Public-Private Partnerships in Quebec

An Ideology Gone Off-course

Presentation by the Confédération des syndicats nationaux (CSN)
Presented by Claudette Carbonneau, President

The 4th Annual Meeting of the Senior Officials on Public-Private Partnerships

OECD Conference Centre, Paris
March 24 and 25, 2011
The official version of this document is in French.
The Confédération des syndicats nationaux

The Confédération des syndicats nationaux (CSN) is the second largest central union organization in Canada. The CSN represents workers from the public and private sectors, organized according to region (thirteen regional councils), and within eight sectoral federations: social services and healthcare, college education, public services (such as municipalities and public transit), communications, business, construction and manufacturing. More than 50% of our members are women and half of the membership works in the public sector. The CSN is active principally in Quebec, but is also present in the other Canadian provinces, particularly in the sectors of telecommunications, trucking and federal prisons, where it represents correctional officers.

1. The emergence of PPPs in Quebec

Public-private partnerships have come to Quebec fairly recently. A growing interest in PPPs became apparent early in the 2000s, when a new government, the Quebec Liberal Party, came to power. This new government wished to impose state restructuring in which recourse to the private sector became an ideological choice.

At that time, the government’s aim was, on one hand, to eventually modify the nature of the partnership between the state and the private sector, and on the other hand to apply the partnership to a greater number of activities. In 2004 it created the Agence des partenariats public-privé du Québec (PPP Québec). In this regard, it is interesting to note that the mandate of this body was considerably reduced compared to that initially proposed. Opposition by unions and many pressure groups, the unpopularity of PPPs among public administrators, much criticism by municipal representatives and the inability of those in favour of PPPs to demonstrate beyond all doubt the value added of the new partnerships forced the government to change its strategy.

Despite this resistance the government continued to pursue its goal of reducing state control and submitted several major projects to PPP Québec. Among them, construction of the university hospital centres and an affiliated research centre, the completion of two highways, reconstruction of a highway mega-interchange, the development of detention centres and the construction of long-term residential centres that includes provision of care and services. A number of these examples are large-scale projects to be put into effect as public-private partnerships even though Quebec has no experience with this method of operation.

---

1 PPP Québec’s powers were reduced in order to preserve the autonomy of public institutions. The latter, with the exception of government departments, are no longer required to have recourse to PPP Québec to evaluate and decide on the mode for implementation of their infrastructure and service provision projects. Theoretically the promotion of PPPs was excluded from the agency’s mandates, and its role was limited to that of advisor and guide. Finally, the organization of PPP Québec was restructured in order to allow public institutions to participate in its management.

2 Other examples: the construction of seven service centres along the Trans-Canada Highway as well as a concert hall for the OSM.
A deceptive calm

In 2009, following several months of debate and public pressure, the government retreated for the first time by abandoning the idea of a public-private partnership for reconstruction of the highway mega-interchange in Montreal, the Turcot Interchange. This was a 1.5 million dollar project involving the reconstruction of four highway mega-interchanges (the interchange currently includes no fewer than 25 ramps, 13 kilometres of traffic lanes and 170,000 cubic metres of concrete). To justify its rejection of the public-private model, the government borrowed our arguments, almost word-for-word: not only were the finances unavailable but PPPs also don’t have the flexibility required for the completion of a highway project in such a complex administrative and socio-economic context!

The government’s retreat can be explained in part by the degree and extent of opposition to the project. The central unions, citizens’ and environmental groups, the Ville de Montréal, the Ordre des architectes, the Ordre des ingénieurs, the Corporation des entrepreneurs généraux and the Association des économistes du Québec, to mention just a few, presented a common front against this public-private partnership.

In addition to reverting to the conventional method in the case of the Turcot Interchange, the government also abandoned the construction of two prisons as PPPs and alluded to a “Plan B” for the university hospital projects. It must be said that at this time, the financial crisis made financing PPPs much more difficult, by limiting credit and by causing interest rates on loans granted to private enterprise to soar.

Furthermore, following considerable criticism of the functioning of PPP Québec, the government decided to abolish it and to create a new entity to replace it. The mandate of this body, Infrastructure Québec, was to guide government departments in the realization of large-scale infrastructure projects, allowing them to maintain control of project management and of more of their expertise. Consequently, any public infrastructure project of 40 million dollars or more must be submitted to Infrastructure Québec, no matter the model used to carry out the project (the conventional method or as a PPP). But today we see that this new body continues to favour the PPP model to much the same degree.

At that time, we had hoped that rejection of the PPP model for certain projects reflected a change of heart by the government as to the benefits of public-private partnerships. But that is not the case. Even if the reasons cited by government for rejecting PPPs for construction of the highway interchange are just as valid for the other projects under consideration, the government is sticking to its guns.
2. Our fears concerning public-private partnerships are realized

The next section presents the four Quebec projects in PPP mode in the health and social services sector, which each in their own way, at different stages of development, confirm our criticisms concerning renunciation of the state’s potential for action in order to encourage development of public-private partnerships, such that:

- PPPs do not reduce costs;
- PPPs do not allow for private-sector risk sharing/transfer;
- PPPs do not encourage competition;
- PPPs contravene democratic government;
- PPPs weaken the quality of infrastructures and of services for citizens;
- PPPs reduce employment and working conditions.

Construction and modernization of the Centre hospitalier de l’Université de Montréal (CHUM) and the McGill University Hospital Centre (MUHC) and construction of the Centre de recherche du CHUM

For each of these projects, the government opted for a PPP model that includes conception, construction, financing and maintenance of each of these establishments for a 30-year period. In 2006, the government had approved a budget of 3.2 billion dollars for all of its projects. This evaluation was subsequently increased. In 2008-2009, estimated costs were evaluated at 5.2 billion dollars. Again in 2010 the budgets were increased but we don’t know to what degree. Construction of the McGill University Hospital Centre and of the Centre de recherche was about to begin, while construction of the CHUM was to start later, even though the traditional groundbreaking had already taken place.

A damning report by the Auditor General of Quebec

Given the scope of these operations, the Auditor General of Quebec instituted a watch concerning projects for the modernization of Montreal’s university hospital centres (UHCs). To date, the Auditor General has tabled four reports. The conclusions of these reports are damning for the former PPP Québec, Infrastructure Québec and for the government. In particular, the third report, for 2009-2010, in which the Auditor General concluded that:

“In our opinion, the value-added analyses produced by PPP Québec do not make it possible to support the conclusion that their construction (modernization of the University Hospital Centres) in PPP mode is preferable to construction according to the conventional method by the public sector.”

---

3 Report of the Auditor General of Québec to the National Assembly for the year 2009-2010. The watch over the projects to modernize Montreal’s university hospital centres – Public-private partnerships.
We should remember that in its *Policy Framework for Public-Private Partnerships*, the Quebec government states that it condones recourse to PPPs only when it has been shown that this method of construction offers a better value added for the public funds invested. PPP Québec claims that the business records it has produced, and more specifically its value-added analyses, have demonstrated that the discrepancies between the two methods of production were important and favour the PPP delivery method (24% lower for the CHUM and 17% for the MUHC). However, following his inquiry, the Auditor General of Quebec concluded that for several reasons PPP Québec’s analyses do not make it possible to rigorously support construction of the university hospital centres according to the PPP delivery method over the conventional method by the public sector.

- The evaluation of the costs, contingencies and risks associated with conception and construction was not only completely inadequate but also unrealistic:
  - First, the comparative study was limited to PPP and traditional methods excluding other possible models even though UHC management had requested that both the management and turnkey models be considered.
  - Second, the final risk quantification was based on judgement (the subjective appreciation) of several stakeholders whose positions differed widely, as well as on decisions based on studies realized within other public administrations without having verified how they might apply to the Quebec context.

- The evaluation of costs and of the asset maintenance and renewal deficit, which to a great degree explains the purported advantages of hospital projects in the PPP delivery mode over those in the conventional mode, was, at the very least, far-fetched:
  - Comparative analysis used an index of physical depreciation over 30 years of 94% for the usual model. However according to a study by the Auditor General of more than half of Quebec’s public building inventory, the physical depreciation index doesn’t surpass 20%. Furthermore, this unrealistic deficit contravenes the *Act to promote the maintenance and renewal of public infrastructures*.
  - Concerning the PPP mode, PPP Québec presumed that no deficit would be incurred or accumulated over the years due to the depreciation of assets.

- The evaluation of long term costs was also arbitrarily inflated:
  - To translate the long term costs into today’s dollars, in order to compare project costs in PPP and usual modes, PPP Quebec used, without just cause, a discount rate of 8%, even though it applied a 6.5% rate to all its other projects during the same period.\(^4\)

---

\(^4\) It has been acknowledged that a high discount rate favours PPPs because this construction model allows for a staggering of expenses over a longer period than does the usual model.
Quantitative analyses were heavily biased to demonstrate the benefits of the PPP model:

- It has already been established that quantitative analysis is not sufficient to evaluate the construction model which offers the most value added. First of all, because there are several variables that are not economically and financially quantifiable, and second, because the measure of the quantifiable variables is limited (related to knowledge, method, data gathering and selection, complexity of the phenomena, etc.).

- The Auditor General of Quebec realized that in the UHC business records, for several reasons but especially due to ideological factors, “quantitative analyses barely deal with the disadvantages that the PPP model might involve (for example: precariousness of risk transfer, sustainability of the private consortium, flexibility in responding to needs) and the advantages of the traditional model”.

The apparent absence of sensitivity analysis:

- The aim of sensitivity analysis is to verify the effect of changes in the model’s key assumptions on the value of the public sector comparator and on the standard PPP project model, to evaluate the precision of the results and to test their validity.

- The Auditor General acknowledges “that the sensitivity analyses presented in the UHCs’ business records do not allow for evaluation of the validity and precision of economies that one would expect with recourse to the PPP mode.

- Moreover, the Auditor General proceeded with sensitivity analyses to evaluate the impact of assumptions concerning the depreciation rate of infrastructure and the discount rate. By modifying the discount rate to 6.5% and by assuming that there would be no asset maintenance and renewal deficit for the conventional mode, just as with the PPP delivery method, one obtains a favourable advantage for the conventional method!

Finally, the decision-making process associated with the choice of delivery method for project construction was curtailed. As such, the Auditor General noted three major shortcomings:

- The lack of formal approval of the content and conclusions by the appropriate authorities;

- The lack of critical, expert and independent evaluation of the quality of value-added analyses performed by PPP Québec;

- The lack of information transmitted to decision-makers on the uncertainty surrounding the value added of the PPP delivery method and on the actual weight of the assumption relative to the asset maintenance and renewal deficit in value-added analyses.
The report’s conclusion was unequivocal. There was no demonstrable economic advantage in recourse to the PPP method for the construction of Montreal’s university hospital centres. Worse, PPP Québec shows a flagrant lack of rigour and objectivity.

**Ideological obstinacy**

On February 21, 2010 a petition against recourse to public-private partnerships for Montréal’s university hospital centres was tabled at the National Assembly. Nearly 7000 citizens lent their voices to a large coalition made up of workers, doctors, engineers, architects, and union and community groups as well as opposition parties in the National Assembly, to demand that the future hospital centres be built along the conventional model rather than as a PPP. The government response was disappointing. The government used the same fallacious arguments according to which the PPP delivery method is advantageous from a financial point of view, offers flexibility and has no impact on working conditions or on the services provided. Furthermore, it attempted to assure the public that everything had been done to avoid any conflict of interest. The government also stated that it had carried out sensitivity analyses regarding discount rates and the maintenance deficit by taking into account the Auditor General’s recommendations, yet the advantages of recourse to PPPs still prevailed. But can we be certain of that?

Several months after this response, the Auditor General of Quebec produced a fourth report (2010-2011) on the university hospital centres, and more specifically on the McGill University Hospital Centre (MUHC) and the Centre de recherche du CHUM. In that report, he observed that the government had not implemented any of the earlier recommendations (with one or two exceptions) and that the “value-added analyses of PPPs evaluated by Infrastructure Québec for the MUHC and Centre de recherche projects still did not lead to the conclusion that this model was more economical than construction along the conventional model by the public sector”. It was clear that the government had ignored the Auditor General’s recommendations and was sticking to its ideology aiming to encourage public-private partnerships.

Obviously this new report once again raised doubts concerning democratic governance and transparency.

**A range of modifications advantageous to private partners**

For the MUHC and the research centre projects, the tenders evaluated during 2009 were declared receivable and technically compliant, while the financial propositions were declared non-compliant, as they exceeded the established affordability criteria (in other words, the maximum amount to pay a private partner for construction of the project). In addition to exceeding the affordability criteria, the tenders exceeded estimates by the public sector comparators (even when evaluated according to current economic conditions)!

As a result the government had to extend the period for the call for proposals in order to allow bidders to submit new offers and it also had to raise the affordability criteria. The budget for the research centre went from 320 million to 470 million dollars, an increase of nearly 50%, in order to take into account the economic context and the expansion of the project to ensure that all the buildings would have the flexibility required to deal with clinical operations (are we to
understand that initially they couldn’t?) As for the MUHC budget, it was increased by nearly 20% to take into account the existing financial context.

In the case of the research centre, the government approved no less than 325 derogations for the sole bidder! In the case of the MUHC, 66 and 18 derogations were approved for the two bidders. Obviously the approved derogations did not lead to evaluation by public sector comparators.

The changes made to the affordability criteria in order to allow bidders to submit an offer and the number of derogations approved by the government are examples of refusals by the private sector to share risk and for which the government had to make adjustments to increase budgets and to reduce certain conditions for execution of the project.

A rather limited competition

The government also glorified the benefits of competition. Yet at the outset of each of these three projects there were only two bidders. That’s a rather limited number when it comes to stimulating market forces. Furthermore, the two consortia competing for the research centre were practically the same ones that competed for the CHUM. Whether this was due to a combination of exceptional circumstances or for other reasons, one of the bidders withdrew during the call for offers for the research centre, leaving the field open for his competitor, while the latter submitted a financial bid exceeding the budgetary envelope planned for the CHUM, thus disqualifying himself. This situation raised questions as to the possibility of collusion.

A process utterly lacking in transparency

In December 2010, the government made public a report by supposed experts who were there to confirm, without any concrete evidence, that for the CHUM construction the PPP delivery method was more profitable than the conventional method. However, two out of three independent experts on the list had been ardent promoters of the PPP formula for many years! As details of the report hadn’t been made public, it was impossible to trust this sort of gratuitous claim. The PPPs were executed in the greatest secrecy, without any transparency and going against the very principles of good governance!

Construction of a residential long-term care centre and management of the provision of care and services

The Quebec government carried out the first public-private partnership project for the construction of a residential long-term care centre (CHSLD) as well provision of all services offered (care, support services, food services, etc.) for a 25-year period. The Saint-Lambert-sur-le-Golf project will serve as a pilot project for the government, which in the short-term aims to establish other residential long-term care centres in PPP mode.

Originally, the government intended to build a new 250 bed CHSLD according to the conventional method. When the Liberal Party of Quebec came to power, the project changed direction. The number of beds was reduced to 200 and the government opted for the PPP
model. The Groupe Savoie, a family business that owns a dozen residences for the autonomous elderly but that has no experience in care for individuals with severe loss of autonomy, won the contract. The newspapers were quick to point out that the Groupe Savoie’s administrators were major Liberal Party contributors during the process of evaluating the PPP model and attribution of the contract.

**Already some unforeseen events**

The Saint-Lambert-sur-le-Golf CHSLD was supposed to open its doors on October 1, 2010 but finally, ten days late, it admitted its first patients. This delay was due to the private management’s difficulty in recruiting a sufficient number of doctors in order to ensure the required medical coverage. During this period, the government had to dole out 20,000 dollars per day for patients in the public system who didn’t even stay in the residence.

Just a few months after the opening, a first conflict arose between the private administrator and the Agence des santé et des services sociaux for the region, with the arrival of a patient requiring more involved care. Without financial compensation, the Groupe Savoie refused to give a more severe “clientele” any care beyond the 3.44 hours per day agreed to in the contract. However, the Agence des santé et des services sociaux tells us that the contract doesn’t include any fee schedule. For the Agence, this wasn’t necessary because the 3.44 hours per day mentioned in the contract represent the average for all residential patients, which, when added up, should not result in additional hours of care. Unfortunately the specifics of the contract were not revealed to us but this remains a significant misunderstanding that could have consequences for the patients’ well-being and for the public coffers. Over the next few years, we can expect to encounter other unforeseen events or misunderstandings related to the terms of the contract. When that happens, who will bear the risks?

**Families are concerned about the quality of services**

Another reason for concern regarding this new private residential long-term care centre is the quality of the services provided. The unions have already denounced the private administrator’s staffing plan, which allows for approximately forty employees during the day but only thirteen at night. This is clearly insufficient for providing the care and services required by individuals who have severe loss of autonomy and for dealing with emergencies that often occur at night. Furthermore, the private administrator continues to have difficulty hiring and retaining qualified staff.

Among the residents’ families there is also great concern over the quality of services. Already, some of them have organized and have taken steps, confidentially, in the hopes of improving their family member’s situation.

The thinking behind the pursuit of maximum profit, which inevitably prevails with this type of institution, has significant impact on the working conditions and salaries of employees who work there as well as on the quality of services provided. As a result, the CSN intends to ensure that the rights of the workers and the residents are respected. Regarding this matter, last March 3 the CSN posted an application for union certification for representation of some 200 employees of the Saint-Lambert-sur-le-Golf CHSLD (the certification unit covers all
employees with the exception of nurses, nursing assistants and professionals.) We are currently awaiting the decision of the Commission des relations du travail.

**Conclusion**

The CSN along with several international unions is resolutely opposed to the privatization of public services and infrastructure, and in particular the development of public-private partnerships as a model for financing, ownership, management and operation of these services and infrastructure. In recent years, several environmental and citizens’ groups as well as associations of doctors, engineers, architects and economists have also gone before the government of Quebec to protest against recourse to public-private partnerships for specific projects.

The experience of PPP projects carried out by Quebec in recent years has only strengthened our position. One by one, they have demonstrated that our criticism was justified and well founded. Meaning that PPPs do not reduce costs, do not allow for private sector risk sharing or risk transfer and do not promote competition. Rather, PPPs contravene the principles of democratic governance, weaken the quality of infrastructure and services to citizens and reduce employment and working conditions.

We see it as completely unjustifiable that governments pursue a principle of promotion of and recourse to PPPs when experience demonstrates the weaknesses of this mode of operation. Public-private partnerships put the interests of the private sector before collective interests. It is our opinion that the role of the private sector should be to support the state and not to take its place or to use it to satisfy its own financial interests. For these reasons we believe that we should improve and encourage the public management method rather than increasing the number of public-private partnerships and attempting to regulate them.