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## It Takes Two to Tangle

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## 9 Conclusions and Discussion

### 9.1 Introduction<sup>12</sup>

This study began with the central research question of *what happens to public values in public-private partnerships and what conditions are influential?* In order to shed light on this question, the underlying study considered and compared four DBFMO projects as presented in Chapters 4 to 7, including two infrastructure projects (a highway and a water purification project) and two projects involving buildings to provide public services (a detention center and the renovation of the Ministry of Finance building). In each case, the values of accountability, transparency, responsiveness, responsibility, and quality have been under scrutiny and considered over the preparation, construction and operation phases of the projects. In Chapter 8, the case study findings are described and compared by value in detail. This final chapter presents and discusses the general conclusions (section 9.2), the implications for theory (section 9.3) and practice (section 9.4) and provides suggestions for further research (section 9.5).

### 9.2 General conclusion

The research findings indicate that whether or not public values are at stake in DBFMO cannot be answered with a simple yes or no. Rather, we have seen that public values can be at stake, safeguarded or strengthened, depending on the project, project phase and the specific (facet of the) public value under scrutiny. For example, while accountability during the preparation phase is safeguarded by contracts and output specifications which lay down the project parameters, accountability when it requires understanding this information is not guaranteed. Furthermore, although accountability early on in the project might be protected by the written instruments, the absence of monitoring could hinder it during the construction and operation phases.

Although DBFMO, including the use of performance contracts, output specifications, and performance monitoring, provides opportunities for

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<sup>12</sup> Parts of this chapter have been published (Reynaers 2013).

safeguarding public values, it simultaneously provides challenges. For example, the effectiveness of performance monitoring in safeguarding transparency, depends on public servants' management of the procurement and of the contract as well as the actual design and implementation of the monitoring mechanisms. Similarly, although the formulation of output specifications provides opportunities for transparency, its actual contribution depends on the quality of such output specifications as developed by the procurer.

This prompts the question of whether it is the DBFMO structure or the way in which this structure is mastered by public servants that determines what happens to public values in DBFMO. The findings of this study suggest that both are true. The tools provided by DBFMO cause public servants to act in accordance with the DBFMO logic, and in itself this reinforces the effectiveness of the tools and the structure. At the same time, the case studies show that when the design or implementation of those tools is not optimal, their effectiveness in protecting public values is altogether threatened. Depending on the professionalism and resources of the procurer, problems of this nature can be overcome during the project.

The above seems to suggest that the key to success in terms of safeguarding public values lies in the hands, and only in the hands, of public servants. As the findings suggest, this is not true. The DBFMO structure contains complicating elements such as the long-term character of the contract and the output specifications and these will probably always provide challenges that are hard to resolve, even if public servants are very willing to resolve them. By suggesting that procurement and contract management by public servants form the key to success we would give too much credit to the DBFMO structure itself. Besides, overemphasizing the importance of the DBFMO structure and procurement and contract management by the procurer, does not take into account the importance of, for example, the organization, communication, and management on the side of the consortium. In that respect, the case studies demonstrate the limitations of both the DBFMO structure and the management capacity of the procurer as means through which the public values' trajectory can be conditioned. As for the contract and the output specifications, for example,

the case studies indicate that their contribution to the safeguarding of public values is significant but by no means a guarantee.

Indeed, as was demonstrated in Chapter 8, the case studies have identified many other conditions that influence what happens to public values in DBFMO. Table 20 summarized and categorized these conditions in three groups: DBFMO related conditions, human resource related conditions and project related conditions. As pointed out earlier, these conditions all impact each other. The following section discusses the theoretical implications with respect to respectively public values and influential conditions.

### **9.3 Implications for theory**

#### 9.3.1 Public values

The findings of this study contribute to the current public values literature by providing empirical insight on the safeguarding of public values in DBFMO. As pointed out in Chapter 2, ever since the rise of NPM, there have been concerns about the safeguarding of public values in organizational manifestations of the NPM. While some scholars suggest a loss of public values (Collins and Butler 2003; Frederickson 1999; Jacobs 1992; Milward and Provan 2000; Wittmer 2000), others suggest the exact opposite (Hirsch and Osborne 2000; Osborne and Plastrik 1998). The findings of this study show that in relation to DBFMO both camps only hold part of the truth: The research findings indicate that public values can be at stake, safeguarded or even strengthened, depending on the project, project phase and the specific (facet of the) public value under scrutiny (see Chapter 8). As Flinders (2010) suggested, DBFMO projects simply cannot be judged in dichotomous terms as accountable or non-accountable, transparent or non-transparent. The contradictory claims made about the safeguarding of public values actually reflect the reality of public values in DBFMO.

By way of illustration, accountability is not by definition threatened, safeguarded or strengthened in the context of DBFMO. As was suggested by Flinders (2010), DBFMO has a strict accountability mechanism, but the

actual contribution of this mechanism for the safeguarding of accountability, depends on the way in which the mechanism is developed and used in practice. Likewise, Domberger and Jensen's (1997) suggestion that accountability might actually be *better* safeguarded in NPM-inspired governance structures because of the introduction of systematic performance monitoring, the construction and use of service level specifications, and the application of mechanisms that help to prevent or effectively penalize noncompliance only holds true if those mechanisms are indeed used in a correct manner. An organization's lack of experience with DBFMO procurement might hinder the successful development and implementation of such mechanisms.

With respect to transparency, the findings demonstrate that transparency can, on one hand, be safeguarded or even improved within DBFMO while on the other hand it can be at stake. Again, the contradictory claims about transparency in public values literature all contain an element of truth in relation to DBFMO. Although it is certainly not the case that the level of transparency is completely decreased (Bloomfield 2006; Papadopoulos 2007), the financial, juridical and technical complexities do indeed challenge transparency (Grimsey and Lewis 2002; Hood, Fraser and McGarvey 2006). Besides, project information appears not always to be available or accurate (Altshuler and Luberhoff 2003). The findings of this study do not, however, support the suggestion that DBFMO only provides meaningless data (Hood, Fraser and McGarvey 2006) and problems with respect to transparency can be overcome during the project.

The same ambiguous pattern arises in relation to responsiveness. The suggestion that the public sector is no longer in control when it comes to influencing and constructing public policy (Bevir 2010; Flinders 2010; Skelcher 2010) is not fully supported nor fully rejected by the findings of this study. While the influence of public servants remains through the contract itself, the output specifications and through contract management, the contract does not allow for direct intervention in the work of the consortium. In addition, with reference to the suggestion that NPM practices lessen politicians' ability to be responsive (Bovaird 2004), the results of the case studies indicate that their influence is indeed impeded

when it comes to contractual changes and financial cutbacks, as was also suggested by Hodge (2010) and Peters (1997).

In terms of responsibility, the findings of this study neither support nor reject the suggestion that private parties might fail completely in providing public services (Debicki 2003). With some exceptions, consortia in general provide what is expected although the ambiguity in contracts and output specifications does challenge the safeguarding of responsibility and leads to blame games and to the dodging of responsibility (Hood and McGarvey 2002; Brown, Potoski and Van Slyke 2010). The degree to which contracts do, in fact, guarantee compliance, depends greatly on the completeness or quality of the contract. The findings of this study, suggest that, besides the importance of the quality of the contract and output specifications, compliance depends on the attitude or willingness of the consortium to comply.

The findings of this study do not support the quality-shading hypothesis suggested by Box (1999). Although when it comes to quality the procurers do encounter problems, quality seems to be safeguarded or even improved in comparison with traditional projects (Galiani, Gertler and Schargrodsky 2005). The findings of this study also support the claim, put forward by Domberger, Hall and Li (1995) that quality seems to be facilitated or even improved because of output formulation and the introduction of performance monitoring. However, the safeguarding of quality depends on the ability of the procurer to translate their expectations and to monitor and make adjustments in order to match what is provided with what is expected. Furthermore, the research findings support the suggestion that a necessary premise for safeguarding quality is that expectations are well articulated by the procurer and that performance indeed can be measured (Brown, Potoski and Van Slyke 2006, 326; Deakin and Walsh 1996).

### 9.3.2 Conditions

Section 2.4 in Chapter 2, summarized the conditions that were expected to have an influence, either negative or positive, on public values in organizational manifestations of the NPM. Some of the conditions listed in section 2.4 were indeed visible in this study too, although not always

pointing in the same direction. It is also true, and was demonstrated in section 2.4, that the same condition can have both a positive as well as a negative influence, depending on the specific facet of the public value under scrutiny.

Regarding the shortage of accountability mechanisms as suggested by, amongst others, Deakin and Walsh (1996) and Frederickson and Smith (2003), this study shows that during most preparation phases procurers and consortia do pay sufficient attention to the development of mechanisms for accountability. But the actual implementation and use of these mechanisms is not always effective at the start of the realization and operational phases, although it does improve over time. A shortage of mechanisms is therefore not apparent in this study; The problem is infrequent use of these mechanisms.

With respect to the lack of experience and knowledge of performance monitoring, the findings of this study indicate that there is such a lack, and that it hinders the safeguarding of certain values as was suggested by Peat and Costley (2001). However, the findings also demonstrate that during the project, the quality of performance monitoring by procurers as well as consortia can improve over time and that initial failures can be overcome. The study corroborates the suggestion by Domberger and Jensen (1997), that the actual quality of monitoring varies from project to project. Moreover, as they also suggest, despite irregularities, the presence of a monitoring system, and the obligation to measure performance, does seem to help the safeguarding of several values.

The findings of this study do indeed support the suggestion that due to the juridical, technical and financial complexity of the DBFMO model public values might be at stake (de Bettignies and Ross 2009; Savas 2000; Van Slyke and Hammonds 2003). For example, the case studies have shown that because of the complexity of contracting, the technical requirements and the financial mechanisms employed, procurers depend (in some cases) heavily on external advisors and this harms certain aspects of accountability. The complexity of the financial parameters also harms transparency, as was suggested by Hood, Fraser and McGarvey (2006) and Grimsey and Lewis (2002).

The suggested difficulties in respect of the formulation of service expectations (Brown, Potoski and Van Slyke 2006; Deakin and Walsh 1996), and the influence of those expectations on, for example, quality was indeed evident in this study given that, in most cases, discussions on the output norms arose. The output specifications, however, do not only contain difficult-to-establish norms but also contain some clear norms that are relatively easy to lay down and to establish. In that respect, the introduction of output specifications represents both a change and a challenge for public values.

A similar pattern is discernible in relation to the long-term character of DBFMO projects. As was suggested by Deakin and Walsh (1996), Hodge (2010) and Peters (1997), the long-term nature of the project hinders responsibility. At the same time, however, the long-term contract has also demonstrated that it facilitates certain aspects of transparency.

Finally, with respect to performance related pay, the findings indeed demonstrated that such a mechanism might facilitate, quality, for example, (Osborne and Gaebler 1992). However, the findings also showed that the contribution of performance related pay is not by definition positive given that its effectiveness depends, amongst other things, on the way procurers use fines.

The conditions mentioned above, and discussed earlier in Chapter 2, were related to NPM, privatization and contracting, rather than to DBFMO specifically. For that reason, this study chose an inductive exploratory approach to find out what conditions influence the public values' trajectory in DBFMO. As a result, a more detailed and specific overview of influential conditions for each value was possible and was discussed and summarized in Table 20 (Chapter 8). This table categorizes and summarizes the conditions relating to the DBFMO structure itself, to human resources and to project characteristics. Chapter 8 described in detail the way in which these conditions influence the public values' trajectory. In general, the research findings demonstrate that several DBFMO-related conditions provide opportunities as well as challenges for the safeguarding of public values. Some of the DBFMO-related conditions have a positive and/or negative influence on more than one public value while other conditions



only influence one specific value. The actual influence of these conditions on the public values' trajectory depends on conditions related to human resources and on project related conditions.

As regards the conditions relating to human resources, the findings demonstrated the need for improving the capacity of procurers as project and contract managers. The crucial role of contract and procurement management was also observed in a recent study on DBFMO projects carried out by the Dutch National Court of Audit.<sup>13</sup> However, better management is a rather vague term and raises the question of what it means in DBFMO? More detailed examination of the second group of influential conditions offers various points for consideration.

The most prominent pointer is to the dependency of procurers on external advisors during the preparation phase. The findings demonstrate the need to develop human capital in terms of procurement management. DBFMO procurement requires new skills and knowledge that apparently, and perhaps understandably, is not yet sufficiently developed in all procuring organizations.

A second point for consideration comes from the actual relationship between the design and the implementation of such tools as the output specifications, the contract, monitoring and financial mechanisms. Whereas a good design is fundamental for the safeguarding of public values, its actual effectiveness is not guaranteed if the design is not followed up with proper use of the above tools throughout the different project phases. The safeguarding of public values is not solely determined at the start of the project when the coordinating mechanisms are developed. Rather, conditions related to the subsequent project phases have their influence on these mechanisms and this can be either positive or negative. Overall, the contract, output specifications, monitoring and financial mechanisms are by no means a guarantee that public values will be protected, given that both the design and the implementation of these components are often flawed.

A further point for consideration is the transition from one phase to another, a potential weak spot in the DBFMO process. This transition

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13 Algemene Rekenkamer. Contractmanagement bij DBFMO-projecten. Tweede Kamer, vergaderjaar 2012-2013, 33639, nr. 1.

requires proper guidance in the sense that those responsible for the management of the contract during the build and operational phases must have the skills and knowledge necessary to see the project through to a successful conclusion. When such guidance is absent, the effectiveness of even carefully designed mechanisms can be threatened. In that respect, information management is crucial. Given the long-term character of this style of contracting and the division of the project into several phases, continuity of personnel and resources cannot be taken for granted. Proper information management can mitigate such a lack of continuity.

A fourth and final point is the importance of building a good relationship between the procurer and consortium as well as between consortium members. Although the success of their relationship might already largely depend on the quality of the contract in which the parameters for cooperation are determined, the case studies demonstrate that a pro-active and cooperative working attitude from both sides positively influences the public values' trajectory. The cases also demonstrate the importance of the internal organization of the consortium with respect to the public values' trajectory. When there is no real institutionalized interdependency between consortium partners, the safeguarding of specific public values can be at risk.

The third column of Table 20 sets out project-related conditions. Concerning the type of product, the case comparison provides indications that quality seems better protected in infrastructure projects than in projects involving buildings which house public services or utilities, especially as the operational process in the latter is often more complex and more exposed to user perception. However, it would be unfair to conclude that the project type itself determines what happens to public values. Indeed, although infrastructure projects might be less challenging in terms of protecting quality, this advantage can peter out completely if, for example, contract management is poor. This again underlines the interconnection between the contents of all three categories of conditions.

Taking reputation building as an influential condition, it was suggested that since all four projects were part of a pilot program which provided procurers and consortia with the opportunity to acquire a strong reputation

for DBFMO procurement, then this could have been a positive stimulus for maintaining public values. However, as was also suggested in the case studies, when DBFMO procurement becomes common, this effect might evanesce.

Finally, as with any other type of contract, a relationship between budget and, for example, quality is a plausible one. Ideally, procurers should be able to anticipate what quality will be delivered in return for their investment. With DBFMO this implies that procurers should be able to estimate whether what the consortium is offering is a realistic return for investment. If such estimation were possible, disappointment with the quality delivered might be avoided. However, given the lack of information on costs and margins, it remains questionable whether such advance knowledge of the quality of the finished product can ever be available.

#### **9.4 Implications for practice**

This study provides valuable insight on the actual practice of DBFMO projects in terms of public values. Empirical insight into the question of what happens to public values in DBFMO projects and what conditions are of influence provides practitioners with opportunities for optimization.

The findings suggest that procurers should be aware of the limitations of the DBFMO structure as well as of repercussions from human resources issues. In an ideal world, the coordinating mechanisms are designed, implemented and used in such a way that they do help to uphold public values. However, it is questionable whether it is realistic to expect such an optimal relationship between mechanisms and behavior, given the lack of resources when it comes to human capital, time, and money. Overall, it is important for procurers to be aware that the contract, output specifications, monitoring and financial mechanisms are by no means a guarantee that public values will be protected, since the design and implementation of these components is often flawed. Practitioners should be aware that what happens to public values in DBFMO is the outcome of a complex interaction of different conditions and that the process of DBFMO challenges procurers to search constantly for an optimal equilibrium amongst those conditions.

In this constant search for equilibrium, procurers should not focus solely on the preparation of the coordination mechanisms but should oversee the entire project, including the construction and operation. The findings demonstrate that often the two later phases are more or less taken for granted. And it is not sufficient to give equal attention to all three phases at the *outset*: Rather, attention is also needed *during* the construction and operational phases. In the same vein, rather than only evaluating the procurement and construction phases, procurers should show equal interest in the evaluation of the operational phase, since the coordination mechanisms that help the procurer to safeguard public values are put into practice and challenged for many years in that specific phase. Safeguarding public values requires constant attention from the procurer throughout all project phases and DBFMO is by no means a model that allows for the procurer simply to sit back and wait for results. For that reason, it is recommended that every effort is made to retain core personnel who are involved in all three project phases and who can diffuse knowledge of the project throughout the organization.

If DBFMO is here to stay, and politicians and public servants are concerned with safeguarding public values, it is advisable to invest seriously in human capital to improve contracting skills and procurement management. The cases show that dependency on external advisors and the lack of experience and knowledge of contract management creates problems with delivery which are not helped by the inconsistent application of fines nor by shortcomings in financial monitoring, themselves products of inexperience. All of that hinders the safeguarding of public values. As was also observed by the Dutch National Court of Audit, the suboptimal implementation of these mechanisms leaves the procurer in doubt as to whether DBFMO does in fact provide financial advantage.<sup>14</sup>

To those in public policy and to practitioners concerned with whether DBFMO allows for the safeguarding of public values, it is clear from this study that it does. But while the structure *can* protect public values, there is

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14 Algemene Rekenkamer. Contractmanagement bij DBFMO-projecten. Tweede Kamer, vergaderjaar 2012-2013, 33639, nr. 1.

no guarantee that it *will*. And in establishing what determines the extent to which public values will be safeguarded, Table 20 provides valuable insight. If procurers take into account the relationship between those groups of influential conditions while they are preparing and managing DBFMO projects, the chances are that public values will be protected. A one-dimensional perspective on the project that only considers the DBFMO structure itself, does scant justice to the safeguarding of public values.

A final, but important, remark that should be made is that it is an illusion to think that the values under scrutiny in this study will ever be safeguarded to any full extent. Public values compete with each other and public managers are often obliged to make value trade-offs (De Graaf et al. 2011; Steenhuisen 2009). However, this challenge is not restricted to DBFMO projects alone but manifests itself throughout the public sector and within different organizational structures. Thus, procurement according to DBFMO principles can be considered as a medicine with insurmountable side-effects.

## **9.5 Future research**

In this study, public values have been considered throughout the different project phases. Considering values over time allows for a more nuanced picture of how each value fares within the life span of a project, and the answer to the central question of what happens to public values in DBFMO will be different at different times in the life cycle of the project. This suggests the need for further research since the cases included in this study have only been operational for a few years. In order to arrive at a fuller understanding of the impact of DBFMO on public values, these projects should be evaluated over the full contract period.

Something else that is relevant for future research is the inevitable selection of only a few public values as a basis for this study. Although accountability, transparency, responsiveness, responsibility and quality cover a relevant part of spectrum as described in the public values literature, they are not the only values. The same body of literature, as well as literature on good governance and the integrity of governance, consider other values to be important too. Insight on how different values are threatened,

safeguarded or strengthened in DBFMO would put the findings of this specific study into perspective and might indicate whether the relationship between conditions and values found here is generalizable for other public values.

In addition, since this study focuses only on Dutch DBFMO projects, additional empirical research is needed to establish whether its findings hold for DBFMO projects in other countries. A comparison of international cases that include different sectors and different products would provide a better understanding and enable broader interpretation of these findings and will unravel the similarities, differences, and particularities within and between cases. This current study, one of the first to address public values in DBFMO, provides a valuable touchstone for such comparison.