contract summary.
- Releasing full information related to the contracts and process to the provincial auditor general after construction is complete.

6. This legislation and associated regulations should contain provisions which determine how information is prepared and released about decision-making for P3s, including outlines for ensuring VfM methodology is conducted in-house and is as objective as possible.

7. The VfM analysis used by the province should adjust its public-sector comparator to account for Auditor General Lapointe's 2011 recommendation that an internal oversight capacity be created to effectively oversee complex construction contracts. Such oversight should be used to ensure that the public sector comparator reflects recommended best practices and the most likely rather than most expensive scenario. In order to ensure this the oversight entity would need to be completely neutral.

8. Value for Money analyses used by government should account for environmental and social impacts and risks, such as safety, job retention, appropriate training commitments, wage guarantees, market volatility, and environmental sustainability.

9. The Chief Procurement Officer Chris Mitchell should enforce the *Public Procurement Act* to ensure compliance and the release of the two RFPs for the Bayers Lake and Halifax Infirmary P3 builds. The Public Procurement Act should be updated to be clearer about the timeline required to post all

tenders, and, if necessary, the Chief Procurement Officer's enforcement power should be made more robust.[111]

Conclusion

More Questions Than Answers

THIS REPORT HAS endeavored to uncover as much information as possible about the Nova Scotia government's decision to rely on P3 delivery and the potential consequences of this choice for local residents.

As this report has shown, the metrics that this government has relied on to publicly justify its decision are misleading. They reflect an institutional bias in favour of P3s and against public procurement, despite overwhelming evidence that P3s are more expensive than public procurement. It is clear that on budget on time claims are false, that claims about a capacity gap are misleading, that claims about freeing up capital resources are *especially* misleading in light of the extra capital spending required (and Net Debt accumulated) over the next four years to buy back P3 schools. P3 risk transfer premiums and transaction costs mean that 'value for money' assessments do not actually capture whether P3s save money and how P3s (re)allocate already-scarce public money, and also that risk transfer claims are selective and amplify public risk while downplaying risks associated with private sector profit maximization behaviour.

The evidence supports the position that far from adding value to public infrastructure, P3s take money away from future governments, services, and infrastructure projects. Consider, for example, the $151 million that has been earmarked just for preliminary transaction costs to oversee the P3 contract. For the same amount the government could fund **116,154 overnight stays in**

hospital beds, 25,267 average hospital stays, a one-year salary of 582 full time family doctors,[112] or could contribute to the more than $85 million funding gap required for urgent province infrastructure requirements.[113]

Finally, one way in which the P3 lobby has proved very successful is in its ability to shift the conversation away from traditional procurement to P3s. When promoting the viability of P3 projects, the P3 lobby have nurtured a narrative that public-private partnerships are a viable alternative to undertake "Canada's public infrastructure renewal challenge."[114] The promotion of P3s is the primary objective, and discussion of traditional public procurement is extremely limited. Interestingly, P3 skeptics are also beholden to the P3 advocacy agenda, but in a different way. P3 critics — including this author — often find themselves outlining P3 limitations while neglecting to make a comparable case for the advantages of public procurement, especially a public procurement model that has the opportunity to benefit from Auditor General recommendations and avoid P3s failings.

Efforts to obscure and make hidden crucial information such as the VfM and tender documents leave us with many outstanding questions:

1. When will the government release its methodology (the process it follows) to decide on whether to pursue a P3 project, or does one not exist?
2. If the government refuses to release the results of its comparative analysis, will it provide the percentage difference between the projected cost of the P3 build compared to a traditional PSA model and the method used to arrive at these numbers?
3. Will the government release any details on any comparison it has made of timelines to completion of P3 builds and a public sector alternatives?
4. Does the bureaucracy have the capacity to oversee a complex P3 contract process? If so, how much will this oversight function cost over the 30-year life of the contracts and will this function be carried out 'in house' or contracted out?
5. What is the government's definition of what constitutes 'risk' when assessing capital projects, procurement, and infrastructure development?
6. Does the value for money analysis take into account non-financial risks, such as risks to safety, environmental impacts, or job loss?

7. Will the government arrange meaningful forums for public input on the P3 proposal such as public hearings or public comment periods?
8. Were any of the firms involved in the current bidding process engaged in lobbying the government in 2017 to pursue P3 models?
9. To what extent was the decision to move all cancer care from the Dickson building to the Infirmary site motivated by a desire to make the P3 contract more attractive to bidders? What are the government's plans for the existing Dickson building?

These are just some of the many questions the government has, to this point, failed to answer.

It is clear that the government has largely failed in its promise to learn from the past and improve accountability and transparency. It has also failed to achieve standards of democratic accountability in making basic information on this process, such as the methodology used to determine the value for money attributed to P3s available to the public. In the very least, it seems clear that corporate interests and bias against public procurement have played a strong role in informing the policy decision to redevelop the Queen Elizabeth II Health Sciences Centre using P3 contracts.

Notes

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