Public-Private Partnerships

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Definition of Public-Private Partnership

A Public-Private Partnership (PPP) is a long-term contract between a private party and a government entity for providing a public asset or service, in which the private party bears significant risk and management responsibility, and remuneration is linked to performance.

World Bank, PPP Reference Guide

The role of the private party

Source: World Bank, PPP Reference Guide

A central characteristic of a PPP contract is that it bundles together multiple project phases or functions. Nonetheless, the functions for which the private party is responsible vary and depend on the type of asset and service involved. Typical functions include:

- Design
- Build or rehabilitate
- Finance
- Maintain
- Operate

The role of Government in PPPs

- Sound procurement process
- Implementing the specific PPP
- Fiscal and budgeting issues
- Auditing of the PPP
- Rule monitoring and enforcement

Some figures on PPPs

- The number of public-private partnership transactions (involving PPPs of more than €10 million) reaching financial close in Europe (the EU-27 plus the United Kingdom, countries of the Western Balkans and Türkiye) increased to 45 (aggregate value of €9.8 billion), compared to 44 in 2021 (aggregate value of €8.4 billion)
- The average transaction size increased to €217 million (€190 million in 2021)
- Three large transactions were closed in 2022 (the same number as in 2021). Their aggregate value amounted to €4.25 billion, representing 44% of the total market value (compared to 45% in 2021). The large transactions reaching financial close in 2022 were :
    - Antalya Airport Concession (Türkiye) — €1.8 billion
    - CEGELOG French Military Accommodation PPP (France) — €1.4 billion
    - Larnaca Port and Marina Area Redevelopment PPP (Cyprus) — €1.0 billion
- An increase in the value and the number of public-private partnership deals in 2022 shows that, despite uncertainty and volatility in construction prices, the public-private partnership market is recovering after the shock of the coronavirus pandemic.

Source: EIB European PPP Expertise Centre Market update Review of the European public-private partnership market in 2022

Benefits of PPPs

Risk transfer: A major advantage of PPPs is the transferring of financial risk from taxpayers to investors. Under traditional procurement, a project’s risks are entirely shouldered by the taxpayer.

Bundling project delivery components: PPPs can bundle project delivery components, such as design, construction, financing, and operation, into a single contract, which can reduce transaction costs and improve efficiency.

Expanded capital access: PPPs can provide access to private capital, which can be used to fund public infrastructure projects.

PPPs can also be used to introduce private sector technology and innovation in providing better public services through improved operational efficiency; incentivise the private sector to deliver projects on time and within budget, and create budgetary certainty by setting present and future costs of infrastructure projects over time.

Examples of best practices

Governments should look at the sectors where PPPs have been especially successful in other countries:

- *United Kingdom:* schools, hospitals, prisons and defence facilities and roads.
- *Canada:* energy, transport, environment, water, waste, recreation, information technology, health and education.
- *Greece:* transport projects: airport and roads.
- *Ireland:* road and urban transport systems.
- *Australia:* transport and urban regeneration.
- *Netherlands:* social housing and urban regeneration.
- *Spain:* toll roads and urban regeneration.
- *United States:* projects, which combine environmental protection, commercial success and rural regeneration.

Source (UNECE Guidebook on Promoting Good Governance in PPPs)

Risks prior to awarding the contracts (1)

Source: UNECE guidebook on promoting good governance in PPPs

- Policy – Some governments undertake PPPs without an overall PPP policy, that leads to ill-defined goals and a greater likelihood of problems with the projects
- Capacity Building – PPPs involve complicated structures that require new skills, that are found more in the private than public sector. How can Governments find the necessary skills to develop PPPs?
- Legal Framework – Legal frameworks in many jurisdictions are overly complex and fail to provide sufficient security and incentives to investors in PPP arrangements

Risks prior to awarding the contracts (2)

- Risk-Sharing – Theory in project finance suggests that risks should be borne by the party best able to manage them, but many PPP projects often fail because the parties cannot agree on the allocation of risk, with each side trying to shift the risk to the other. PPPs allow risk that is most able to be managed by the private sector, to be transferred to them. However, governments also need to accept their share and help mitigate those allocated to the private sector in mutual support.
- Procurement – there is a gap in capacity to organise competitive tenders, especially at the local level, and a public perception of inadequate transparency in awarding PPP deals, and the lack of adequate administrative procedures for competitive tendering that, for example, exclude SMEs

Risks prior to awarding the contracts (3)

- Putting people first – Members of the public are often insufficiently consulted in the PPP process and their interests and needs are not addressed. This lack of transparency and accountability has led to a governance challenge that must be confronted for PPPs to move forward
- The Environment – PPP projects must contribute to sustainable development and the protection of the environment as a key priority. The PPP process should integrate the principles of sustainable development into PPP projects, by reflecting environmental considerations in the objectives of the project, setting specifications and awarding projects to those bidders who fully match the green criteria

Risks affecting contract performance

- Cost overruns, technical defects, and quality issues in construction and operation
- Inadequate demand or revenue to cover the investment and operational costs
- Legal disputes or regulatory changes that affect the contractual obligations
- Political interference or opposition that jeopardize the project's viability
- Force majeure events that disrupt the project's delivery or performance

Lessons learnt from Public Private Partnerships (1)

Source: UNECE Guide on promoting Good Governance in PPPs

Initially the PPP was considered to be a financial mechanism to place expenditures off the balance sheet. As a financial and technical issue, there was also a tendency not to consult the public and other stakeholders.

More recently a shift can be detected from using PPPs for financial reasons to using them for greater efficiency or to create added value. Indeed, as ‘value for money’ objectives have become increasingly commonplace, it becomes increasingly clear that much more can be done so that PPPs can increase social, economic, and environmental development.

Lessons learnt from public-private partnerships (2)

Establish a fair and transparent selection process by which governments develop partnerships

Provide assurance that value for money has been obtained

PPPs are to be vehicles to secure an improvement of essential public services especially for the socially advantaged

Provide adequate training to those involved in the new partnerships

Ensure sensible negotiation of disputes that assures continuation of services and prevents the collapse of projects and consequent public waste

Provide enhanced security in the face of the new threats and for a general improvement in the safety of services provided under PPP arrangements

Lessons learnt from Public Private Partnerships (3)

Good governance in PPPs matters from an economic perspective:

(a)An effective procurement regime means that government institutions are able to buy goods and services of higher quality at lower prices;

(b) Mechanisms that secure well-governed projects will heighten the support of society for PPPs and give policymakers the confidence to provide the necessary political support for the PPP process;

(c) Projects which are well planned and are based on the full agreement of all parties engaged, following a proper and ongoing consultation, have less of a chance of unravelling, thereby avoiding costly litigation;

(d) A public administration that conducts its purchasing in an open manner contributes to the increased confidence of suppliers in the reliability of the administration as a business partner; and

(e) Good governance and efficient institutions are strongly linked to increased competitiveness and faster rates of economic growth and development.

Best practice principles of PPPs (1)

Source: OECD 2022 Recommeneations

A. Establish a clear, predictable and legitimate institutional framework supported by competent and well-resourced authorities

1. The political leadership should ensure public awareness of the relative costs, benefits and risks of PPPs
2. Key institutional roles and responsibilities – Procuring authorities, PPP units, the Central Budget Authority, the Supreme Audit Institutions and sector regulators – should be maintained
3. Ensure that all significant regulation affecting the operation of PPPs is clear, transparent and enforced.

Best practice principles of PPPs (2)

Source: PPP Reference Guide

- A best practice PPP Framework is to include:
  - PPP Policy
  - PPP Legal Framework
  - PPP Processes and Institutional Responsibilities
  - Public Financial Management Frameworks for PPPs
  - Stakeholder Communication and Engagement

Best practice principles of PPPs (3)

B. Ground the selection of PPPs in Value for Money

4. All investment projects should be prioritised at senior political level

5. Carefully investigate which investment method is likely to yield most value for money

6. Transfer the risks to those that manage them best

7. The procuring authorities should be prepared for the operational phase of PPPs

8. Value for money should be maintained when renegotiating. Only if conditions change due to discretionary public policy actions should the government consider compensating the private sector. Any re-negotiation should be made transparently and subject to the ordinary procedures of PPP approval. Clear, predictable and transparent rules for dispute resolution should be in place

9. Government should ensure there is sufficient competition in the market by a competitive tender process and by possibly structuring the Public-Private Partnerships programme so there is an ongoing functional market. Where market operators are few, governments should ensure a level playing field in the tendering process so that non-incumbent operators can enter the market

Best practice principles of PPPs (4)

C. Use the budgetary process transparently to minimise fiscal risks and ensure the integrity of the procurement process

10. In line with the government's fiscal policy, the Central Budget Authority should ensure that the project is affordable and the overall investment envelope is sustainable
11. The project should be treated transparently in the budget process. The budget documentation should disclose all costs and contingent liabilities. Special care should be taken to ensure that budget transparency of Public-Private Partnerships covers the whole public sector
12. Government should guard against waste and corruption by ensuring the integrity of the procurement process. The necessary procurement skills and powers (need of training) should be made available to the relevant authorities.

A Best Practice PPP Cycle (PPP Reference Guide)

- Identifying PPP Projects
  - Identifying Priority Public Investment Projects
  - Screening for PPP Potential
  - Building an Initial PPP Pipeline
- Appraising Potential PPP Projects
  - Assessing Project Feasibility and Economic Viability
  - Environmental and Social Studies and Standards
  - Assessing Commercial Viability
  - Assessing Value for Money of the PPP
  - Assessing Fiscal Implications
  - Assessing the Ability to Manage the Project
- Structuring PPP Projects
  - Identifying Risks
  - Allocating Risks
  - Translating Risk Allocation into Contract Structure
- Designing PPP Contracts
  - Performance Requirements
  - Payment Mechanism
  - Adjustment Mechanisms
  - Dispute Resolution Mechanisms
  - Termination Provisions
- Managing PPP Transactions
  - Deciding the Procurement Strategy
  - Marketing the PPP
  - Qualifying Bidders
  - Managing the Bid Process
  - Achieving Contract Effectiveness and Financial Close
- Managing PPP Contracts
  - Establishing a clear and robust Contract Management Process
  - Establishing Contract Management Structures
  - Monitoring and Managing PPP Delivery and Risk
  - Dealing with Change
  - Contract Expiry and Asset Handover

Thank you for your attention

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