



making projects
happen

VALUE FOR MONEY ASSESSMENT
DURHAM CONSOLIDATED COURTHOUSE

April 17, 2007

Infrastructure Ontario
777 Bay Street, Suite 900
Toronto, ON
M5G 2C8

Attention: Bert Clark, Senior Vice-President

Dear Mr. Clark:

Durham Consolidated Courthouse Value for Money Benchmark

We have undertaken an assessment of the Value for Money ("VFM") of the Durham Consolidated Courthouse Project ("Project") in accordance with our Agreement with Infrastructure Ontario ("IO") effective July 24, 2006, and following IO's established approach to VFM assessment as documented in its policy document "Assessing Value for Money – A Guide to Infrastructure Ontario's Methodology" published in February 2007 (the "Guide").

As of the date hereof, the results of our VFM assessment demonstrate projected VFM savings of 11.47% by using Alternative Financing and Procurement ("AFP") to deliver the Project in comparison to using the traditional delivery approach.

The VFM assessment is based on a comparison of the total estimated project costs of the Project under:

1. The traditional delivery approach, as reflected in the Public Sector Comparator ("PSC") model; and
2. The AFP model based on the final bid price as concluded on March 2, 2007 ("Final Bid")

The VFM noted above was prepared by applying IO's methodology as set out in the Guide to the costs of the traditional and AFP scenarios, risk data and financing assumptions provided by IO, the Project team, and the Final Bid (collectively the "Information"). We did not audit or attempt to independently verify the accuracy or completeness of the Information.

Yours sincerely,



Tim Philpotts
Senior Vice President
Ernst & Young Orenda Corporate Finance Inc.

April 19, 2007

Steven Richards
Vice President, Project Legal Services
Infrastructure Ontario
777 Bay Street, 6th Floor
Toronto, ON M5G 2C8



Re: Durham Consolidated Courthouse AFP Project

Dear Steven,

Knowles Consultancy Services Inc. was retained to provide fairness advisory services for the above-mentioned project. Our role on the project was to provide advice pertaining to the procedural fairness of all the procurement processes. We were retained in March 2005 and provided these services for the initial Request for Qualifications, Request for Proposals 1, Willing Host Initiative, and Request for Proposals 2.

The Durham Consolidated Courthouse (DCC) project involves centralizing the Superior Court of Justice and the Ontario Court of Justice administered court facilities in Durham Region into a newly constructed Consolidated Courthouse through Alternative Financing and Procurement ("AFP"). The Government of Ontario will enter into an agreement with the Preferred Proponent to construct the new facility and to maintain the building for a term of thirty (30) years.

Specifically, we provided advice to Infrastructure Ontario with regard to:

- Wording of the RFP-2 document;
- Proponent Consultations;
- Adequate communications to Proponents;
- Adequate notification of changes in requirements;
- Confidentiality and security of Proposals and evaluations;
- Qualifications of the evaluation team;
- Compliance with the process;
- Objectivity and diligence respecting the evaluations;
- Proper use of assessment tools;
- Conflict of Interest;
- Negotiation process; and,
- Debriefing unsuccessful Proponents.

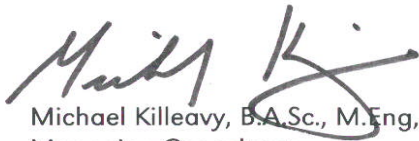
In our capacity as Fairness Commissioner we undertook the following tasks:

- Attended the site visit, all meetings, workshops, and design feedback sessions with Proponents;
- Monitored all communications with Proponents;

- Provided advice on the drafting of the procurement documents with a view to ensuring a fair process; and,
- Monitored the evaluation process.

In conclusion, based on our findings, we are satisfied that the Durham Consolidated Courthouse procurement processes were conducted in a procedurally fair, open, and transparent manner. All Proposals received were evaluated against the evaluation criteria published in the procurement documents. We detected no bias either for or against any particular Proponent in the application of the evaluation criteria. The evaluation criteria published in the procurement were applied objectively to the content of each Proposal.

Yours truly,
KNOWLES CONSULTANCY SERVICES INC.



Michael Killeavy, B.A.Sc., M.Eng, MBA, P.Eng.
Managing Consultant

Table of Contents

Summary	7
Project description	8
Competitive selection process timeline	10
Project agreement.....	11
Achieving value for money	13

Durham Consolidated Courthouse

Artist's rendering – WZMH Architects



Expansion of Services

The new Durham Consolidated Courthouse will improve access to a variety of justice services in an environmentally sustainable, technologically advanced facility that will spur economic development across the region.

New facilities and services	Current service level	New service level	Per cent increase
Square footage of court facilities	173,946	446,000	156%
Jury assembly room capacity	100	300	200%
Total number of courtrooms	30	33	10%
Motion rooms	1	3	200%
Settlement/hearing rooms	0	2	100%
Simultaneous interpretation	Not available	Available	100%
Remote video capability	Not available	Available	100%
Courtrooms with video remand conferencing equipment	2	6	200%
Remote video testimony rooms for vulnerable witnesses	0	2	100%
Interview rooms	39	101	159%
Consulting cubicles	5	13	160%
Retiring rooms	7	11	57%

Summary

In 2005, the provincial government implemented *ReNew Ontario 2005-2010*, a \$30-billion-plus strategic infrastructure investment plan to modernize, upgrade and expand Ontario's public infrastructure, including more than \$1 billion for justice facilities. Projects are assigned to Infrastructure Ontario by the provincial government when it is deemed appropriate to use the made-in-Ontario project delivery model called Alternative Financing and Procurement (AFP), one of the tools developed to overcome the infrastructure deficit in Ontario. The Durham Consolidated Courthouse Project (DCC) was assigned to Infrastructure Ontario as a Design Build Finance Maintain (DBFM) project to be delivered under the Province's AFP program.

A new courthouse will be constructed by Access Justice Durham on a four-acre brownfield site. It will consolidate on one site Superior and Ontario Courts and other justice services currently delivered from eight different locations throughout Durham Region. The facility will be the most technologically advanced courthouse in Ontario and the most energy efficient new Ontario government building. The site, contributed by the City of Oshawa, allows for a modern, fully functioning courthouse and provides for future expansion.

This initiative will return a former industrial site to safe and productive use while helping to revitalize Oshawa's downtown core.

The purpose of this report is to provide a summary of the project scope, the procurement process and the project agreement, and to demonstrate how value for money will be achieved by using the AFP model to design, build, finance and maintain the Durham Consolidated Courthouse.

Value for Money is determined by directly comparing the cost estimates for the following two delivery models:

Model #1 Traditional project delivery (Public sector comparator)	Model #2 Alternative financing and procurement
Total project costs that would have been incurred by the public sector to deliver an infrastructure project under traditional procurement processes.	Total project costs incurred by the public sector to deliver the same infrastructure project with identical specifications using the AFP approach.

The cost difference between model #1 and model #2 is the estimated value for money for this project.

All Infrastructure Ontario projects are reviewed and monitored by an independent Fairness Monitor and the Value for Money assessments are prepared by an independent third party firm.

Knowles Canada acted as the independent Fairness Monitor for the Durham Consolidated Courthouse project. They reviewed and monitored the consultations, communications, evaluations and decision-making processes associated with the project, ensuring fairness, equity, objectivity, transparency and adequate documentation of the process. Knowles Canada certified that these principles were maintained throughout the procurement process.

Ernst & Young Orenda Corporate Finance undertook the value for money assessment of the project. Their findings indicate an estimated total project cost savings of \$49 million (11.47 per cent) for delivering the Durham Consolidated Courthouse using the AFP model, compared to what it would cost using a traditional delivery model.

Infrastructure Ontario will work closely with the Ministry of the Attorney General to ensure the new courthouse meets design, operational and functional requirements.

Project description

Background

Through *ReNew Ontario*, the government is investing more than \$1 billion for justice sector infrastructure. An update to *ReNew Ontario* is available at www.pir.gov.on.ca

Infrastructure Ontario is an essential component of the *ReNew Ontario* plan. The Crown corporation was established in 2005 to ensure that large, complex infrastructure projects are delivered on time and on budget.

Under the plan, projects are assigned by the Province to Infrastructure Ontario, which uses a made-in-Ontario project delivery model called Alternative Financing and Procurement (AFP). AFP brings private-sector expertise, ingenuity and rigour to the process of managing and renewing Ontario's public infrastructure, while shifting risks associated with cost and schedule overruns away from Ontario's taxpayers.

Over the next 20 years, the Region of Durham is forecast to have one of the highest rates of population and caseload growth in Ontario. To meet the growing needs, the Government of Ontario approved construction of the Durham Consolidated Courthouse (DCC) in 2005-06. At approximately 446,000 square feet, the new, integrated courthouse will more than double the space currently dedicated to justice services being delivered from eight locations throughout Durham Region.

All of Ontario's infrastructure projects, including the DCC, are guided by the five principles set out in the provincial government's *Building a Better Tomorrow Framework*:

1. public interest is paramount;
2. value for money must be demonstrable;
3. appropriate public control and ownership must be preserved;
4. accountability must be maintained; and
5. all processes must be fair, transparent and efficient.

Job Creation and Economic Impact

The new courthouse will contribute to the economic growth of Durham Region.

During construction, an estimated 250 workers will be on site daily. Skilled tradespeople, subcontractors and suppliers from the region will also benefit from the construction project.

When it opens in 2009, there will be approximately 500 Ministry of the Attorney General and other justice stakeholder staff working in the courthouse.

About 1,500 people will conduct business daily in the new facility, bringing increased demand for restaurant meals, office space and other services in downtown Oshawa. Courthouse employees and visitors will bring an estimated \$7 million per year in additional spending to the City of Oshawa.

Project Scope

The DCC will be built on a four-acre brownfield site in downtown Oshawa, returning the area to productive use and contributing to the revitalization of the area. It will feature 33 courtrooms, three motion rooms and two settlement/hearing rooms; a jury assembly room with capacity for 300 people; enhanced security features such as video and audio surveillance systems and a main-entrance security checkpoint.

The state-of-the-art facility will be the most technologically advanced courthouse in Ontario. Six courtrooms will have video remand conferencing equipment and several additional courtrooms will have video conference capability. Two remote video testimony rooms will accommodate child and vulnerable witnesses. One jury courtroom will be equipped for simultaneous interpretation, allowing proceedings to be translated into another language for people in the public gallery. Three portable translation booths will also be available.

The DCC will be a high-performance green building. It will be designed for resource efficiency

and cost effectiveness in both construction and operation. It will conform to the Canada Green Building Council's Leadership in Energy and Environmental Design (LEED) standards to ensure environmentally sustainable and healthy facilities for all users. The DCC will meet LEED silver designation. In addition other elements will be incorporated into the design to reduce indoor air pollutants, maintain acoustic integrity, enhance airflow and thermal comfort and maximize natural lighting.

In addition, Access Justice Durham will achieve LEED Gold certification after six years of operation and for every six years after that until the end of the term of the agreement.

The DCC will also be certified under the Building Owners and Manager's Association (BOMA) Go Green Plus program every three years. Go Green Plus demands the development of a comprehensive environmental management system that addresses issues ranging from recycling to energy efficiency. The Go Green Plus program maintains a database to benchmark the facility's performance against other facilities in Canada.

The DCC project will improve and expand courthouse facilities in Durham Region for all users by consolidating all justice services in one facility that is designed to provide a healthy, productive environment.

Expansion and improvement of services

New facilities and services	Current service level	New service level	Per cent increase
Square footage of court facilities	173,946	446,000	156%
Jury assembly room capacity	100	300	200%
Total number of courtrooms	30	33	10%
Motion rooms	1	3	200%
Settlement/hearing rooms	0	2	100%
Simultaneous interpretation	Not available	Available	100%
Remote video capability	Not available	Available	100%
Courtrooms with video remand conferencing equipment	2	6	200%
Remote video testimony rooms for vulnerable witnesses	0	2	100%
Interview rooms	39	101	159%
Consulting cubicles	5	13	160%
Retiring rooms	7	11	57%

Competitive selection process timeline

The Durham Consolidated Courthouse has entered into a design, build, finance and maintain contract with Access Justice Durham, comprised of Babcock and Brown Infrastructure Group; PCL Constructors Canada Inc.; and Johnson Controls LP. The procurement stages for the DCC were as follows:

March 31, 2005

Request for Qualifications (RFQ)

A Request for Qualifications was issued in March, 2005, inviting interested builders to submit their qualifications to undertake the project. Three consortia qualified as RFP proponents:

- SNC Lavalin Engineers & Constructors Inc. (SNC-Lavalin), Bondfield Construction Company Limited and ProFac Facilities Management Services Inc.
- Durham Courthouse Centre Corporation, consisting of EllisDon Inc, EllisDon Design Build Inc., LPF Realty (owned 100% by Labourers' Pension Fund of Central and Eastern Ontario), CIBC World Markets and Carillion Canada Inc.
- Access Justice Durham, a consortium involving ABN AMRO Bank N.V., Canada Branch, PCL Constructors Canada Inc. and Johnson Controls LP.

July 19, 2005

Request for proposals (RFP) – 1

Qualified consortia were asked to identify a multi-disciplinary design team as the first stage in the request for proposals process.

February 15, 2006, – October 5, 2006

Request for proposals (RFP) – 2

A request for proposals was issued to the qualified proponents, setting out the bid process and proposed agreement to design, build, finance and maintain the facility. Hundreds of questions were submitted by bidders during the bid process, reflecting the increased risk builders had to take on as part of the project agreement.

Bid submission

Bids were submitted by the RFP proponents in October 2006 and evaluated by Infrastructure

Ontario, the Ministry of the Attorney General, the Ministry of Public Infrastructure Renewal and the Ontario Realty Corporation using criteria set out in the RFP.

December 22, 2006

Access Justice Durham was selected as the preferred proponent based on a range of criteria, including its project management and construction plan, design proposal, construction and technical capability, facilities management plan, the schedule proposed and the overall value for money.

March 1, 2007

Financial and commercial close

The project agreement was executed by Access Justice Durham and Infrastructure Ontario. Access Justice Durham's financing partner, Babcock & Brown Infrastructure Group arranged and underwrote the financing Access Justice Durham will require to construct the new facility in accordance with the project agreement.

May 2007 – Fall 2009

Construction

Construction is expected to begin in May 2007, and is scheduled to be completed by late 2009. During the construction period, construction costs will be financed by the funding partner – Babcock & Brown Infrastructure Group.

Fall 2009

Completion and payment

It is anticipated that the project will be completed in the fall of 2009, at which time the Province will start paying Access Justice Durham monthly service payments for the facility.

2009 – 2039

Maintenance

Access Justice Durham will maintain the courthouse for 30 years and be responsible for the building maintenance, repair and lifecycle replacement during that period.

Project agreement

Legal and Commercial Structure

Infrastructure Ontario entered into a project agreement with Access Justice Durham, comprising a 33-month construction period and a 30-year maintenance timeframe.

Under the terms of the agreement, Access Justice Durham will:

- design and build the DCC;
- finance the construction and capital costs of the facility over the term of the project;
- obtain a third-party independent certification that the facility is built to specifications;
- provide the facility management, lifecycle maintenance and other facilities management services for the new centre for the 30 year service period under pre-established maintenance performance standards in the project agreement; and
- ensure that, at the end of the contract term, the buildings meet the conditions specified in the project agreement.

The Province will make monthly payments to Access Justice Durham, based on performance requirements defined in the project agreement. The Province will not commence these payments until the courthouse is ready to open to the public. Moreover, if Access Justice Durham does not meet the standards set out in the agreement, it will face financial deductions.

Annual payments of \$19.75 million will be made to Access Justice Durham (paid on a monthly basis), subject to partial indexation and adjustment for benchmarking and market testing.

Facility management and maintenance

Hard facility management

These are services associated with the management of the physical plant, such as building and equipment maintenance, utilities management, 24-hour help desk services, environmental and waste management services and lifecycle renewal. Other services include cleaning services for the interior and exterior of the building, grounds maintenance and landscaping, and utilities services.

Soft facility management

These services are regularly market-tested, and include exterior and interior cleaning, grounds maintenance, security and food service.

Lifecycle maintenance

Lifecycle maintenance represents the total cost of replacing, refurbishing and refreshing building structure and systems over their useful life. With respect to this project, "lifecycle costs" will mainly involve the replacement of the facility's base buildings elements that have exceeded their useful life (i.e., floor finishes and certain mechanical and electrical components) and can be returned in a state acceptable to the Province at the end of the project agreement. Lifecycle costs are typically capital costs.

Construction, completion and lifecycle risk

Under the project agreement with Access Justice Durham, various risks associated with the project have been transferred from the public sector to the private sector, mitigated, or are now shared by the public sector instead of being outright retained by the Province. The key risks associated with the construction, completion and lifecycle of the facility that have been transferred to Access Justice Durham include:

Construction price certainty

Access Justice Durham will construct the facility and will be repaid for construction, hard facility management and lifecycle maintenance costs over 30 years after the facility is complete. Access Justice Durham's payment may only be adjusted in very specific circumstances, agreed to in advance, in accordance with the detailed change order procedures set out in the project agreement.

Scheduling, project completion and delays

Access Justice Durham has agreed to complete the construction of the facilities by late 2009. The construction schedule set out in the project agreement can only be modified in very limited circumstances, in accordance with the project agreement.

Building design

The project agreement provides that Access Justice Durham is responsible for designing the facilities to ensure that the courthouse is constructed in order to meet the Province's performance requirements.

Benchmarking and market testing

Under the project agreement, every 5 years the costs of providing certain of the soft facility management services (such as cleaning, security and food services) will be compared against the applicable market cost of providing the same services at that time. Any change in the cost of providing these services following benchmarking or market testing will be reflected in the annual service payment to Access Justice Durham.

Leadership in Energy and Environmental Design (LEED) design and construction obligations

Access Justice Durham shall perform the works so as to achieve the prerequisites and credits required to achieve LEED silver certification. In addition, Access Justice Durham will achieve LEED Gold certification after six years of operation and for every six years after that until the end of the term of the agreement.

Under the traditional model, the costs of assuming these risks would have been borne by the province.

Facilities maintenance risk

Key risks associated with the maintenance of the facilities over the 30-year service period have been transferred to Access Justice Durham by way of the project agreement, most notably, hard facilities management and lifecycle maintenance. Access Justice Durham will be responsible for the hard facilities maintenance, repair and building lifecycle repair and replacement required to ensure the facilities meet the performance requirements set out in the project agreement. Specific performance standards relating to the hard facilities management services are built into the project agreement. Access Justice Durham's payment under the project agreement is contingent on their ability to perform to those standards.

Change order process

The project agreement contains detailed principles for any changes to the project scope during the term of the agreement. Infrastructure Ontario's approval is required for all change orders (except for changes caused by a change to legal or security clearance requirements).

The project agreement also stipulates that Access Justice Durham is required to comply with specific costing schedules for change orders.

LEED certification

The new facility will be designed to comply with the Canada Green Building Council's Leadership in Energy and Environmental Design (LEED) requirements. LEED buildings must meet high standards that address matters such as indoor air quality and energy efficiency. These buildings enjoy some of the highest user satisfaction rates in North America.

Achieving value for money

Ernst & Young Orenda Corporate Finance's value for money assessment demonstrates a projected cost savings of 11.47 per cent, or \$49 million, by using the alternative financing and procurement (AFP) approach to deliver the DCC project, as compared to the traditional procurement approach.

Ernst & Young Orenda Corporate Finance (EYOCF) was engaged by Infrastructure Ontario to independently assess whether – and, if so, the extent to which – value for money will be achieved by delivering this project using the AFP method. Their assessment was based on the value for money assessment methodology outlined in *Assessing Value for Money: A Guide to Infrastructure Ontario's Methodology*, which can be found at www.infrastructureontario.ca. The approach was developed in accordance with best practices used internationally and in other Canadian provinces, and was designed to ensure a conservative, accurate and transparent result. (Please refer to the letter from EYOCF on page 2).

Value for money concept

The goal of the AFP approach is to deliver a project on time and on budget and to provide real cost savings for the public sector.

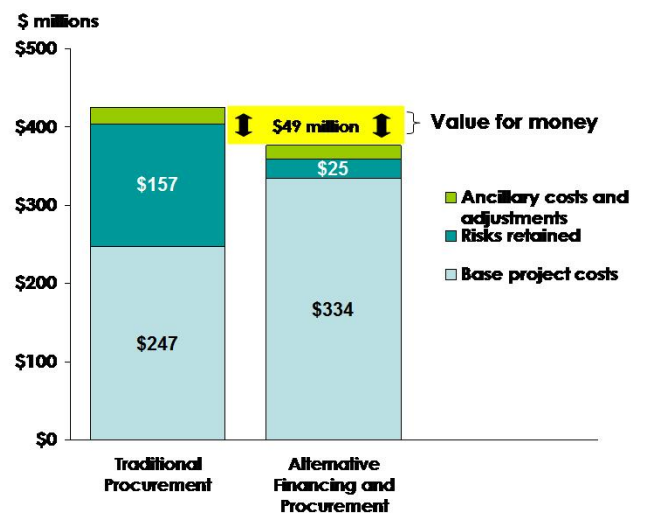
The value for money analysis compares the total estimated costs, expressed in dollars and measured at the same point in time, of delivering the same infrastructure project under two delivery models; the traditional delivery model (public sector comparator or "PSC") and the AFP model.

Model #1 Traditional project delivery (Public sector comparator)	Model #2 Alternative financing and procurement
Total project costs that would have been incurred by the public sector to deliver an infrastructure project under traditional procurement processes.	Total project costs incurred by the public sector to deliver the same infrastructure project with identical specifications using the AFP approach.

The cost difference between model #1 and model #2 is referred to as the value for money. If the total cost to deliver a project under the AFP approach (model #2) is less than the total cost to deliver a project under the traditional delivery approach (model #1), there is said to be positive value for money. The value for money assessment is completed to determine which project delivery method provides the greatest level of cost savings to the public sector.

The cost components in the VFM analysis include only the portions of the project costs that are being delivered using AFP. Project costs that would be the same under traditional delivery or AFP, such as land acquisition costs, furniture, fixtures and equipment, are excluded from this VFM calculation.

The value for money assessment is developed by obtaining detailed project information and input from multiple stakeholders, including internal and external experts in construction project management. Components of the total project costs under each delivery model are illustrated below:



It is important to keep in mind that Infrastructure Ontario's value for money calculation methodology does not attempt to quantify a broad range of qualitative benefits that may result from using the AFP delivery approach. For example, the use of the AFP approach will more likely result in a project being delivered on time and on budget. The benefits, however, of having a project delivered on time cannot always be accurately quantified. For example, it would be difficult to put a dollar value on the people of Ontario gaining access to a new justice facility sooner than would be the case with a traditionally-financed project.

Other unquantifiable benefits relate to the existence of Infrastructure Ontario – a central organization to coordinate the development of a number of projects. Infrastructure Ontario has standardized documents, increased up-front due diligence and applies best practices to each of its projects; however, it would be difficult to quantify these benefits.

These qualitative benefits, while not quantified in this value for money analysis, are additional benefits of the AFP approach that should be acknowledged.

Value for money analysis

For a fair and accurate comparison, the traditional delivery and AFP costs are present-valued to the same point in time, i.e. the project's financial close date using the technique of discounting. It is Infrastructure Ontario's policy to use the current public sector rate of borrowing for this purpose. The financial close date of this project was March 1, 2007 and so all costs were discounted to that date. For more information on discounting and value for money methodology, please refer to *Assessing Value for Money: A Guide to Infrastructure Ontario's Methodology*, which is available online at www.infrastructureontario.ca.

Base Costs

Base project costs are taken from the price of the contract signed with Access Justice Durham in

today's dollars, and include all construction, maintenance, lifecycle and financing costs. The base costs between AFP and the traditional delivery model differ as follows:

1. Under AFP, the private party charges an additional premium as compensation for the risks that the public sector has transferred to it under the AFP contract. In the case of traditional delivery, the private-party risk premium is not included in the base costs as the public sector retains this risk.
2. The financing costs are higher under AFP because the financing rate that the private sector is charged is higher than the financing rate of the public sector.
3. The AFP base costs include items such as taxes and insurance costs that are separately adjusted for under the PSC as a competitive neutrality item (explained in more detail later in this section).

In the case of the AFP model, the base costs are extracted from the price agreed among the parties under the project agreement. For the DCC project, these were \$334 million.

If the traditional model had been used for the DCC project, base costs are estimated to have been \$247 million.

Risks Retained

The public sector has always had to bear costs that go beyond a project's base costs. Total project costs exceed base costs in large part due to project risks.

Project risks may be defined as potential adverse events that may have a direct impact on project costs. To the extent that the public sector retains these risks, they are included in the estimated project costs.

The concept of risk transfer and mitigation is key to understanding the overall value for money assessment. To estimate and compare the total cost of delivering a project under the traditional

delivery versus the AFP method, the risks borne by the public sector (which are called “retained risks”) should be identified and accurately quantified. For a Design Build Finance Maintain project, the broad risk categories include:

- Policy/Strategic;
- Design/Tender, Construction;
- Lifecycle; and
- Operations.

Comprehensive risk assessment not only allows for a fulsome value for money analysis, but also helps Infrastructure Ontario and the ministry sponsor ensure that the party best able to manage, mitigate and/or eliminate the project risks, is allocated those risks under the project agreement.

Under the traditional delivery method, the risks retained by the public sector would be significant. As discussed on page 11, the following are examples of risks retained by the public sector under the traditional delivery method that are now transferred under the project agreement from the public sector to the private sector:

- construction price certainty;
- scheduling, project completion and delays;
- building design;
- benchmarking and market testing;
- LEED design and construction obligations;
- facilities maintenance risk; and
- the cost overruns associated with these risks.

Examples of these risks include:

- *Design coordination/completion:* Under the AFP approach the builder is responsible for all design coordination activities to ensure that the facilities are constructed in full accordance with the design.
- *Scheduling, project completion and delays:* Under the AFP approach, the builder has agreed that it will provide the facility for use by the Province by a fixed date and at a pre-determined price to the Province. Therefore, any extra cost (financing or otherwise) incurred as a result of a schedule overrun caused by the builder will not be paid by the Province, thus

providing a clear motivation to maintain the project’s schedule. Further oversight includes increased upfront due diligence and project management controls imposed by the builder and the builder’s lender.

Under the traditional approach, these risks would have been borne by the public sector. For example, design coordination risks that materialized would be carried out through a series of change orders issued during construction. Such change orders would, therefore, be issued in a non-competitive environment, and would typically result in an increase in overall project costs for the public sector.

The added due diligence brought by the lenders, together with the risk transfer provisions in the construction contract, results in overall cost savings as these transferred risks will either be better managed or completely mitigated by the private-sector builder.

A detailed risk analysis of the DCC project concluded that the average value of project risks retained by the public sector under traditional delivery is \$157 million. The analysis also concluded that the average value of project risks retained by the public sector under the AFP delivery model decreases to \$25 million.

For more information on the risk assessment methodology used by Infrastructure Ontario, please refer to the third party risk assessment report by Altus Helyar, available at www.infrastructureontario.ca.

Ancillary Costs and Adjustments

There are significant costs associated with the planning and delivery of a large complex project that could vary depending on the project delivery method. For example, there are costs related to each of the following:

- *Project management:* These are essentially fees to manage the entire project. Under the

AFP approach, these fees will also include the costs of Infrastructure Ontario.

- *Transaction costs:* These are costs associated with delivering a project and primarily consist of legal fees. Under the AFP approach, in addition to legal, these fees will also include fairness and transaction advisory fees. Architectural and engineering advisory fees are also incurred to ensure the facility is being built according to specifications.

These costs are quantified and added to both models for the value for money assessment. Both project management and transaction costs, are likely to be higher under AFP given the greater degree of up-front due diligence. The ancillary costs over the entire 33 year term of the DCC project are estimated to be \$8 million under the traditional delivery method as compared to \$17 million under the AFP delivery method.

An additional adjustment is made when estimating costs under traditional delivery. This adjustment is referred to as competitive neutrality and accounts for items such as taxes paid under AFP that flow back to the public sector and are not taken into account under the traditional model. In the case of the DCC project, this adjustment is made by adding \$13 million to the traditional delivery costs (i.e. on the PSC side). For a detailed explanation on competitive neutrality, please refer to *Assessing Value for Money: A Guide to Infrastructure Ontario's Methodology*, which is available online at www.infrastructureontario.ca.

Assessing value for money

The analysis completed by EYOCF concludes that the additional costs associated with the AFP model are more than offset by the benefits of the AFP procurement model, including: a much more rigorous upfront due diligence process, reduced risk to the public sector, and increased monitoring and discipline brought about by the lenders throughout the procurement process..

Once all the cost components and adjustments are determined, the total costs associated with each delivery model (i.e., traditional delivery and AFP) are calculated, and expressed in Canadian dollars, at financial close. In case of the DCC project, the estimated traditional delivery cost (i.e. PSC) is \$426 million as compared to \$377 million under the AFP delivery approach.

The positive difference of \$49 million between the above delivery costs represents the value for money for using the AFP delivery approach, and is usually expressed in percentage terms. For the DCC project, estimated cost savings of 11.47 per cent over the traditional delivery model were demonstrated.