

**Contracting for the Delivery of Education Services:
A Typology and International Examples**

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Abstract

Education sectors the world over are facing a number of social, economic and policy challenges. Governments have responded – to varying degrees – to these challenges by introducing market-based policies that emphasize choice, managerial autonomy for schools and accountability for results. Contracting with the private sector for the delivery of ancillary services such as catering and school transport is relatively common in the education sector. A more recent trend has seen governments contracting with the private sector for the delivery of core education services. While such contracting is not widespread, there are a number of examples in operation in the United States and around the world.

This paper provides an overview of international examples of contracting with the private sector for the delivery of educational services, professional services and the provision of educational infrastructure. It also draws a number of tentative lessons from this international experience for the design and implementation of contracting in the education sector. A key conclusion is that there is little hard evidence available on the success or otherwise of contracting in education. Further research is required to determine the educational and other impacts of contracting in education.

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I. Introduction

Education sectors the world over are facing a number of social, economic and policy challenges. A number of governments have responded to challenges in the school sector by introducing market-based policies that emphasize choice, management autonomy for schools and accountability for results. One relatively recent trend in education policy is the use of ‘contract schools’, whereby governments contract out the delivery of schooling to private sector organizations.

Contracting can be defined as a purchasing mechanism used to acquire a specified service, of a defined quantity and quality, at an agreed-on price, from a specific provider, for a specified period (Taylor 2003: 158). Contracting implies an ongoing exchange relationship, supported by a contractual agreement. For the purposes of this paper, contracting involves a government agency entering into an agreement with a private provider to procure a service or a bundle of education services in exchange for regular payments.

Contracting has been widely used by government agencies to procure a broad range of services, including transportation, cleaning, refuse collection and fire protection. While contracting for social services is less common, private entities (and particularly not-for-profit organizations) have long played an important role in the delivery of services such as child care, employment counseling and welfare support.

Historically, governments have made considerable use of contracting for ‘non-core’ educational services such as school transport, food services and cleaning. However, recent years have seen a broadening in the scope of contracting undertaken in the education sector. There are now a number of examples of governments contracting directly with the private sector for the delivery of ‘core’ education services.

Potential Benefits of Contracting

There are a variety of reasons why organisations may wish to contract out the delivery of education services. Proponents argue that contracting may have a number of benefits over traditional methods of service procurement. For example, it may:

- improve the quality of spending by lifting the efficiency of service delivery and by allowing better targeting of spending;
- allow governments to take advantage of specialized skills that might not be available in a government agency;
- allow governments to overcome operating restrictions such as inflexible salary scales and civil service restrictions;
- allow governments to respond to new demands and facilitate the adoption of innovations in service delivery and experimentation;
- permit economies of scale regardless of the size of the government entity;
- allow governments to focus on those functions for which it has a comparative advantage;
- increase access to services, especially for those groups who have been poorly served under traditional forms of service delivery; and
- increase transparency of government spending by making the cost of services more visible (Savas 2000: 76).

At the same time, opponents argue that contracting has a number of drawbacks, including that it is more expensive than traditional procurement methods (for example, because of the cost of awarding and managing contracts and lack of competition), fosters corruption and results in a loss of government accountability and control (Savas 2000: 77).

Typology of Contracting for Educational Services

Three major forms of contracting for the delivery of education services are distinguished in this paper:

- **Management Contracts.** Under a management contract model, the government contracts with a private provider to manage an existing government service using government

infrastructure. Although the service is managed by the private sector under such contracts, staff continue to be employed by the public sector.

- **Operational Contracts.** These are similar to management contracts in that the government contracts with a private provider to manage an existing government service using government infrastructure. However, operational contracts differ from management contracts in that, under the former, the private manager is responsible for all aspects of the operation of the service, including the employment of staff.

- **Service Delivery Contracts.** Under a service delivery contract, the government contracts with a private provider to deliver a specified service or set of services. Such contracts differ from management and operational contracts in that the service is delivered in a privately owned facility.

Two other contract types are discussed briefly in the paper and summarized in Annex 1 – Auxiliary Services/Professional Services and Public Private Partnerships (PPPs) for educational infrastructure. The former involve contracting the private sector to undertake education-related functions such as school review, schooling improvement or curriculum development. The latter involve contracting the private sector to design, build, finance and operate educational infrastructure such as classrooms and school hostels.

Not all instances of contracting in education fit neatly into this typology and may contain elements of more than one form when implemented. For example, the Fe y Alegría (FyA) program in Latin America, under which the government pays the salaries of teachers, may operate more or less like a management contract model depending on the degree of autonomy provided by the ministry of education in the respective countries. In some respects, it may also have characteristics of a service delivery model, depending on the ownership of facilities.

Table 1: Typology of Forms of Contracting in Education

Contracting Form	Description	Examples
Management Contracts	Government contracts with private sector to <i>manage</i> an existing public service using public infrastructure	Contract schools, USA
Operational Contracts	Government contracts with a private provider to <i>operate</i> an existing public service using public infrastructure	Contract schools, USA Concession Schools, Bogotá Fe y Alegría, Latin America/Spain
Service Delivery Contracts	Government contracts with a private provider to deliver a specified service/set of services using private infrastructure	Government Sponsorship of Students in Private Schools, Côte d'Ivoire Alternative Education, New Zealand Educational Service Contracting, Philippines
Provision of Infrastructure	Government contracts the private sector to design, build, finance and operate educational infrastructure such as classrooms and school hostels	UK Private Finance Initiative 'New Schools' Private Finance Project, Australia Public Private Partnerships (P3) for Educational Infrastructure, Nova Scotia, Canada J. F. Oyster Bilingual Elementary School, Washington DC Offenbach Schools Project, County of Offenbach, Germany Montaigne Lyceum, The Hague, Netherlands
Auxiliary Services Contracts/Professional Services	Government contracts the private sector to undertake education-related functions such as school review, schooling improvement or curriculum development	Contracting out of Local Education Authority (LEA) functions in the United Kingdom (UK) Pitágoras Network of Schools De La Salle Supervised Schools Sabis Network of Schools

A second example is provided by Edison Schools, a for-profit Education Management Organization (EMO) in the United States of America (USA). Edison Schools generally operates under ‘management contracts’ (where the teachers are employed by the local school district) when contracting directly with school districts. However, they generally operate under ‘operational contracts’ when they contract to operate charter schools that are not subject to school district personnel rules. Other contract school organizations operate solely under ‘management contracts’.

II. Contracting for the Delivery of Educational Services: International Examples

There is a wide range of contracting models in use in the education sector – everything from ‘loose’ arrangements such as the payment of subsidies to private schools with few accountability requirements to more formal arrangements that exist between school districts and charter/contract schools in the USA and between governments and organizations involved in private finance initiatives (PFIs) in the UK. The focus of this paper is on examples and lessons drawn from the formal end of the contracting continuum.

Four sets of examples of contracting for educational services are discussed in the paper:

- the private management of public schools, whereby governments or school districts contract with private providers to manage public schools. Under the above typology, the private management of public schools can be an example of either a management contract or an operational contract, depending on how the contract is structured;
- government contracting with the private sector for the delivery of education services (eg. the government purchasing places at private schools for ‘public’ school students) or the provision of education-related services (for example, curriculum development, school review or school improvement). In the above typology, the former is an example of a service delivery contract, while the latter is an example of an auxiliary services contract;

- private provision of infrastructure. These are instances where the government contracts with private firms for the design, construction, finance and operation of educational infrastructure (for example, schools, universities and hostels). This is an example of a public private partnership for educational infrastructure in the above typology; and

- the provision of administrative and curriculum support by the private sector. These are instances where private organizations provide administrative, curricular and other support to schools.

Examples of contracting for the delivery of education services are drawn from a range of developed and developing countries, including the USA, Colombia, Latin America, the Philippines, the UK, Australia and Canada. These are discussed briefly below and are summarized in Annex 2.

Private Management of Public Schools

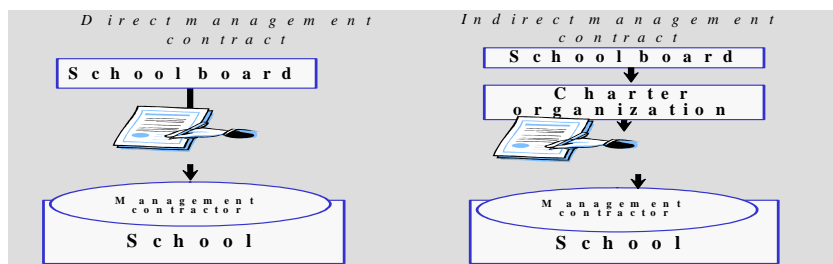
One area of increasing private participation is the private management of public schools. There are various models of private management of public schools employed by governments in a number of developed and developing countries. Three examples are highlighted in this section, although other examples exist (eg. Transformed Schools in Beijing, Academies Program in the UK). These are:

- privately managed public schools and Charter schools in the USA;
- *Colegios en Concesión* (Concession Schools) in Bogotá, Colombia; and
- Fe y Alegría education in Latin America.

Private Management of Public Schools, USA

The private management of public schools in the USA can take either of two forms. The first involves direct contracting, under which a local school board contracts directly with an EMO to manage a public school. The second involves indirect contracting under which EMOs manage charter schools either as the holder of the school charter or under contract to the organization that holds the school charter (see Figure 1).

Figure 1: Direct and Indirect Management Contracts



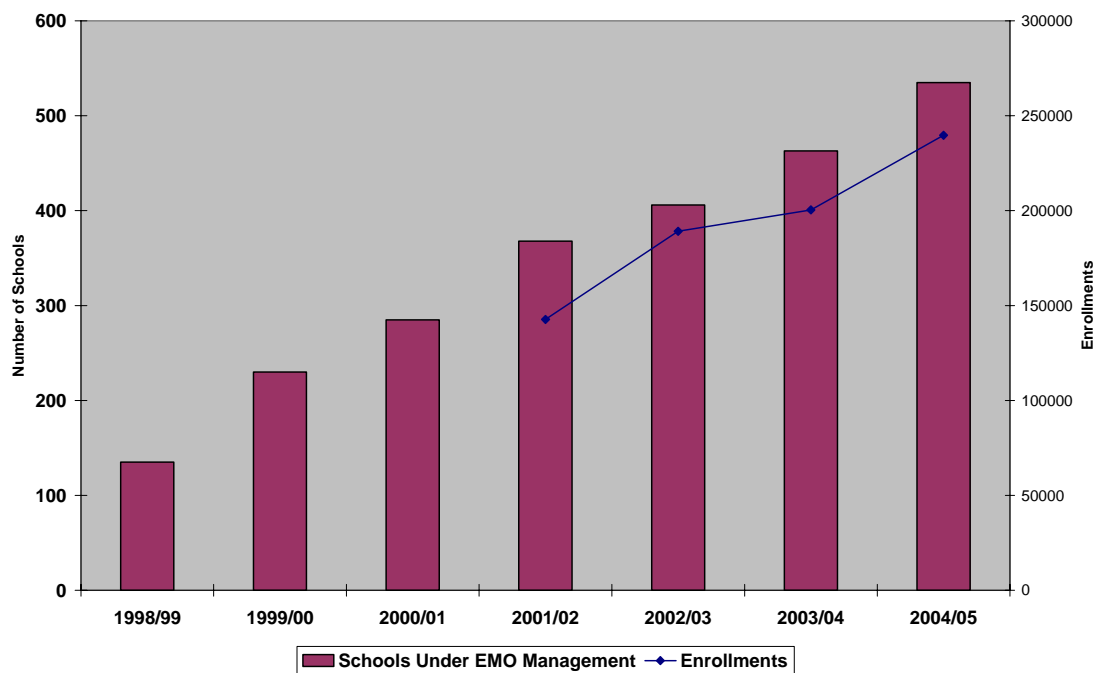
Source: World Bank

Although these schools are privately managed, they remain publicly owned and publicly funded. Students usually do not pay fees to attend these schools. Typically, private sector operators are brought in to operate the worst performing schools in a given school district. In terms of the typology set out above, private firms may operate under either ‘management contracts’ or ‘operational contracts’. Under the former, only the management of the school is turned over to the private sector; teaching and other staff remain employed by the government or local school board under their existing terms and conditions. Under the latter, teaching and other staff are employed by the private operator and terms and conditions of employment may differ from the central teacher contract.

Under both of the above models, the private sector operator is paid a fixed amount per student (usually equal to the average cost of educating a student in the public sector) or is paid a fixed management and must meet specific performance benchmarks.

In 2004/05, there were 535 public schools being managed by 59 EMOs in 24 states and the District of Columbia. Fully 86 percent of these are privately managed charter schools (up from 81 percent in 2003/04). The number of schools under private management is almost four times the number that existed in 1998/99 (see Figure 2). In 2004/05, there were nearly 240,000 students in privately managed public schools, an increase of some 40,000 over 2003/04 (Molnar et al, 2005: 2). The largest EMOs were Edison Schools (98 schools, 66,482 students), National Heritage Academies (51 schools, 26,133 students) and White Hat Management (38 schools, 18,318 students).

Figure 2: Number of Schools Under EMO Management and Enrollments, USA, 1998/99-2004/05



So

ource: Molnar et al (2005), p 2.

The most significant example of private management of public schools is in Philadelphia, where a state takeover of the city's schools resulted in 70 of the worst performing schools being contracted out to for-profit and not-for-profit private contractors. Initially, for-profit education management company Edison Schools was awarded management contracts for 20 schools – the most of any organisation. That number was increased to 22 in 2005, with Edison the only organisation to be awarded additional schools to manage.

Denver Public Schools (DPS) has used contract schools as part of their school choice menu since 1993. Contract schools are operated by entities other than the local school board of education. Like Charter schools, contract schools have much greater management autonomy than traditional public schools, but are governed under different legislation. In 2004/05, there were four contract schools within DPS.

Chicago Public Schools (CPS) has proposed to contract out the management of a number of its lowest performing public schools as part of its Renaissance 2010 (R2010) initiative, which is seeking to create 100 new schools by 2010. To date, only one CPS contract school is operating. However, CPS recently received 57 proposals for new schools to operate from 2006. Of these, 14 were for contract schools, and 25 were for Charter schools. Two-thirds of the 100 new schools to be created under R2010 are expected to be Charter and contract schools, with the remainder being traditional public schools (CPS Performance Schools).

Table 2 outlines the different regulatory requirements that face Charter schools, contract schools and CPS Performance Schools.

Several forces appear to be driving this growth in contracting between governments/local school boards and EMOs. These include:

- a history of outsourcing education delivery for special education students;
- the increasing focus on accountability in schools;
- an increasing reliance on choice-based policies in education;
- the expanded use of school outsourcing as a mechanism for improving educational outcomes; and

growth in charter school numbers (Hentschke, Oschman and Snell 2003: 3-4)

Charter Schools, USA

Charter schools are secular public schools of choice that operate with freedom from many of the regulations that apply to traditional public schools, such as geographic enrolment restrictions and teacher union contracts. The charter that establishes a school is a performance contract that details the school's mission, program, goals, students served, methods of assessment and ways in which success will be measured. Charter schools may be managed by the community or by a for-profit or not-for-profit school manager.

School charters may be granted by a district school board, a university or other authorising agency. The term of a charter can vary, but most are granted for 3-5 years. Charter schools are accountable to their sponsor or authorising agency to produce positive academic results and adhere to the charter contract. A school's charter can be revoked if guidelines on curriculum and management are not followed or standards are not met. At the end of the term of the charter, the entity granting the charter may renew the school's contract. The *quid pro quo* for charter schools' increased autonomy is strengthened accountability.

Table 2: Regulatory Differences Among Charter Schools, Contract Schools and CPS Performance Schools, Chicago Public Schools

<i>Area</i>	<i>Charter Schools</i>	<i>Contract Schools</i>	<i>CPS Performance Schools</i>
Curriculum	Meets state standards as specified in Plan. Not linked to CPS initiatives	Meets CPS and state learning standards as specified in Performance Agreement May or may not participate in CPS initiatives	Meets CPS and state learning standards as specified in Performance Agreement May or may not participate in CPS initiatives
School Calendar and Schedule	Must meet state minima	Must meet state minima	Must meet state minima. May or may not follow CPS.
School funding	Per pupil	Per pupil	Per pupil
Teacher certification	In schools created prior to 2003, 75 percent of teachers must be certified.	100 percent of teachers must be certified	100 percent of teachers must be certified

	Only 50 percent in new schools		
CPS Principal eligibility required?	No	No	Yes
Teacher pension fund?	Certified teachers in pension fund. Others covered by Social Security	Chicago Teachers Union (CTU) teachers in pension fund. Other teachers covered by Social Security	All teachers in pension fund
Teachers and staff employed by:	Charter school board or sub-contracted management organization	Contract school board or sub-contracted management organization	CPS
Teachers Union	May be unionized	May be unionized, may or may not be CTU	CTU members
Employee compensation	Determined by school	Determined by school	In accordance with CPS salary schedules

Source: <http://www.ren2010.cps.k12.il.us/types.shtml>

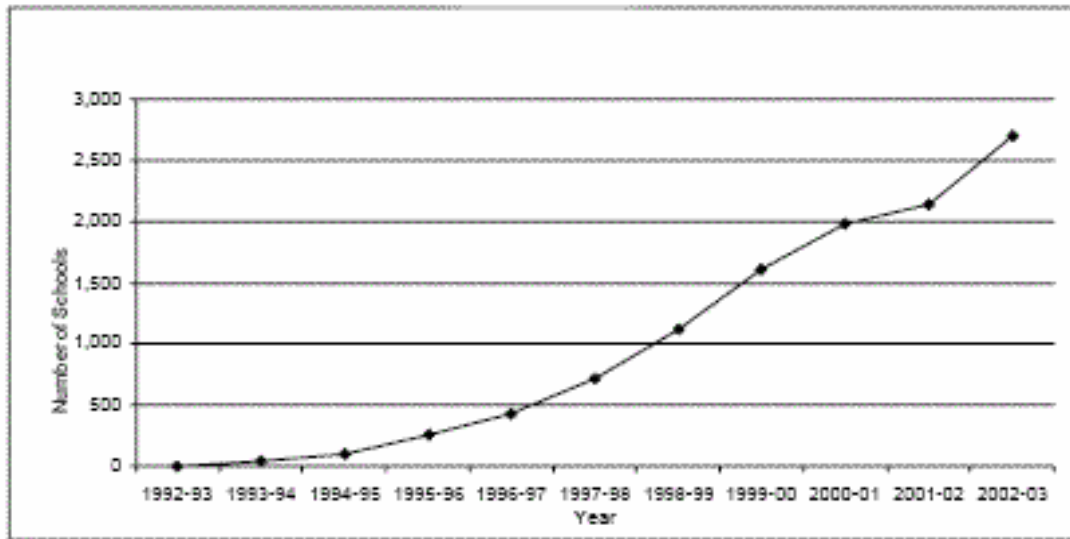
Charter school laws can differ significantly across states and are usually classified as either weak or strong. Approximately two-thirds of charter school laws in the USA are considered strong, with the remainder being considered weak. Weak laws are defined as those that constrict schools' operations and impose administrative burdens on schools, restrict the range of providers who can operate charter schools and provide only one avenue through which schools can be chartered (for example, only the school district can approve charters).

States with stronger charter laws provide schools with more management freedom, limit red tape, allow community and for-profit providers to manage charter schools and provide multiple avenues for charter schools to be sponsored (for example, universities). In general, charter school laws seek to:

- increase opportunities for learning and access to quality education for all students;
- create choice for parents and students within the public school system;
- provide a system of accountability for results in public education;
- encourage innovative teaching practices;
- create new professional opportunities for teachers;
- encourage community and parent involvement in public education; and
- leverage improved public education.

The first charter school law was passed in the State of Minnesota in 1991, with the first charter school opening the following year. As at April 2005, there were 3,343 charter schools serving approximately 1 million students. The number of Charter schools has increased considerably since the early 1990s (see Figure 3). More than 40 states have passed charter school laws.

Figure 3: Number of Operating Charter Schools, USA, 1992/93-2002/03



Source: *Evaluation of the Public Charter Schools Program, Final Report, Department of Education, 2004, p. 4.*

Colegios en Concesión (Concession Schools) Program in Bogotá, Colombia

In Colombia, the City of Bogotá has introduced the *Colegios en Concesión* (Concession Schools) program, under which the management of some public schools is turned over to private institutions with proven track records of delivering high quality education. The Concession Schools model was developed in the late 1990s and the first schools began operating in 2000. There are currently 25 schools (serving over 26,000 students) being operated by private managers under the Concession Schools model. The program was expected to grow to approximately 45,000 students in 51 schools (about 5 percent of public school coverage in Bogotá). However, a change in the mayoralty has reportedly stopped the program's expansion.

The Concession Schools program is designed to overcome many of the traditional problems faced by public schools. These include weak leadership, inability of schools to select their own personnel, lack of labor flexibility, lack of equipment and supplies, bureaucratic red-tape and the politicisation/unionisation of the education sector.

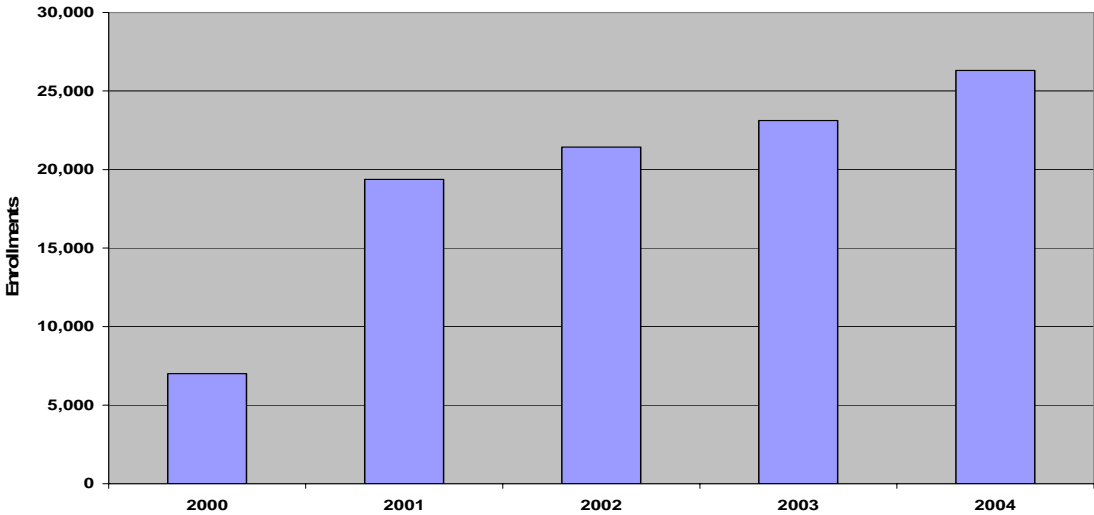
Under the Concession Schools model, private schools and/or education organizations bid in competitive process for management contracts of newly built schools in poor neighborhoods of Bogotá. Contractors may manage a single school or a group of schools. Schools must provide educational services to poor children and are paid \$US506 per full-time student per year – an amount that is considerably below the average cost of a student who attends a public school for only a half day.

Management contracts are for 15 years, which demonstrates both long-term commitment to educational improvement and continuity in supply. Contracts with providers establish clear standards that must be met, including hours of instruction, quality of nutritional provision and the establishment of single shift. The provider has full autonomy over school management and is evaluated on results. Contracts with providers are performance based. Failure to meet educational outcome targets such as standardized test scores and drop-out rates for two consecutive years can result in the cancellation of the contract.

Schools are monitored through an inspection carried out by a private firm to monitor the maintenance of the school facilities and property. In addition, the Ministry of Education (MoE) carries out ongoing reviews of pedagogical standards and norms and finances an independent evaluation to determine whether academic objectives have been met.

While it remains early days for Concession Schools, initial results from the program show it has led to a number of management improvements. These include a reduction in the share of the budget allocated to human resources from 90 percent to 55 percent, which has freed up money for nutritional support and the purchase of textbooks and teaching materials. Educators have also expressed satisfaction with the increased level of autonomy that schools enjoy. There is a high demand for more Concession Schools among the local community. Other forms of school contracting exist throughout Colombia, including in Medellin and Cali.

Figure 4: Enrollments in Concession Schools, Bogotá, 2000-2004



Source: Secretaría de Educación de Bogotá.

Fe y Alegría, Latin America

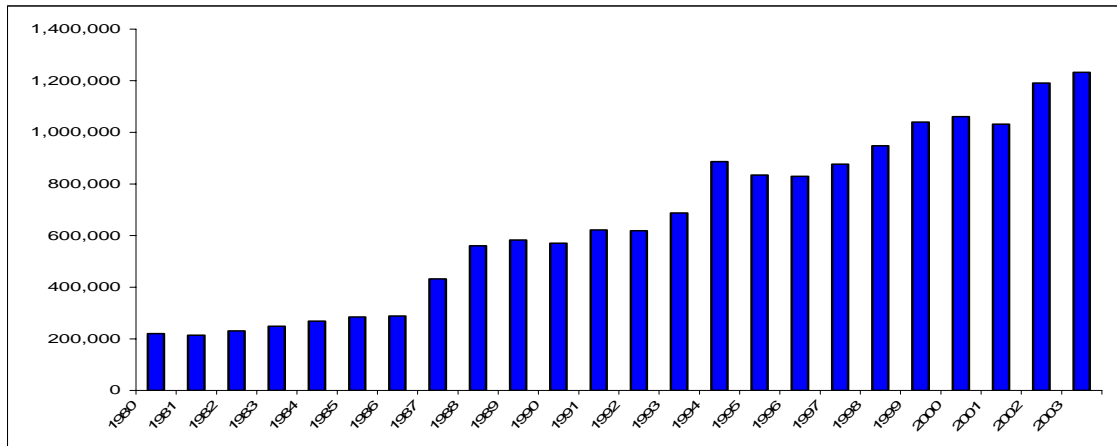
FyA is a non-governmental organization controlled by the Jesuit Order of the Catholic Church that operates formal pre-school, primary, secondary and technical education programs in the poorest communities in Latin America. The program began in Venezuela in 1955 and has since spread to 14 other countries (including Spain). FyA's primary mission is to provide quality education to the poor, to ensure that students complete at least the basic cycle of schooling and to establish schools that operate on behalf of community development. Under the FyA model:

- ministries of education pay the salaries of teachers and the principal;
- foundations, international agencies and voluntary fees from the local community pay for the land, construction and maintenance of schools;
- the community invites FyA to open a school and builds the school; and
- FyA trains and supervises teachers, manages the school and assists the school in its operation as a community development centre.

A national office coordinates the network of FyA schools in each country, while overall coordination is provided by headquarters in Venezuela. Most FyA schools are located in rural areas, but some are found in or near urban slums. FyA schools can be either public or private, although a majority are public. Schools generally enjoy considerable autonomy, despite being publicly funded and regulated. They can appoint school directors and teachers without state or teacher union interference. The central curriculum is supplemented with locally developed materials. FyA schools do not charge compulsory fees. The main indicator of school performance is schooling retention (McMeekin 2003).

In 2003, there were over 1.2 million students in the FyA network – up from just 220,000 in 1980 (see Figure 5). Approximately 450,000 students were in formal education programs in 2002. More than 31,000 people worked for FyA in 2002, of which 97 percent were lay and 3 percent were members of a religious order.

Figure 5: Total Number of Students in Fe y Alegría Schools, 1980-2003



Source: Fe y Alegría

Government Contracting with Private Schools for the Delivery of Education Services

A second form of private involvement in education is where the government purchases places at non-government schools for ‘public’ school students, rather than providing the places itself in a government-owned school. Three examples are highlighted in this section and are discussed briefly in turn:

- government sponsorship of students in private schools in Côte d’Ivoire;
- Alternative Education in New Zealand; and
- Educational Service Contracting in the Philippines.

Government Sponsorship of Students in Private Schools, Côte d'Ivoire

The number of places available in public schools and training institutions in Côte d'Ivoire is insufficient to meet student demand. In addition, gross and net enrolment ratios in Côte d'Ivoire are low, even by Sub-Saharan Africa standards. To help bridge the gap in the supply of places, the government has introduced a program whereby it sponsors 'public' students to attend private institutions. Under the program, private schools receive a payment for each 'public' student they enroll. The government sponsors students in lower and upper secondary and in professional and technical training. Students can be sponsored to attend both religious and secular schools.

The payment amount varies with the student's educational level: \$200 per year for lower secondary students and \$233 per year for upper secondary students. The placement of students depends in part of the educational performance of the school. Only those schools that are 'chartered' are eligible to take on sponsored students. The number of students in the private school sponsorship program grew from 116,000 students in 1993 to 223,000 in 2001, an increase of 92 percent. In 1997 the government paid out some \$10 million to sponsor over 160,000 students at the school level (approximately 40 percent of private school enrollments in that year).

Alternative Education, New Zealand

The Alternative Education (AE) program in New Zealand funds the delivery of education in non-school settings for school-age children who have become alienated from the education system. The program, which was introduced in 1997, aims to give students a learning pathway to prepare them to return to mainstream secondary education or to move onto tertiary education or employment once they reach 16 years (or 15 years if they are granted an exemption from compulsory school attendance rules).

While the number of students under the AE program remains small relative to the total number of students in New Zealand, the program has grown from 400 student places in its first year of operation (1998) to 1,820 student places today. In total, over 3,100 students were enrolled in AE at some time during 2003. At the start of 2004, there were 200 AE providers – up from around 120 in 2001/02.

The management and delivery of AE can vary depending on local needs. A single school may contract for AE provision or groups of schools may form a consortium. School consortia vary in size. Students must be enrolled at a school in order to participate in AE. The AE program may be delivered on or off the school site and schools may deliver the program themselves or contract providers to offer the AE program. Schools are responsible for the quality of AE programs delivered by providers and for the students' educational outcomes. Off-site programs may be delivered by not-for-profit/community-based organizations or by for-profit educational providers. More than one managing school may contract the same provider to deliver AE.

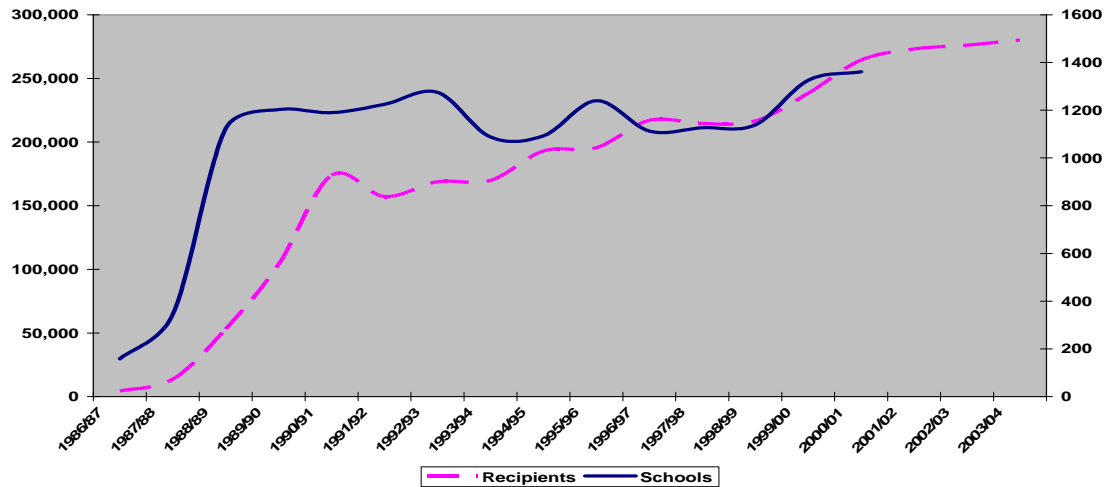
Schools are funded for AE on a per-student basis through contracts with the Ministry of Education (MoE). Schools receive a subsidy of \$7,500 per AE student. The subsidy is paid in two instalments. This funding covers costs for staffing, operations and property and may be adjusted annually depending on enrollments. Schools sign a Memorandum of Understanding (MoU) with the MoE detailing each party's responsibilities. Schools must provide six-monthly reports to the MoE. When a school contracts an external AE provider, both parties sign an agreement specifying their respective responsibilities. Schools may retain no more than 10 percent of the subsidy for administration.

Educational Service Contracting, the Philippines

The Educational Service Contracting (ESC) scheme in the Philippines was introduced as a pilot in the early 1980s and made permanent in the late 1980s. Under ESC, the government contracts with private schools to enrol students in areas where there is a shortage of places in public high schools. The per-student payment to private schools is currently set at \$71 and cannot exceed the unit cost of delivery in public high schools. Assistance under these programs is generally restricted to students at institutions charging very low fees and preference is generally given to students whose family income is not more than \$1,280 (\$640 prior to E-GASTPE). The scheme is administered by the Fund for Assistance to Private Education (FAPE), a private not-for-profit organization. The Department of Education (DepEd) recently introduced a certification program for schools participating in ESC, which aims to address concerns about the quality of education at some schools.

In 2003/04, 280,216 students in 1,517 participating private schools were subsidized under ESC (see Figure 6). The number of grantees is up from just 4,300 in 1986/87 (with a further increase of 50,000 planned for 2004/05), while the number of participating schools is up from just 158 in 1986/87. In 2002/03, the ESC scheme assisted 22 percent of students in the private high school sector (equal to 13 percent of all private school enrollments). The 2004/05 budget for ESC is \$26.6 million – nearly double the 2003/04 level of \$13.5 million.

Figure 6: Number of ESC Grantees and Participating Schools, 1986/87-2003/04



Source: Fund for Assistance to Private Education and Department of Education data

Public Private Partnerships for Educational Infrastructure

PPPs are an increasingly common form of procurement for large infrastructure projects in the education sector. The private sector can participate in infrastructure in a variety of ways – financing, design, construction and operation. Different types of infrastructure PPP exhibit varying degrees of private sector risk and responsibility. Similar types of arrangements often have very different names. For example, Build-Operate-Transfer (BOT) arrangements are often referred to as Design-Build-Finance-Operate (DBFO).

Table 3 below outlines the various types of infrastructure PPPs.

Under the most common type of PPP arrangement – BOT – the private sector finances, designs, constructs and operates a public school facility under a contract with the government for a given period (for example, 25-30 years). At the end of that concession period, ownership of the school facility transfers to the government.

Table 3: Types of Infrastructure PPPs

<i>Type of Partnership</i>	<i>Features</i>
Traditional Design and Build	Government contracts with private partner to design and build a facility to specific requirements
Operations and Maintenance	Government contracts with a private partner to operate a publicly owned facility
Turnkey Operation	Government provides financing Private partner designs, constructs and operates the facility for specific time period Public partner retains ownership of the facility
Lease-Purchase	The private partner leases the facility to the government for a specified time period after which ownership vests with the government
Lease/Own-Develop-Operate	Private partner leases/buys the facility from the government Private partner develops and operates the facility under a contract with the government for a specified time period
Build-Own-Transfer	Private partner obtains exclusive franchise to finance, build,

	operate, maintain, manage and collect user fees for a fixed period to amortize the investment At the end of the franchise, title reverts to a public authority
Build-Own-Operate	Government either transfers ownership and responsibility for an existing facility or contracts with a private partner to build, own, and operate a new facility in perpetuity

While arrangements can differ widely, infrastructural PPPs have a number of characteristics in common:

- private sector partners invest in school infrastructure and provide related non-core services (for example, building maintenance);
- the government retains responsibility for the delivery of core services such as teaching;
- arrangements between the government and its private sector partner are governed by long-term contracts – usually 25-30 years. Contracts specify the services the private sector has to deliver and the standards that must be met;
- service contracts are often bundled, with the private sector taking on several functions such as design, building, maintenance and employment of non-core staff; and
- payments under contract are contingent upon the private operator delivering services to an agreed performance standard (Department of the Parliamentary Library 2002: i).

Six examples – drawn from the UK, the Australian state of New South Wales, Washington DC, Germany, the Netherlands and the Province of Nova Scotia (Canada) – are described briefly below.

Private Finance Initiative, UK

PFI in the education sector have been used extensively in the UK, where virtually all new schools and tertiary education institutions are being built under PFI arrangements, rather than traditional procurement methods. The PFI, the most well-known form of PPP, refers to a strictly defined legal contract for involving private companies in the provision of public services, particularly public buildings.

The PFI program was introduced under the Conservative government in 1992 but did not take off until the Labour Party took office in 1997. Under a PFI program, a capital project such as a school, hospital or housing estate, is designed, built, financed and managed by a private sector consortium, under a contract that typically lasts for 30 years. Contracts can be structured differently. The most commonly used structure is DBFO. Under DBFO, a private sector partner (usually a consortium of companies) takes on the provision and long-term operation of a facility in line with the LEA and school or schools' specification. The private consortium is paid regularly from public money, based on its performance throughout the contract period. If the consortium misses performance targets, its payment is reduced.

Transport makes up the lion's share of PFIs in the UK. Education represents around 3 percent of the value of PFIs undertaken to date in the UK. By the end of 2003, 102 education PFI deals had been signed, with a value of approximately \$3.621 billion. The largest education PFI was the Glasgow Schools Project, with a value of \$400 million.

‘New Schools’ Private Finance Project, Australia

The New Schools Project in the Australian state of New South Wales, consists of two main components. First, the private sector will finance, design and construct nine new public schools in the state between 2002 and 2005. These new schools will be built to standards that must meet or exceed Department of Education and Training (DET) school design standards. Second, the private sector will provide cleaning, maintenance, repair, security, safety, utility and related services for these schools’ buildings, furniture, fittings, equipment and grounds until 31 December 2032. In return, the private sector will receive performance-related monthly payments from the DET during the operational phase of the project. At the end of the contract period, the buildings will be transferred to the public sector.

The project will be undertaken by Axiom Education Pty., which includes investment banker ABN Amro, commercial construction company Hansen Yuncken, property group St Hilliers and facilities management firm Spotless. The Axiom Education consortium was chosen following a competitive tendering process.

The New Schools Project in New South Wales is part of a broader move toward PPPs in Australia. PPPs have been used by various governments to procure infrastructure across a range of sectors, including transport, health and prisons. They have also been used in higher education, with the University of Southern Queensland and Swinburne University of Technology both using PFIs to construct educational infrastructure. A recent report by Standard and Poor’s showed increasing investor interest in PPPs, with projects valued at \$3.7 billion in the pipeline.

Public Private Partnerships (P3) for Educational Infrastructure, Nova Scotia, Canada

The Province of Nova Scotia, Canada used a PPP model to build 39 schools in the late 1990s. The government pursued the P3 model because its financial situation was such that it could not afford to build the large number of schools required, especially given its desire to outfit new schools with state of the art technology. The first lease agreement between the government and private sector partner was signed in 1998.

Under the P3 model, schools were designed, built, financed and maintained by the private sector. Contracts were allocated on the basis of a competitive bidding process. The P3 schools were leased by the government for a period of 20 years. Most of these contracts expire between 2017 and 2020. Incentives were built into contracts to ensure quality construction and maintenance. Approximately 14 percent of the square footage in the province's schools is found in P3 schools.

The government had planned to build 55 schools, but the number was cut back when the project was beset by a variety of political and other problems, including cost overruns driven by project 'gold plating' (that is, increasing school standards, expensive site selection) and weak bureaucratic management (Meek: 2001).

J. F. Oyster Bilingual Elementary School, Washington DC

The J. F. Oyster Bilingual Elementary School, which opened in September 2001, was the first public school to be built in Washington DC in 20 years. In 2002, the school had 350 students. The school was built at no cost to taxpayers through an innovative public private partnership. Under that partnership, a local developer demolished the existing school and rebuilt a new one in exchange for the right to build an apartment building on what had been a playing field. The school's construction was financed by an \$11 million tax-exempt city bond issue, which, in lieu of property taxes, will be repaid by the developer over 35 years from revenue generated by the apartments.

Offenbach Schools Project, County of Offenbach, Germany

The Offenbach schools PPP project provides for the renovation, upkeep and facility management of over 90 schools within the County of Offenbach, which is located near Frankfurt Germany and has a population of some 350,000. The project, which involves the government contracting for the financing, refurbishment and operation of government schools, is split into two parts, with a combined capital value of over \$1 billion.

The first part of the PPP project involves 43 schools. The total value of the contract is estimated at \$492 million. The contract was recently awarded to SKE, a subsidiary of the French Vinci group. According to one estimate, the use of a PPP will generate savings of about 19 percent relative to government delivery of similar services. The second part involves 49 schools. The contract was recently awarded to HOCHTIEF. The total value of the contract is estimated at \$545 million. Under the Offenbach Schools Project, the private sector partners will operate schools for a period of 15 years.

Montaigne Lyceum, The Hague, Netherlands

The first Dutch education PPP project, which commenced in 2005, involves the construction and operation of a new secondary school in the Ypenburg suburb of The Hague. The contractor is the TalentGroep consortium. The secondary school is expected to grow from 150 at the beginning of the contract to 1,200 by 2009. The Design Build Finance Maintenance (DBFM) contract is for 30 years (1.5 years for construction and 28.5 years of maintenance). Maintenance will include cleaning, furniture, ICT infrastructure and possibly catering. Construction is expected to be completed in July 2006 and the facility will be handed back to the government in 2034.

Private Sector Administrative and Curriculum Support

Contracting out of Local Education Authority Functions, UK

Outsourcing, or contracting for the delivery of services by specialist providers (usually private companies), has grown dramatically in the UK public sector. While outsourcing was initially confined to ‘non-core’ areas such as cleaning services, recent years have seen an expansion in the private sector’s role in the delivery and management of the UK state education system.

The contracting out of education services to the private sector can result from intervention following an unfavorable report on the performance of an LEA by the UK agency responsible for reviewing schools – the Office for Standards in Education (OfSTED). The School Standards and Framework Act 1998 gives the central government the power to intervene where an LEA is found to be failing to carry out its duties in relation to education.

The decision to contract out services to the private sector can also be voluntary. A number of LEAs, including East Sussex and Lincolnshire, have chosen to outsource some or all of their services. Surrey County Council is currently preparing to transfer a host of LEA services to a private sector partner. The voluntary outsourcing of LEA functions to the private sector has been accelerated by the April 2002 passage of the Contracting Out (Local Education Authority) Order 2002 (which authorized the contracting out of 103 LEA functions) and the Contracting Out (Local Education Authority) Order 2003 (which added a further three LEA functions that could be contracted out). The effect of these government orders was to:

- allow LEAs to voluntarily contract out functions to the private sector (while others, such as the approval of key plans and budgets, cannot be outsourced); and
- significantly broaden the range of LEA functions that could be contracted out to the private sector to include such things as school improvement and intervention, and curriculum and assessment duties.

It is estimated that around 20 of the 150 LEAs in England have had some or all of their functions contracted out to the private sector. Services that have been contracted out include core services (eg. schooling improvement, curriculum advisory services, literacy and numeracy strategies and inspection/advisory services) and support services such (eg. budget and financial management, human resources and Information Technology services). Edison Schools, a for-profit education provider from the USA, recently won a contract to provide curriculum and other services to Colbayns High School in Essex County and is negotiating to provide services to other schools.

LEAs must select private sector partners from a list of consultants and providers approved by the Department for Education and Skills (DfES) – the equivalent of a ministry of education in other countries. LEA outsourcing is expected to grow over the medium term and extend beyond failing LEAs, with an increasing number of top-performing LEAs moving to outsource services to the private sector.

Pitágoras Network of Schools

PNS supports public and private independent schools through an integrated school improvement package that offers integrated curriculum, management and technical support to affiliated schools. Schools enter into a yearly contract with PNS, in which they commit themselves to using Pitágoras textbooks at all grade levels. PNS has its own curriculum and provides schools in its network with textbooks, management training for principals, teacher training, cheap internet access, as well as management and pedagogical support. Five regional directors visit member schools between one and five times per year. There are currently some 350 schools, with over 150,000 students, affiliated to PNS. In 2001, Pitágoras charged schools anywhere from \$68 to \$157 per student for these services.

De La Salle Supervised Schools (LASSO)

The first De La Salle Supervised School was established in 1960. LASSO does not own schools. Instead, it provides administrative, academic and spiritual assistance to private schools who serve predominantly students from the middle and lower income classes. LASSO provides different types/levels of assistance to schools, depending on the length of time they have been in the LASSO network. Academic services provided by LASSO include planning, staffing, implementing, monitoring and evaluating programs. Administrative services include financial operations, physical plant/facilities planning and

development, and overall school management. LASSO also provides spiritual services to schools and in-service training for administrators, faculty and staff of the school.

The growth in the size of the LASSO network led the organization to set up an internal accreditation program for member schools. Accreditation is mandatory for member schools. LASSO schools pay an agreed contribution to the supervising entity and must reimburse all expenses related to the supervisory duties. They must also provide all land and buildings and pay the salaries, wages and fringe benefits of school personnel. In 2003/04, there were 34 supervised schools in the Philippines. Of these, 70 percent offered basic education only. In 2002/03, enrollments at LASSO schools totalled 17,500 students.

Sabis Network of Schools

Sabis is a network of 31 schools located in 11 countries across the Middle East, Europe and North America. It was founded in 1886 in the village of Choueifat, a suburb of Beirut, Lebanon. In 2004/05, there were over 28,000 students in Sabis network schools. The Sabis School network consists of both Member and Associate Member schools that operate in the public and private sectors. Schools that form part of the Sabis network retain their financial and administrative independence, but implement the Sabis Educational System, an internationally focused curriculum. Sabis schools operate a longer school day than most schools and put considerable emphasis on testing.

III. Contracting for the Delivery of Education Services: Tentative Lessons for Policy Design

Effectiveness of Contracting

The empirical literature on the effects of contracting for the provision of public services such as refuse collection, fire protection and bus transport is relatively abundant. There is considerable evidence that privatization, whether by contracting or other means, can lead to lower costs and performance improvements – providing it is done right. As Savas (2000) shows, studies across a range of countries demonstrate that, on average, savings of around 25 percent (after taking into account the cost of administering and monitoring the contract) can be obtained by contracting out the delivery of public services to the private sector (see Savas 2000: 147-173 for a survey of studies across a range of services).

On the other hand, there is considerably less evidence on the impact of contracting for the delivery of education services. This is due in part to the relatively recent nature of such contracting arrangements in many countries. It is also due in part to the fact that contracting for education provision is often introduced as part of wider school reform efforts that include increased choice and greater management autonomy for schools. Hence, it is difficult to disentangle the effects of contracting versus the impact of competition or the impact of the relaxation of regulations on schools. There is also little evidence that compares the impact of contracting with other mechanisms for introducing choice, such as vouchers, zoning or private school subsidies.

There has been limited research undertaken into the effects of ‘contract’ schools in the United States and the United Kingdom (see for example United States General Accounting Office (1996, 2002, 2003), Miron and Applegate (2000), Education and Employment Committee (2000) and Loveless (2003)). Research to date has been largely descriptive or qualitative in nature. A small number of qualitative studies have focused on the design and implementation of education contracting (see Hannaway (1999) and Bulkley et al (2004)). There is more evidence on the impact of Charter schools in the United States, with a number of studies using more sophisticated evaluation techniques (see for example Bifulco and Ladd (2004), Hanushek, Kain and Rivkin (2002), Hoxby (2004) and Hoxby and Rockoff (2005) among others). Even here, however, results have been inconclusive, with some studies indicating performance improvements, while others have shown either no performance improvement or deteriorating performance.

Swope and Latorre (2000: 104–105) have found evidence that schools in the FyA network have lower repetition and definitive dropout rates than other public schools and that progression and retention rates were 44 percent and 11 percent higher, respectively, in FyA schools than in other public schools. There is also limited evidence on the impact of PFIs on the price and timeliness of delivery of infrastructure (see Department of Education and Training (2003) and National Audit Office (2003)).

Design and Implementation of Contracting

Despite the absence of evidence on the impacts of contracting for education services, some tentative lessons can be drawn on the design and implementation of contracting programs. Broad principles to guide the design and implementation are discussed below and summarized in Table 5.

Provide an enabling policy and regulatory environment and a strong legal framework

An important requirement for effective contracting for the delivery of education services is the provision of an enabling policy and regulatory environment and a strong legal framework. The regulatory framework must create the conditions under which private firms can operate effectively and efficiently, while at the same time ensuring that the wider public interest is protected. This includes ensuring that:

- entry requirements for new providers are: clear, objective and are not onerous (beyond obvious regulations aimed at assuring safety);
- there are no restrictions on providers' organizational form (that is, allow both for-profit and not-for-profit providers to operate);
- ensuring that education and other relevant legislation (for example, labor market laws) do not unduly restrict schools' ability to operate effectively and efficiently;
- parents are provided with good information on the performance of schools; and
- ensure that there is a range of interventions available to address situations where schools are not performing.

Active participation by the private sector in education is most likely to be encouraged if the government puts in place an appropriate legal framework to govern contract procurement and private sector investment more generally. This includes:

- putting in place mechanisms to minimize the likelihood or appearance of corruption;
- reducing red tape and unnecessary regulation;
- assuring judicial independence, as well as timely and effective enforcement of contracts; and
- introducing policies and incentives that encourage private investment.

The government must also ensure that the grant of authority over education policy to municipalities and the division of responsibilities between the different levels of government is clear. This will provide greater certainty to both parties involved in the contracting relationship. The more enabling is the policy and regulatory environment and the stronger is the legal framework, the more likely it is that the government and potential private sector contractors will be able to arrive at terms and conditions that are mutually satisfactory and which make private investment in the education sector feasible and profitable.

The importance of an enabling regulatory system is one of the lessons from the UK experience with the contracting out of LEA functions. As noted above, the ability of LEAs to contract out services to the private sector was initially limited by legislation. This impediment was removed with the passage of the Local Education Authority Functions (Contracting Out) Orders in 2002 and 2003.

Similarly, the US experience with charter schools indicates that ‘strong’ charter school laws (that is, those that are favorable to charter schools) are correlated with both the number and viability of charter schools in each state. States with stronger charter school laws also have higher and more comprehensive student achievement than states with weaker laws. Among the 26 states that had ‘strong’ charter school laws in 2004, 65 percent saw significant gains in student achievement (as measured by test scores and No Child Left Behind indicators). In contrast, only 2 of the 15 states with ‘weak’ laws demonstrated positive gains in student achievement. However, it should be noted that many of the states with ‘weak’ laws have yet to release reliable achievement data on charter schools (Center for Education Reform 2004: 1).

The Center for Education Reform has identified a number of desirable properties that make charter school laws ‘strong’. These include having multiple bodies that can authorize Charter schools, an automatic waiver from laws and regulations, granting Charter schools legal/operational autonomy and exemption from collective bargaining agreements/district work rules.

Split the purchaser and provider roles within department of education

A better environment for education services contracting can be created if the purchaser and provider roles within the relevant education department or local school board were split. This is to ensure that the same business unit within the education department or local school board was not responsible for operating public schools and contracting with private schools. This would ensure that education purchase decisions at the local level were made in a more neutral manner vis-à-vis the public and private sectors. As Snell (2002) argues “splitting policy functions from service delivery creates incentives for governments to become more discriminating consumers, looking beyond government monopoly providers to a wide range of public and private providers.”

In the USA, some states go further in their effort to split the purchaser and provider functions in education by allowing multiple authorizers for charter schools. For example, a group seeking to operate a charter school could seek approval to operate either from the local school district, a university or other body.

Ensure the capacity of the contracting agency

A key to successful contracting is to ensure that the contracting agency has both the information and skills required to develop and manage a rigorous contracting process. In effect, the contracting agency should undergo an evaluation to ensure its ‘fitness’ to undertake the complex task of contracting for education services.

First, it is important that the contracting agency have good financial and administrative information systems. Good price, output and quality benchmarks are essential for the contracting agency to undertake an informed assessment of the bids submitted by organizations seeking to deliver education services. For example, any assessment of whether the bidding process is generating value for money requires that the contracting agency has good information on the unit cost of existing or alternative sources of provision – both in the public sector and in the private sector. It is also important that the contracting agency have good baseline information on education outcomes, both in general and in the schools to be contracted out, if it is to set appropriate performance benchmarks for private sector contractors.

Second, it is vital that the contracting agency employs people with the skills required to manage and oversee the complex task of contracting with private sector partners. While some people see the move away from public provision as government ‘withdrawal’ from education, it is nothing of the sort. Indeed, it represents a shift in the role of government from provider of a service to facilitator and regulator. The implementation of contracting models and similar PPPs in education places new demands on the public sector and requires much different skill sets to implement than traditional methods of procurement.

In particular, the move from input controls to output-based contracting means that government agencies must develop their capacity to:

- assess the various services to determine when and under what circumstances contracting, rather than direct public provision is to used;
- design, negotiate, implement and monitor education service contracts;
- develop enabling legislation that supports a competitive and transparent system of contracting; and
- develop appropriate quality assurance mechanisms.

Given the complex and multi-faceted nature of contracting, it is likely that a range of skill sets would be required in the contracting agency, including educational and pedagogical skills, contract management, economics and finance. A move to contracting for education services also requires that public officials adopt a different approach and a new administrative culture to what existed in the past. As Harding (2002: 22) has noted, in relation to health contracting (but which is equally applicable to education):

Contracting requires a drastic mind shift for public officials, from thinking of themselves as administrators and managers of public employees and other inputs, to thinking of themselves as contract managers with ultimate responsibility for delivering services.

The contracting authority must also ensure that it has the necessary payment and fraud monitoring systems in place to track payments and ensure that claims for payment from participating schools are legitimate and accurate. The payments system should also ensure that payments to schools are delivered in a timely fashion. The Philippines' experience with ESC is instructive in this regard, as recent audits have discovered some instances of fraud in the form of 'ghost schools' that were receiving funding under ESC, yet existed in name only. In addition, the payments system under ESC was not timely, so that payments to schools under the scheme were often delayed several months, a factor which discouraged many providers from participating in the ESC program. An effective audit procedure is a necessary component of any payment/fraud monitoring system. NGOs can often be successfully employed in such roles.

Employ a transparent and competitive process for the selection of preferred providers

A key element of effective contracting is that the bidding process should be transparent and competitive. Bidding for service delivery contracts should be open to all private organizations. This includes both for-profit and not-for-profit providers. Contracts should be open to local, national and international organizations who may wish to bid to operate a public school. The bidding process should be competitive whenever possible.

Schools whose management will be contracted out should be identified well in advance and the list should be made publicly available, perhaps through an easily accessible public register. The bidding process should also be set out clearly and in advance. A Request for Proposal (RFP) should be sent out to all potential bidders and publicized widely to ensure as broad a market as possible. The result of the bidding process should be advertised to ensure that market participants are made aware of the successful provider.

A transparent and competitive bidding process is likely to have positive effects in both the short and long term. In the short term, a competitive bidding process is most likely to result in the bids that deliver value for money (that is, the lowest price for a given level of desired quality). They are also most likely to result in reduced corruption in contract awards. Over the longer-term, a competitive process is most likely to build market confidence in both the bidding process and the contracting agency, thereby helping to grow the private education services market over time. Several ‘how-to’ guides have been prepared that provide pointers for designing and operating PFI processes. Similarly, Savas (2000) outlines the key elements of a well-designed contracting process.

Employ a staged process for the selection of preferred providers

It is important that the contracting agency implement a staged process for the selection of the preferred provider of education services. The process should include a number of steps:

- clarification of requirements, including development of contract objectives, as well as specification of desired services and expected outcomes;
- development of procurement strategy and identification of procurement team;
- development of the RFP associated with the contract;

- invitation of expressions of interest through the promulgation of the RFP;
- carry out contract pre-qualification process in which bids are assessed against requirements and select short list of bidders;
- interview short list of bidders, assess proposals in greater depth and negotiate contractual issues with short list of bidders;
- select preferred bidder and award contract;
- advertise result of selection process; and
- commencement of service (International Financial Services London 2001: 13)

Savas (2000) provides a comprehensive discussion of the steps involved in carrying out a competitive process for contracting for the delivery of public services (Savas 2000: 174-210).

Establish Appropriate Performance Measures

The establishment of appropriate performance measures is a critical element in any contract design. Performance measures provide the basis for determining whether the service provider has met the agreed terms and conditions of the contract and may also play a role in determining the compensation to be paid to the contractor. The specification of performance measures becomes even more important in those cases where compensation is linked to the attainment of performance benchmarks.

The selected performance measures must be appropriate and must be in line with the desired outcomes being sought by the contracting authority. This is because the contractor's behavior will largely be driven by what can be measured and what is rewarded under the terms of the contract. In other words, the contracting authority will 'get what it contracts for'. Performance indicators should be specified, to the extent possible, in terms of measurable outcomes (for example, learning gains, reading levels, test scores, reduced drop-out rates and reduced teacher/student absenteeism), rather than inputs (for example, hiring additional staff, increasing spending on particular activities).

The selection of performance measures and the standards to be attained must be approached carefully because it can introduce perverse incentives and lead to undesirable outcomes. For example:

- a strong focus on academic outcomes (for example, test scores) in contracts may 'crowd out' some of the focus on softer skills such as teamwork;
- an overly rigid focus on measurable outcomes may lead to too little attention being paid to outcomes that are desirable, but which cannot be measured and hence cannot be compensated; and
- a strong focus on external test scores may provide schools with an incentive to 'cream skim' by refusing entry to students who are not likely to be 'strong performers'.

This is not to argue that performance measures should not be set or that they should not be backed up by financial incentives. Performance measures and financial incentives can help align the interests of the school with those of students and the government (that is, help overcome the 'principal-agent' problem). Appropriate incentives can also help to ensure that schools remain focused on the needs of students and keep abreast of changing demands in the marketplace. The contract specification phase can be crucial to the success of the exercise and so needs to be carried out carefully and by a multi-disciplinary team.

Similarly, contract targets and expectations need to be realistic and achievable. As noted earlier, the establishment of overly optimistic expectations in Islington LEA in the UK has led to penalties for non-achievement of targets being imposed on the private contractor in each year of the contract. This has created an appearance of failure, even though educational performance has improved in the LEA.

The degree to which performance indicators can be specified will vary depending on the nature of the contract. Performance measures are far more likely to be specific in cases where the services being purchased are narrow in scope and easiest to measure (for example, remedial instruction, literacy programs) than in situations where the services being purchased are broader in scope and harder to measure (for example, whole school management). In support of this, Hannaway (1999) notes that contracts with Sylvan Learning, which provides narrowly focused remedial instruction in reading and mathematics, included much more specific performance indicators than did contracts signed with Edison Schools, which manages whole schools (Hannaway 1999: 6). Clearly the ability of the contract to specify detailed performance indicators depends on the complexity of the tasks to be contracted for. Performance indicators can be specified in a variety of ways, be measured both qualitatively and quantitatively and can be reported at different intervals. Examples of performance measures include student performance on standardized tests, literacy rates, student attendance, suspensions, graduation rates and parental/staff satisfaction. Quantitative indicators can be supplemented by more qualitative methods of assessing performance such as surveys with parents and teachers, site visits by third-party review and alternative assessment methods for determining progress in areas such as leadership development, the arts and character development. In many of the

international examples cited above, contracts for the delivery of education services included performance measures and compensation was tied to performance (eg. PFIs in the UK, Nova Scotia and New South Wales, LEA contracts in the UK and the Bogotá Concession Schools model).

Include performance incentives and sanctions for non-performance in the contract

In addition to establishing appropriate performance measures, well-designed education serviced contracts should include performance incentives and sanctions for non-performance (that is, link payment levels to that attainment of performance standards). As shown above, most examples of contracting for education services, including PFI projects, contract schools and contracting out of LEA functions, tie payments to contractor performance. Providers that deliver services on time, to the required quality or meet specified outcomes are rewarded by higher payments, while those who fail to do so are penalized – either through reduced payments or, in some cases, by having the contract terminated.

Introduce an effective contract monitoring framework

The inclusion of performance incentives and sanctions in contracts is not enough. It is also vital that the contracting agency introduce an effective contract monitoring framework and effectively enforce the contracts that it enters into. Otherwise, there is a risk that providers will see the terms and conditions of contracts as non-binding. The non-enforcement of contracts with providers has been identified as a key weakness with the implementation of PFIs in the UK, where contracts include penalties in cases where providers do not meet performance standards.

As noted by the National Audit Office, in some cases, UK government departments have provided financial bailouts for contractors that experienced financial problems as a result of poor risk management and have been unwilling to cancel agreements when contractors have provided below-standard services (National Audit Office 2003). The same has been true to some degree with charter schools in the US, although this is beginning to change and a number of charter schools are now being closed, either because they were found to be financially or pedagogically unfit to operate. As of January 2004, 311 charter schools have closed, representing 9 percent of all charters ever opened. These closures occurred for a variety of reasons, including failure to meet charter requirements and inability to find appropriate facilities.

In contrast, private companies involved in the operation of LEA functions have been penalized for failure to meet promised improvements in educational performance. For example, Cambridge Education Associates in the UK was penalized \$893,000 for failing to meet only 13 out of 73 education performance targets in 2003/04. Equally, a number of EMOs have seen their contracts cancelled, although these are not always due to a failure to meet targets. Indeed, in many cases, these cancellations have been due to anti-private sector bias among school boards. If the contracting agency is to be in a position to impose sanctions or withdraw from contracts, it must ensure that there are good contract exit strategies. Effective exit strategies will depend in part on the breadth of the depth of the private sector market.

‘Operational contracts’ provide the most scope for successful contracting

A key component of successful contracting is that the government should adopt an operational contracts model under which private sector providers select and employ their own staff. ‘Operational contracts’ are far superior to ‘management contracts’, because they provide the private sector with greater flexibility to redesign work processes, select appropriately skilled staff, pay the salaries required to attract good staff and dismiss non-performing staff. Use of management contracts or the imposition of restrictions on school operations (beyond minimal standards required to assure safety) can significantly hamper the private sector’s ability to determine appropriate resource allocations, to introduce management and pedagogical innovations and to improve the quality of education delivered at public schools.

Education service contracts that require private sector providers to hire existing staff, maintain existing staffing and pay levels, maintain union contracts for teachers all restrict providers’ ability to make productivity gains and introduce changes aimed at improving the quality of education at the school. Limiting private providers’ ability to pay fire non-performing staff, vary pay levels or provide performance-based pay would have a similar effect. Clearly some minimal standards may be required – for example safety checks on teaching staff, etc.

The ‘operational contract’ approach to contracting with private education providers amounts to a ‘fresh start’ for schools. Under this approach, the government would simply pay the private provider an amount per-student for school operation, plus a management fee and then allow the provider to make all operational decisions, including staffing decisions. The provider would employ all staff. This is particularly important where private providers are being contracted to turn around ‘failing’ schools, given that poor teaching is often a factor in poor school performance.

The UK has adopted such approach to reforming ‘failing’ schools through its Fresh Start program. A Fresh Start school is a new school that is designed to replace a failing school that is being closed. Fresh Start schools can be established only once a substantial review of staffing and governance has taken place to ensure that the school has the right people in post to put in place and maintain that learning environment.

The ‘fresh start’ approach adopted in the UK contrasts with the approach adopted in Philadelphia, where the state school reform commission contracted out the management of 45 of the district’s worst performing schools to EMOs, including Edison Schools. In Philadelphia, authorities adopted a ‘thin management’ contracting model under which providers were given relatively little discretion in the area of personnel management. As a result, the Philadelphia model differs significantly from the ‘ideal’ contracting model – called the Diverse Providers Strategy – outlined by advocates such as Paul T. Hill (Hill *et al* 2000).

Table 4 compares the Philadelphia Diverse Provider Model and the ‘ideal’ Diverse Providers Strategy.

Table 4: Philadelphia Diverse Provider Model versus ‘Ideal’ Diverse Providers Strategy

<i>Feature</i>	<i>Diverse Providers Strategy</i>	<i>Philadelphia Diverse Provider Model</i>
Performance and Flexibility	<ul style="list-style-type: none"> • Providers have contracts with clear performance indicators • Schools and providers choose and pay for instructional methods • Schools are supervised by via performance agreements vs codes of rules 	<ul style="list-style-type: none"> • Providers report on performance indicators such as test scores, attendance, student transfers) • Providers choose and pay for instructional methods (including materials and most professional development) • Provider-linked schools must meet same requirements as other schools
Budgets and Resources	<ul style="list-style-type: none"> • Contractors receive a fixed amount per pupil, plus a management fee • Providers spend money at their own discretion 	<ul style="list-style-type: none"> • Contractors receive a set amount per pupil, plus a management fee • Providers have considerable discretion in spending non-staffing money • Thin management limits control over staffing
Staffing	<ul style="list-style-type: none"> • Providers hire teachers • Providers negotiate pay, benefits and responsibilities directly with staff • Teachers pick schools • Schools are organized/unionized individually, not district-wide • Providers select principal 	<ul style="list-style-type: none"> • Providers abide by union contracts affecting pay, working conditions and who they can hire • Providers hire teachers through district process • Some teachers choose schools through seniority • Providers can recommend principals, who then go through district hiring process • Some schools selected their own new teachers, with providers’ role in process unclear
Selection of Providers	<ul style="list-style-type: none"> • District-level staff assign providers to a school 	<ul style="list-style-type: none"> • District selected providers and assigned them schools • District developed own Office of Restructured Schools to act as

		separate provider for a number of schools
Assignment of Students	<ul style="list-style-type: none"> • Students and parents choose schools and schools admit students by random selection 	<ul style="list-style-type: none"> • Students attend neighborhood schools, magnet schools or schools designated for desegregation
Oversight	<ul style="list-style-type: none"> • A set of independent institutions provide oversight, evaluation and support • Civic oversight group mobilizes support for reform and for sustaining effort 	<ul style="list-style-type: none"> • District staff monitor providers' contract compliance and outcomes for all schools • State/city appointed School Reform Commission renews and approves provider contracts

Source: Bulkley et al 2004: 3.

According to Bulkley *et al* (2004), a key weakness identified in the ‘thin management’ model is that it prevented providers from making hiring and other decisions that they felt were essential to their education approaches. Principals interviewed as part of that study also felt the model did not generally offer the clear division of responsibility, authority and accountability that was originally envisioned for privatization (Bulkley *et al* 2004: 3). Despite this, recent evidence is that contract schools in Philadelphia appear to be raising test scores.

Allow maximum contract flexibility for providers

The government’s role should be to spell out the desired outputs and performance standards, set penalties for failure to achieve and rewards for success and then leave providers to decide the best way of organizing themselves to deliver the required outputs to the specified standard. Providers must be given as much management freedom as is feasible. The need for flexibility is especially true in the area of staffing and employment, but it is also relevant in other areas such as curriculum, budget allocation, etc.

Forcing providers to operate within the same restrictive regulatory framework that hobbles public schools would significantly reduce the potential gains from moving to a contracting model and limit the positive impact of competition in the sector. Indeed, one recent study found that more than two-thirds of US school district superintendents surveyed believed that reducing bureaucracy and increasing flexibility was very important as a way to improve public education (Belfield and Wooten 2003: 14).

Introduce longer-term contracts with providers

Contracts with private managers should be long enough to encourage private sector investment and interest in the sector. In many instances (for example, charter and contract schools in the USA), contracts are relatively short – 3 to 5 years. This can potentially reduce investment and interest in the sector. It also provides little time for the company to improve the performance of the schools – which can often take 5 or more years.

Contracting agencies could opt for longer contracts with private firms managing public schools. This is already the case in some areas. For example, management contracts for Concession Schools in Bogotá are for 15 years.

An overly long contract period could blunt some of the impacts of competition and limit the gains from contracting. However, these costs need to be traded off against the benefits of increased interest and reduced uncertainty for providers. To offset some of these effects, provider contracts could include clauses that allow recontracting at intermediate points. For example, the UK House of Commons Education and Employment Committee, in its review of the Role of Private Sector Organizations in Public Education, argued that contracts relating to the contracting out of LEA functions should include a formal mid-term contract review. Such a review would focus on contractor performance, the need to renegotiate any aspects of the contract and end-of-contract strategies (Education and Employment Committee 2000).

Employ an independent entity to evaluate the contractor's performance

Contracting performance could be enhanced if the government were to employ an independent third party to evaluate contractor performance. This would ensure independent, unbiased assessments of school performance. A number of companies provide testing services, as well as school evaluation and review services. For example, CfBT, a UK-based not-for-profit education company, carries out reviews of schools in Oman under contract to the Omani government – a similar role to that carried out by the ERO in New Zealand and OfSTED in the UK. In the USA, Standard and Poor's provides school evaluation services (SES) to school districts. SES analyses academic, financial and demographic indicators and trends, provides benchmarks and presents its findings on the performance of schools.

Private sector organizations such as the Educational Testing Service, Pearson Educational and Kaplan in the USA and the Center for Educational Measurement in the

Philippines provide testing and assessment services that help track educational performance for schools and governments.

Table 5: Summary of Guiding Principles in Contracting for the Delivery of Education Services

Provide an enabling policy and regulatory environment and a strong legal framework
Split the purchaser and provider roles within the government department
Ensure the capacity of the contracting agency
Employ a transparent and competitive process for the selection of preferred providers
Employ a staged process for the selection of preferred providers
Establish appropriate performance measures
Include performance incentives and sanctions for non-performance in contracts
Introduce an effective contract monitoring framework
Employ operational type contracts that give providers maximum flexibility to manage, including the power to select, employ and remunerate staff, and dismiss non-performing staff
Allow maximum contract flexibility for providers
Introduce longer-term contracts with providers
Secure an independent entity to evaluate the contractor's performance

IV. Conclusion

Governments throughout the world use contracting to ensure delivery of publicly funded education services. Historically, contracting has been limited to education support services. In recent years however, governments have begun to contract with the private sector for the delivery of core education services and school facilities. Proponents argue that contracting for the delivery of services may have a number of benefits over traditional methods of service procurement. In particular, it may:

- improve the quality of government spending;
- allow governments to take advantage of specialized skills;
- allow governments to overcome operating restrictions such as inflexible salary scales and civil service restrictions;
- allow governments to respond to new demands and facilitate the adoption of innovations;

- permit economies of scale;
- allow governments to focus on those functions for which it has a comparative advantage;
- increase access to services; and
- increase transparency of government spending.

At the same time, it is clear that contracting, if done badly, can have downsides.

Opponents argue that contracting may be more expensive than traditional procurement methods because of the cost of awarding and managing contracts and lack of competition. It may also create opportunities for corruption in contract awards. If badly handled, contracting may even reduce already low levels of government accountability and control.

Like any reform, contracting is not a panacea. And contracting in education as a phenomenon remains in its infancy. There has been only limited research on the effectiveness of contract schools in the United States. Much of the research carried out to date has been descriptive or qualitative in nature, although a small number of studies have provided general guidance on the design and implementation of contracting models in education. While there is more – and more sophisticated – research on Charter schools in the United States, results have been inconclusive. A key conclusion of the paper is that there is a need for better and more sophisticated evaluations of contracting for the delivery of education services.

Experience to date suggests some tentative lessons for the design and implementation of contracting models in education. Contracting is likely to work best when the services to be delivered are easily specified, where performance can be monitored and when sanctions/penalties can be imposed for non-performing contractors. Greater reliance on contracting, especially in areas such as infrastructure provision, represents a significant challenge for government departments. It requires a redefinition of the role of public agencies and, often, a different set of skills on the part of the civil servants responsible for regulating the education sector.

Contracting for the delivery of education services is most likely to be successful in situations where:

- government provides an enabling policy, a legal framework and a clear and fair regulatory environment;
- purchaser/provider roles are delineated within department responsible for contracting;
- the government department responsible for contracting has sufficient capacity to undertake complex task of designing contracts and managing the process;
- the government department employs a transparent and competitive process for selecting preferred providers;
- the government department employs a staged process for selecting preferred providers;
- contracts include appropriate performance measures;
- contracts include performance incentives and sanctions for non-performance;
- an effective contract-monitoring framework is introduced;
- providers are granted maximum operational flexibility;
- longer-term contracts are given to providers (contractors cannot be expected to invest in improving the quality of services, when the duration of contracts is very short, renewal uncertain, and criteria for awarding unclear); and

- an independent entity is employed by the government department or contracting agency to evaluate the contractor's performance.

Contracting for the provision of education services has been, and will continue to be, controversial. From a political economy standpoint, the beneficiaries of education contracting initiatives are usually dispersed (for example, poor children; students in poorly performing schools) and unorganized. In contrast, opponents of contracting – in particular teacher unions who fear loss of jobs or political power – are well financed and well organized.

Its success requires good policy design, well-managed implementation, effective political management and well-designed evaluations.

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Annex 1:
Typology of Education Contracting Categories
by Allocation of Key Responsibilities

<i>Contract Type</i>	<i>What is Procured?</i>	<i>Who Manages School?</i>	<i>Who Appoints/Employs Staff?</i>	<i>Who Finances/Builds the Facility?</i>	<i>Contract Duration</i>	<i>Objective of Contracting</i>
Management Contract	Management services	Private sector	Public sector	Public sector	Medium term (5-7 years)	Improved management of public schools (possibly worst performing) and ultimately better educational achievement and greater efficiency in delivery.
Operational Contract	Operational services	Private sector	Private sector	Public sector	Medium term (5-7 years)	Improved operation of public schools (possibly worst performing) and ultimately better educational achievement and greater efficiency in delivery.
Service Delivery Contract	Delivery of education/ enroll-ments at private schools	Private sector	Private sector	Private sector	Short to medium-term with contract renewal dependent on continued performance	Increased access to education; increased competition (quality; efficiency) in school sector; access to private schools for publicly funded students
Auxiliary Services Contract/Professional Services	Education related services such as consulting, school review and inspection, etc	N/A	Private sector	N/A	Variable. Short-term if specific 'project' focused. Medium-term if contracting out education related services to private sector on an ongoing basis	Higher quality provision of expert services (curriculum design; school improvement strategy development)
PPP for Educational Infrastructure	Design, construction, finance and maintenance of educational infrastructure such as classrooms, IT labs and hostels	Public sector	Teaching staff: Public sector Maintenance staff: Private sector	Private sector	Long-term. Typically 20-30 years	Increased efficiency, quality and innovation in design and construction; more timely delivery of educational infrastructure; lower cost/better quality operation/maintenance of facilities; risk transfer to private sector

Annex 2:
Summary of International Examples of Contracting for Educational Services

<i>Program</i>	<i>Jurisdiction</i>	<i>Program Size</i>	<i>Key Elements</i>
<i>Private Management of Public Schools</i>			
Contract Schools	USA	535 contract schools with 239,766 students being operated by EMOs in 2004/5	School districts or Charter school boards contract with private providers to manage public schools Providers are paid a management fee to operate the schools and schools remain free to students Focus on low-performing schools and school districts
Charter Schools	USA	3,343 schools with approximately 1 million students in April 2005 40 US states with Charter school laws	Charter schools operate with fewer regulations than standard state schools, but must meet increased accountability requirements Schools remain free to students Schools may be community managed or management may be contracted out to for-profit or not-for-profit school managers
Bogotá Concession Schools	Colombia	25 schools with 26,000 students 10 organizations managing schools Plans were for 51 schools/45,000 students, but this is now on hold as a result of a change in the Bogotá mayoralty	Private schools and/or education organizations bid in competitive process for management contracts of newly built schools in poor neighborhoods Contractors may manage a single school or a group of schools Management contracts are for 15 years and are subject to satisfactory performance Schools receive \$US475 per full-time student per year Schools operate with the flexibility and autonomy of private providers
Contracting out of Local Education Authority (LEA) Functions	UK	20 of 150 LEAs have had some or all functions contracted out to the private sector Small number of privately managed public schools	Government contracts with private sector for the delivery of LEA functions (eg. school improvement and financial management) Small number of contracts with public and private organizations for the management of public schools
<i>Purchase of Educational Services from Private Schools</i>			
Government Sponsorship of Students in Private Schools	Cote d'Ivoire	162,000 students in mid 1990s Budget of \$US10.3 million in 1997/98	Government purchases secondary school places in private schools Schools must maintain academic standards in order to retain contracts with government In 1995/96, 40 percent of private school students were state sponsored
Educational Service Contracting	Philippines	280,000 students in 1,517 schools in 2003/04	Government purchases places for students in private schools where public schools cannot meet demand Schools are paid up to PhP4,000 per student
Alternative Education (AE)	New Zealand	3,100 students and 200 providers participate in AE	Instituted in 1997 Program aimed at students aged 13 to 15 who have become alienated from the regular school system Government subsidizes schools on a per-student basis. Schools may contract with community organizations or private training providers to deliver tuition
Fe y Alegría	Latin America	Over 1.2 million students in FyA programs and 450,000 students in formal education in 2003	NGO that operates in poorest communities in Latin America Community provides land, construction and maintenance of schools, while Ministry of Education typically pays teacher salaries FyA trains/supervises teachers, manages the school and offers other assistance A majority of schools in the FyA network are public

<i>Public Private Partnerships for Educational Infrastructure</i>			
Private Finance Initiative	UK	By the end of 2003, 102 education PFI deals had been signed, with a value of £2.028 billion	Introduced in 1992, but grew significantly post-1997 Educational infrastructure designed, built, financed and managed by a private sector consortium, under a contract that typically lasts for 30 years. Design, build, finance and operate (DBFO) is most common structure Payments to private sector are performance-related Most new educational facilities are now built using PFIs
'New Schools' Private Finance Project	New South Wales, Australia	9 new public schools built between 2002 and 2005	Private sector financing, design and construction of nine new public schools by January 2005 Private sector cleaning, maintenance, repair, security, safety, utility and related services for school buildings, furniture, fittings, equipment and grounds until 31 December 2032 Buildings handed over to public sector on 31 December 2032
Public Private Partnerships (P3) for Educational Infrastructure	Nova Scotia	39 schools built under P3 program in late 1990s	Competitive bidding process Schools are financed, built and operated by the private sector Government leases schools for 20 years Incentives built in to contract to ensure quality construction and maintenance
J. F. Oyster Bilingual Elementary School	Washington DC, USA	Individual school	Opened 2001, now has 350 students School built at no cost to taxpayers using PPP with local developer School financed with \$11 million tax-exempt bond issue which is to be repaid by the developer
Offenbach Schools Project	County of Offenbach, Germany	90 schools with capital value of over \$1 billion	Involves government contracting for the renovation, upkeep and facility management of public schools Private sector partners will operate schools for 15 years
Montaigne Lyceum	The Hague, Netherlands	Single secondary school	Design, Build, Finance, Maintenance, 30 year contract beginning in 2006
<i>Private Sector Curriculum and Administrative Support</i>			
Pitágoras Network of Schools	Brazil	350 schools belong to the Pitágoras network More than 150,000 students	Network of primarily private schools Network provides member schools with textbooks, management and teacher training, cheap internet access, management and pedagogical support Cost to school ranged from \$US68 to \$US157 per student in 2001
De La Salle Supervised Schools	Philippines	34 schools, with approximately 18,000 students in 2003/04	Initiated in 1960 Operated by De La Salle Schools Supervision Office (LASSO) LASSO provides academic, financial and administrative supervision of participating private schools
Sabis Schools	11 countries on four continents	31 schools in 11 countries with over 28,000 students in 2004/05	Founded in 1886 Schools implement the Sabis Educational System curriculum, but are financially and administratively independent Public and private schools can be part of network