Ref: S430/10/03(3)

30 October 2007

**To: All Secretaries General**

**Circular 36/2007**

**Guidelines to State Authorities regarding the Statutory Roles of the National Development Finance Agency**

A Chara,

1. I am directed by the Minister for Finance to bring to your attention the publication of the revised *Guidelines to State Authorities regarding the Statutory Roles of the National Development Finance Agency.* These guidelines are issued under section 4(1) (as amended by section 5 of the National Development Finance Agency (Amendment) Act 2007) and section 8 of the National Development Finance Agency Act 2002. They replace the relevant sections of guidelines previously issued on 14 February 2003, entitled *Public Private Partnerships and National Development Finance Agency* (Ref: S430/10/03). The superseded sections of the 2003 guidelines are hereby revoked as of this date.

2. A full copy of the revised guidelines has been enclosed for your information. The guidelines are also available on the PPP website: www.ppp.gov.ie. Some of the key provisions are highlighted below.

**Increase in threshold for seeking financial advice from the NDFA**

3. The threshold above which State authorities must seek the advice of the National Development Finance Agency (NDFA) on the optimal means of financing a public investment project is increased to a capital cost of **€30 million** (from €20 million). The financial advisory role of the NDFA applies to all public investment projects whether procured by means of a Public Private Partnership or by traditional procurement.

**Engagement of consultants for financial advice**

4. In view of the statutory role of the NDFA as the State's financial advisor, State authorities should not engage consultants directly to advise on the financing, refinancing or insurance of projects falling within these guidelines, see paragraph 2.6 of the guidelines. Again, this applies to all public investment projects.

**Circulation to State authorities[1]**

5. Appropriate arrangements should be made to bring these guidelines to the attention of all State authorities operating under the aegis of your Department.

**Queries**

6. Any queries regarding these guidelines should be directed to Ivana McCormack, Central PPP Unit, Department of Finance, 2-4 Merrion Row, Dublin 2 (Ph: 01 669 6319; e-mail: ivana.mccormack@finance.gov.ie).

Mise le meas

William Beausang

William Beausang
Assistant Secretary
Taxation and Financial Services Division

[1] "State authorities" are defined by their inclusion in the Schedule to the National Development Finance Agency Acts 2002 and 2007. See Appendix 1 of the guidelines.

Public Private Partnership
Comhpháirtíocht Phoiblí Phríomháideach

# Guidelines to State authorities regarding the National Development Finance Agency

**October 2007**

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# PART 1: GENERAL ARRANGEMENTS

## 1. Introduction

1.1 These Guidelines to State authorities are issued under section 4(1) (as amended by section 5 of the National Development Finance Agency (Amendment) Act 2007) and section 8 of the National Development Finance Agency Act 2002. They replace the Guidelines previously issued on 14 February 2003, entitled “Public Private Partnerships and National Development Finance Agency” (Ref: S430/10/03). The superseded sections of the 2003 Guidelines are hereby revoked as of this date. The revised Guidelines take account of the National Development Finance Agency (Amendment) Act 2007, the experience gained in the operation of the National Development Finance Agency (“the NDFA” or “the Agency”) since its establishment and other relevant developments in the appraisal and management of capital expenditure proposals.

1.2 Part 1 (this part) addresses both the advisory and Public Private Partnership (PPP) procurement functions of the NDFA. Part 2 addresses the arrangements that relate specifically to the Agency’s PPP procurement function in more detail.

1.3 The NDFA’s procurement function is to be exercised in regard to the procurement of PPP projects funded directly from Departments’/Agencies’ Votes. It should be noted that these new arrangements do not replace the existing arrangements for the procurement of PPP projects in <u>the transport sector or the local government sector.</u> It should also be noted that the NDFA does not have a procurement role in regard to <u>other forms</u> of procurement.

1.4 There is no change in the role of the Office of Public Works (OPW) in the procurement/management of accommodation projects not covered by the new arrangements. In addition, there is no change in the existing arrangements under which Government Departments/Agencies undertaking PPP projects may seek to avail of the expertise of the OPW for advice on technical requirements in the upfront project development stage.

1.5 “State authorities” are defined by their inclusion in the Schedule to the NDFA Acts[2]. Any new body to be added to the Schedule must, in the first instance, meet the definition of a public authority” as set out in section 22 of the National Development Finance Agency Act 2002, as amended by section 9 of the National Development Finance Agency (Amendment) Act 2007. The Schedule to the NDFA legislation is replicated at Appendix 1.

1.6 “Public private partnership arrangements” are defined in section 3(1) of the State Authorities (Public Private Partnership Arrangements) Act 2002[3]. The Framework for Public Private Partnerships[4] provides an elaboration on the approach to PPPs agreed with the relevant social partners.

1.7 Commercial Semi-State Bodies, other than those included in the Schedule to the NDFA legislation, are not covered by these guidelines.

1.8 The statutory functions of the National Development Finance Agency are set out at in section 3(1) of the National Development Finance Agency Act 2002 (as amended by the 2007 Act) and are as follows:

(a) to advise any State authority of what, in the opinion of the Agency, are the optimal means of financing the cost of public investment projects in order to achieve value for money,
(b) to advance moneys (including repayable loans and equity) and to enter into other financial arrangements in respect of projects approved by any State authority,
(c) to provide advice to any State authority on all aspects of financing, refinancing and insurance of public investment projects to be duly undertaken by means of public private partnership arrangements or within the public sector[5],
(d) to form, or cause to be formed, companies, subject to section 5, for the purpose of securing finance for public investment projects,
(e) to enter into a public private partnership arrangement with a view to transferring the rights and obligations under such an arrangement to any State authority, and

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[2] The National Development Finance Agency Acts 2002 and 2007.
[3] Section 3 is reproduced at Appendix 2
[4] Available on www.ppp.gov.ie
[5] See paragraph 2.6 below – it should be noted that the functions set out at (a) and (c) in paragraph 1.7 relate to public investment projects generally and not to Public Private Partnerships only.

(f) to act as agent for any State authority in connection with the entry or proposed entry by that State authority into a public private partnership arrangement.

**2. Obligations on State authorities under section 8 to use NDFA as financial advisors for projects with a capital cost in excess of €30 million.**

2.1 State authorities shall seek the advice of the NDFA on the best financing approach before undertaking a major public investment project (or group of such projects[6]) with a capital cost in excess of **€30 million**. This applies to all public investment projects regardless of the procurement method chosen to deliver them. The preconditions for NDFA undertaking this advisory role are set out below at paragraph 2.10.

2.2 It should be noted that when the NDFA acts as a financial adviser, the final decision on any project is one for the relevant Minister, Sanctioning Authority, or for the Government, as appropriate. State authorities are not obliged to take the NDFA's advice.

***Projects with a capital cost less than €30 million***

2.3 State authorities must also seek the advice of the Agency before undertaking a project/grouped project of a lesser capital cost in cases where a Public Private Partnership (PPP) arrangement involving private finance is under consideration by the State authority following preliminary appraisal of the project.

2.4 State authorities may also seek NDFA financial advice for projects of a lesser capital cost that do not involve private finance. In such cases, the NDFA may decline to provide advice, having regard to the most effective and efficient use of its resources.

2.5 The NDFA may also decline to offer advice in cases of a perceived / potential / actual conflict of interest. Such circumstances will be handled in accordance with the provisions of the Code of Conduct drawn up by the NDFA under section 3A of the National Development Finance Agency Act 2002, as inserted by section 4 of the National Development Finance Agency (Amendment) Act 2007.

[6] By a "group of such projects" we mean individual projects that are grouped together for the purposes of one procurement competition.

***Engagement of other financial advisors***

2.6 In view of the statutory role of the NDFA as the State financial advisor, State authorities <u>should not engage consultants directly to advise on the financing, refinancing or insurance of projects</u> except in the circumstances outlined below at paragraphs 2.7 and 2.8.

2.7 If the NDFA declines to provide advice as at paragraphs 2.4 or 2.5, the State authority may seek alternative financial advice.

2.8 Arrangements with consultants entered into by a State authority before 14 February 2003[7], to provide financial advice for an individual project or a programme of projects may be honoured; and, where requested, the NDFA shall work with that State authority and its advisors as necessary to deliver the optimal value for money for the Exchequer.

***Other bodies under the aegis of State authority***

2.9 When a project is being undertaken by a body that is not itself a "State authority" as defined in the NDFA Acts but is under the aegis of such a State authority and that State authority is proposing to make finance available for that project, the State authority concerned may seek the advice of the NDFA. Such advice will be given at the discretion of the NDFA and is predicated on the Agency's financial advisory role to the State authority. The financial advisory role of the NDFA in such circumstances will be exercised in accordance with the relevant provisions of paragraphs 2.1 to 2.8 above.

***Preconditions for NDFA undertaking a project advisory role***

2.10 Before responding to a request for advice, the NDFA may require a State authority to confirm that:

- the project in question is consistent with the appropriate capital investment envelope and/or any relevant capital budget;
- the project is in accordance with the requirements of any sanction in place for the expenditure (including any delegated sanction) applicable to the State authority; and

[7] i.e. the date of publication of the previous Guidelines "Public Private Partnerships and National Development Finance Agency" (Ref: S430/10/03) referred to at paragraph 1.1.

- that the State authority has followed the project appraisal requirements set out in the Capital Appraisal Guidelines[8] as amended by the Value for Money circular letter of 26th January 2006, issued by the Department of Finance.

## 3. Obligations on State authorities regarding NDFA's role as a Centre of Expertise for the procurement of PPP projects

***PPP projects to be procured by the NDFA***

3.1 The National Development Finance Agency (Amendment) Act 2007 provides, *inter alia*, that the NDFA may undertake the procurement of PPP projects on behalf of State authorities or as principal with a view to transferring the rights and obligations to the relevant State authorities. The Government has decided hat the Centre of Expertise within the Agency shall undertake the procurement to "turnkey stage" (i.e. design, construction, fit-out) of all new PPP projects **funded directly from Departments'/Agencies' Votes**. The NDFA will be given a clear direction by the relevant Department/Agency on what projects to deliver in each instance.

***PPP projects falling outside the procurement role of the NDFA***

3.2 Under Government decisions the NDFA PPP procurement role will not apply to the following PPP projects:

- Road and Rail PPP projects - these will continue to be procured by the relevant existing specialised agencies (e.g., the National Roads Authority and the Railway Procurement Agency);
- Local authority PPP projects - which will continue to be procured by the relevant local authority;
- PPP projects in Vote funded areas that have been excluded from the general arrangements by agreement of the Minister for Finance and the relevant Minister.

***Position regarding pre-existing arrangements for procurement***

3.3 Where Departments/Agencies undertaking PPPs to be funded from a Vote had already made arrangements for the procurement of PPP projects prior to the introduction of the new arrangements in July 2005, it was agreed that the situation would be handled pragmatically. However, any such further PPP projects undertaken by Departments/Agencies would fall

[8] Guidelines for the Appraisal and Management of Capital Expenditure Proposals in the Public Sector, Department of Finance, February 2005.

under the arrangements set out in these guidelines, with the exception of any project agreed otherwise between the Minister for Finance and the relevant Minister.

***Arrangements relating to NDFA's PPP procurement role***

3.4 Further details regarding the arrangements relating to the NDFA's PPP procurement role are set out in Part 2.

**4. Parliamentary Questions**

4.1 Responses to Parliamentary Questions on individual PPP projects will be a matter for the relevant Department in the first instance, who will, if necessary, seek briefing from the NDFA on projects that are in the course of procurement by or have been procured by the Agency.

## PART 2: ARRANGEMENTS RELATING TO THE NDFA'S PPP PROCUREMENT ROLE

***NOTE: This part refers to "Department/Agency" rather than "State authority" as the NDFA's PPP procurement role does not extend to all State authorities. The NDFA's PPP procurement role is focussed on PPP projects in Vote-funded areas.***

**5. NDFA's advisory role when the Agency is procuring a PPP project**

5.1 The NDFA will provide the financial expertise to help Departments/Agencies to agree project budgets and to compile the Public Sector Benchmark for all PPP projects that the Agency will procure – see also paragraph 6.1.5.

**6. Tasks to be undertaken prior to handover of the project for procurement**

6.1 Before projects are handed over to the NDFA a number of steps should be taken by the Department/Agency sponsoring the project. Some of the most significant of these steps are set out below:

*6.1.1 Project Appraisal and Development Phase:* as with any capital investment project, the requirements set out in Stage 1 of the Capital Appraisal Guidelines should be completed. This includes Preliminary Appraisal and Detailed Appraisal, encompassing, if necessary[9], a full Cost Benefit Analysis. The Department/Agency may obtain sanction to engage specialist advisors (other than financial advisors) for this phase. The appointment of advisors for the procurement phase is the responsibility of the NDFA. Practice to date has been that when the NDFA is procuring a PPP project any such advisors are selected in agreement with the Department/Agency.

*6.1.2 Process Auditor*: When approval to proceed with the project as a PPP has been received from the Sanctioning Authority, the Accounting Officer of the

[9] The Department of Finance's circular letter of 25 January 2006 codifying the value for money measures announced by the Minister for Finance in October 2005 provides that all projects over €30 million should be subject to detailed Cost Benefit Analysis. In general, PPP projects referred to the Centre of Expertise will be in excess of this capital value and as such a Cost Benefit Analysis would have to be carried out in most, if not all, cases.

Department/Agency should appoint a Process Auditor for the project. Practice to date in those projects being procured by the NDFA has been to retain the same Process Auditor when responsibility for the procurement phase is passed to the NDFA.

*6.1.3 Stakeholder Consultation:* Stakeholder consultation, particularly around issues impacting on employees, should be carried out by the Department/Agency and should be substantially complete before the project is handed over to the NDFA. If there are any outstanding issues around consultation when the project is handed over, the NDFA should be made aware of them and briefed on how the Department/Agency intends to conclude these matters during the procurement phase.

*6.1.4 Statutory Approvals*: Any necessary statutory approvals, such as licences or consents[10], which have to be secured before the project can be procured, should be secured by the Department/Agency before the project is handed over to the NDFA.

*6.1.5 Output Specifications and PSB*: The output specifications and related Public Sector Benchmark (PSB) must also be agreed prior to handover. These remain the responsibility of the Department/Agency. At a practical level, the PSB will be compiled by the NDFA, with input from the Department/Agency, and agreed by the Department/Agency before going to the market.

*6.1.6 Key Risks*: The Department/Agency should also consider where responsibility for the key risks in the project should lie, i.e. should they be managed by the public or the private sector. In its statutory role as financial advisor to State authorities, the NDFA should be consulted on how the main risks in each project should be allocated.

*6.1.7 Policy Issues*: Departments/Agencies should not hand projects over to the NDFA until all policy issues have been identified and addressed. For example, if the project has implications for public sector numbers policy the Department/Agency sponsoring the project will have to bring this to the attention of the relevant Sanctioning Authority. Departments/Agencies should aim to transfer a project to the NDFA that the Agency can immediately begin to procure and can bring through the procurement

[10] For example, <u>as appropriate and necessary</u>, the Sponsoring Agency may have to secure outline planning permission before the procurement process can proceed.

process as quickly and efficiently as possible. To this end, all reasonably foreseeable issues that might arise to cause delays in procurement should be identified and addressed before the project is handed over to the NDFA.

**7. Advising NDFA of the parameters for procurement**

7.1 When a PPP project falls to be procured by the NDFA and the necessary approvals are in place, in accordance with best practice, the Accounting Officer of the Department/Agency involved should specify the parameters within which it requires the project to be procured by the NDFA. Such parameters would include, *inter alia*:

(i) the output specifications for the project, Public Sector Benchmark (PSB)[11], timetable for procurement, etc;

(ii) any requirements regarding liaison with the Department/Agency during the procurement and construction delivery phases, bearing in mind that the provision that the involvement of the Department/Agency during the procurement phase will be at the request of the NDFA (see paragraph 8.5 below); and

(iii) the documentation to be supplied by the NDFA to the Department/Agency when the NDFA hands the project back to it.

**8. Responsibility and accountability for project phases**

8.1 The arrangements for responsibility and accountability set out in this circular fall within the context of the Capital Appraisal Guidelines, the system of multi-annual capital investment envelopes and delegated sanction arrangements that are in place in regard to planning and budgeting for capital investment.

8.2 Subject to any relevant Government decisions, the relevant Minister, having consulted, if necessary, with the Minister for Finance, selects projects are to be pursued as PPPs and agrees the configuration[12] of those projects. Project selection must be consistent with the relevant Capital Investment Envelope, including the targets for PPP/NDFA investment, and subject to

[11] In compiling the output specifications for the project, the State authority should have appropriate regard to design/build quality. See also section 1.8.2 of the Technical Note on the compilation of a Public Sector Benchmark for a Public Private Partnership (available on www.ppp.gov.ie)

[12] E.g. Design Build Operate and Maintain (DBOM) / Concession / Design Build Operate Finance (DBOF) etc.

the general conditions of sanction from the Department of Finance, including delegated sanction, where appropriate[13].

8.3 There is a clear distinction between the project development phase, which is the responsibility of the Department/Agency and the procurement and construction delivery phases which are the responsibility of the NDFA.

8.4 The NDFA must procure/deliver the project within the parameters set by the Department/Agency - see paragraph 7. If any issues emerge with regard to these parameters (other than issues appropriate to the NDFA Board[14]), the NDFA will revert to the Department/Agency which, depending on the issue involved, may need to consult with the relevant Sanctioning Authority.

8.5 The arrangements underpinning the NDFA's PPP procurement role that were approved by Government included the underlying requirement that the involvement of Departments/Agencies and their technical advisors during the procurement/construction delivery stages shall be at the request of the NDFA. The NDFA will work in a co-operative manner with Departments/Agencies. Appendix 4 sets out an example of practical arrangements that were adopted by the NDFA and a Sponsoring Department in this regard. However, it is imperative that Departments/Agencies and their advisors ensure that maximum clarity on the parameters within which the project is to be procured is provided to the NDFA by the Department/Agency at the point of handover – see paragraph 7 above.

8.6 The relevant Department/Agency shall resume responsibility and accountability for the project when the NDFA has completed the procurement, negotiation and management of the contract to "turnkey stage" (i.e. design, construction, fit-out) and the related project asset/service is ready for occupation/use. Unitary payments to the private sector partner will be made from the Vote of the Department/Agency; no unitary payments will be made from the NDFA. The NDFA shall assist the Department/Agency in assuming the operating phase

[13] Capital investment envelope allocations and the terms of sanction/delegated sanction are agreed between the Department of Finance and the relevant Department.

[14] For an example of an NDFA Board level issue see section 2.9.5 of the Main PPP Guidelines (*Guidelines for the Provision of Infrastructure and Capital Investments through Public Private Partnerships*, Department of Finance, July 2006) that sets out the procedures to be followed when the highest ranking bid does not equal or beat the Public Sector Benchmark. If this situation arises when the NDFA is procuring project on behalf of a State authority the Board of the NDFA has a very specific role to play.

contract management function by working with the Department/Agency and its clients for an interim period, and providing familiarisation documentation for the Department/Agency and its clients on the contract (including a project specific user guide to the contract).

8.7 Appendix 3 summarises the respective accountability aspects for the NDFA and the relevant Department/Agency when a PPP project is procured by the NDFA[15].

**9. Project Management**

9.1 Appropriate project management arrangements should be put in place, having regard to the PPP guidelines and in accordance with the Department of Finance circular of 25 January 2006 on Public Procurement and Capital Appraisal (i.e. the circular letter codifying the value for money measures). Arrangements for handover and management of projects referred to the NDFA should be made by the Department/Agency, in conjunction with the NDFA and documented when advising NDFA of the parameters within which the project is to be procured – see paragraph 7 above.

**10. Hand back**

10.1 When the NDFA has completed the procurement of a project and managed the construction, fit out, etc. of the related asset to "turnkey" stage, and the Department/Agency is satisfied that the project has been procured as agreed prior to handover of the project to the NDFA, the project will be handed back to the relevant Department/Agency. The NDFA will then assist the Department/Agency in assuming the contract management function.

**11. Expenses incurred by NDFA under section 26**

11.1 Section 26 of the National Development Finance Agency Act 2002, as amended by section 10 of the National Development Finance Agency (Amendment) Act 2007, provides, *inter alia*, for expenses (primarily expenses related to the engagement of consultants) incurred by the Agency in the performance of its advisory and procurement functions in relation to a specific project or arrangement to be repaid to the Agency by the appropriate Department/Agency or Departments/Agencies as soon as practicable after they are paid by the Agency.

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[15] Taken from the appendix to a document entitled "Summary of New Arrangements for Procurement of PPPs" which has been agreed by the Interdepartmental Group on PPPs – available at www.ppp.gov.ie

11.2 Guidelines issued to the NDFA require that:

- before the NDFA incurs expenses to be charged to a Department/Agency or Departments/Agencies, e.g. consultancy fees, the NDFA shall agree, with the Department/Agency or Departments/Agencies, the basis on which the expenses are to be incurred and paid.
- the NDFA should provide timely and accurate information to the Accounting Officer or, as appropriate, the Accountable Officer, for each Department/Agency to permit adequate budgetary/Estimates provision for such expenses.
- when expenses may be repaid by more than one Department/Agency, the NDFA shall agree in advance with the Departments/Agencies the mechanism for the apportionment of these expenses between them.

11.3 The consultancy services engaged by the NDFA (including services on behalf of Departments/Agencies for the procurement of projects) form part of the resources made available to the Agency. While the Accounting Officer for a Vote is accountable for the propriety of the issues from that Vote to reimburse the NDFA for project-specific expenses such as consultancy costs for projects, the NDFA is accountable for its economy and efficiency in the use of these resources.

11.4 When the Department/Agency resumes responsibility for the PPP project after hand back it assumes responsibility for making payments to the private sector partner, as appropriate, from its Vote.

**Appendix 1**

## SCHEDULE TO THE
## NATIONAL DEVELOPMENT FINANCE AGENCY ACTS 2002 AND 2007

## STATE AUTHORITIES

1. A Minister of the Government.
2. A local authority.
3. The Commissioners of Public Works in Ireland.
4. The National Roads Authority.
5. The Health Service Executive.
6. A university within the meaning of the Universities Act 1997, other than Trinity College and the University of Dublin.
7. The Dublin Institute of Technology.
8. A college within the meaning of section 2 of the Regional Technical Colleges Act 1992.
9. A vocational education committee within the meaning of section 7 of the Vocational Education Act 1930.
10. Courts Service.
11. A harbour authority within the meaning of the Harbours Acts 1946 and 1976.
12. Bus Átha Cliath – Dublin Bus.
13. Bus Éireann – Irish Bus.
14. Córas Iompair Éireann.
15. The Railway Procurement Agency.
16. Digital Hub Development Agency.
17. Any public authority standing prescribed by order under section 22.

**Appendix 2**

**Definition of "Public Private Partnership arrangements"**

**Section 3(1) State Authorities (Public Private Partnership Arrangements) Act 2002**

**3.** (1) Without prejudice to the functions of a State authority under any other enactment, a State authority may, either itself or in conjunction with any other person (including another State authority) -

(a) enter into an arrangement (in this Act referred to as a "public private partnership arrangement") with a person (in this Act referred to as a "partner") for the performance of functions of the State authority specified in the arrangement in relation to -

(i) the design and construction of an asset, together with the operation of services relating to it and the provision of finance, if required, for such design, construction and operation, or

(ii) the construction of an asset, together with the operation of services relating to it and the provision of finance, if required, for such construction and operation, or

(iii) the design and construction of an asset, together with the provision of finance for such design and construction, or

(iv) the provision of services relating to an asset for not less than 5 years and the provision of finance, if required, for such services,

(b) subject to *subsection (4)*, arrange or provide for a payment to a partner,

(c) enter, where appropriate, into an agreement (in this Act referred to as a "direct agreement") with a person who has arranged or provided funding for the partner for the carrying out of the public private partnership arrangement,

(d) transfer an interest, or part of an interest, of the State authority in an asset or part of an asset, to the partner, or, subject to the prior consent of the appropriate Minister or, if the State authority is a Minister of the Government, subject to the consent of the Minister for Finance, to a nominee of the partner by transfer, assignment, conveyance, grant of lease or licence or otherwise,

(e) take a transfer of an interest of the partner or a nominee of the partner, in an asset or part of an asset, by transfer, assignment, conveyance, grant or surrender of lease or licence or otherwise.

**Appendix 3**

## Accountability Aspects for Projects procured under the New Procurement Function

### Department/Sponsor

- Accounting Officers are accountable for expenditure from the Vote. Therefore, Sponsor Department/body assumes responsibility for the expenditure on the project when it becomes a charge on the Vote. Direct expenditure under the contract usually commences after handover of the project at turnkey [although certain items of expenditure may arise beforehand, e.g. upfront VAT payments].
- The Sponsor is accountable (by way of the C&AG) to the PAC – for the systems, practices and procedures it used up to handover to NDFA and similarly the work on the roll-out of the contract after hand back.
- The Sponsor may also be called as a witness by other Committees of the Oireachtas.
- Prior to handover to NDFA, the Process Auditor should check on behalf of the Accounting Officer that the requisite steps were taken on Capital Appraisal, conformity with capital envelope, that policy clearance process followed, sanctions in place and that the Output Specifications and PSB have been completed.
- In regard to Parliamentary Questions on individual projects, the response will be a matter for the relevant Department in the first instance, who will if necessary seek briefing from NDFA on projects which are in the course or procurement with them *[or which have been procured by them]*[16].

### NDFA

- NDFA reports directly to the Minister for Finance.
- Main accountability to PAC will be through the examination of the annual report and accounts of NDFA and any examination by PAC of a VFM report of the C&AG.
- NDFA may also be required to give evidence in regard to the Examination of the Appropriation Account of a Department on whose Vote the expenses of a project procured by NDFA are borne.

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[16] Italicised text added to drafting in original document.

- NDFA accountable to PAC for systems, practices and procedures used by it to evaluate its operations in **carrying out the procurement function, including assessing the contract for recommendation.**
- As with NDFA expenditure generally, the administrative costs of the NDFA undertaking the new procurement function will be met from the Central Fund. Other costs associated with the procurement (e.g. specialist advice) are to be recovered from the relevant Department or Agency and NDFA will be accountable to the PAC for their new procurement function.
- Accountable also for systems, practices and procedures they employ to evaluate effectiveness of financial/risk advice given to sponsors/sanctioning authority.
- NDFA Board report matter to Minister *[for Finance]* where PSB is not equalled or beaten.
- NDFA accountability to Oireachtas should also extend to other Committees, in accordance with accountability norms (given involvement with delivery).

**Appendix 4**

## Example of Arrangements Adopted for the Allocation of Responsibility between the Centre of Expertise and a Sponsoring Department

[**Note**: this chart was developed by the NDFA as a practical example of the arrangements in place as between the NDFA and a Sponsoring Department. This is a summary of the steps included for illustrative purposes – obviously more detailed steps are required as set out in these guidelines.]