

WAPPP MAGAZINE

THE WORLD'S PPP PERIODICAL

WAPPP

Dossier: Istanbul PPP
Week, a highpoint of
the PPP year

Unlocking
technical capacity
to scale up PPP
program
development

Mainstreaming
PPPs for the
global transition:
towards a
digitally-enabled
platform approach

PPP contingent
liabilities: are we
doing it right?

SPRING 2024
ISSUE °11





TABLE OF CONTENTS

05 ISTANBUL PPP WEEK

- 5 • Istanbul PPP week, a highpoint of the PPP year
- 9 • Mark Moseley: New Approaches to Infrastructure Development: Public Private Partnerships (PPP) 2.0
- 13 • Max von Abendroth, Exploring the catalytic role of philanthropic PPPs
- 16 • Thibaut Mourgues: how to step up private sector engagement in the power sector: the role of the legislative framework

22 ARTICLES

22 WHY AND HOW TO SELECT ONE OF THE PFPPP DELIVERY FORMS OVER OTHER FORMS OF PROCUREMENT FOR THE DELIVERY OF ESSENTIAL PUBLIC SERVICES

by Marc Frilet, Chair of the Legislative Frameworks Chapter, WAPPP

29 UNLOCKING TECHNICAL CAPACITY TO SCALE UP PPP PROGRAM DEVELOPMENT

by Jyoti Bisbey, Member of the Executive Committee, WAPPP and Mpumi Zanele MAZIBUKO, Partnerships Associate, WAPPP

35 BRIDGING THE GAP: INFRASTRUCTURE FINANCE AND PPP DELIVERY IN DEVELOPED AND DEVELOPING ECONOMIES - UNITED KINGDOM AND INDIA

by Divya Srita Ambati, Partnerships Associate, WAPPP

40 GROWTH OPPORTUNITIES WITH REVOLUTIONIZED HEALTHCARE TRANSFORMATION: SAUDI ARABIA'S JOURNEY WITH PPPS

by Dr Jaber Al Salah, Chair of the Academic Chapter of WAPPP

45 MAINSTREAMING PPPS FOR THE GLOBAL TRANSITION: TOWARDS A DIGITALLY-ENABLED PLATFORM APPROACH

by Lucia Fuselli, , Chair of the Energy Chapter, WAPPP

50 PPP CONTINGENT LIABILITIES: ARE WE DOING IT RIGHT?

by Mohammed Abu Rashed , CP3P, PPP Director & WAPPP Member

EDITORIAL

After the unprecedented achievements of 2023, WAPPP continues its march forward.

The main event of the last quarter was the 8th Istanbul PPP Week held 5-8 March organized by the Istanbul PPP Center of Excellence and Turkish Foreign Economic Relations Board (DEİK). WAPPP supported the event and was largely represented among the speakers and participants. In this issue of the WAPPP Magazine you will find a detailed account of what happened there. Nearly 200 participants from over 30 countries gathered to discuss PPPs, to network and learn about the latest industry trends.



As appeared from the Istanbul discussions, following COP28, PPPs seem to be developing in two directions:

- A Focus on sustainability and resilience as environmental considerations and climate change issues are likely to play a bigger role in PPPs. Projects need to be designed with sustainability goals in mind, promoting renewable energy sources and energy efficiency.
- Emphasis on Social Impact Projects, with a growing interest in PPPs for social impact projects like healthcare, education, and sanitation, particularly in developing countries.

To what extent will these trends be sufficient to cope with the SDG challenges, remains to be seen. For this reason, WAPPP has started in Q1/2024 with a focus on on small-scale PPPs #SSPPP. In view of the global weakness in the number of PPP transactions, while the infrastructure gap keeps widening, we do believe that small-scale PPPs have a role to play to attract new potential investors and thus become a game changer to achieve the UN 2030 Agenda for Sustainable Development. WAPPP and the United Nations Economic Commission for Europe have joined forces for a year long discussion series in order to develop much needed new approaches. The project should last until the second half of the year and culminate in a joint report with policy recommendations.

In other news, we are finalizing the formalities to welcome NCP, the PPP unit of the Kingdom of Saudi Arabia, as well as the Azerbaijan PPP unit to WAPPP. No doubt that these new additions will bring a formidable added value to the activities of our organization.

The next issue of our Magazine will focus on small-scale PPPs. Stay tuned!

Jean-Christophe Barth-Coullaré

Executive Director

Ziad-Alexandre Hayek

President

CONTRIBUTIONS



CHIEF EDITOR

THIBAUT MOURGUES

COMMUNICATIONS / DESIGN

LILIANA FARHAT

CONTRIBUTORS

MARC FRILET

JYOTI BISBEY

MARK M. MOSELEY

DIVYA SRITA AMBATI

MAX VON ABENDROTH

MPUMI ZANELE MAZIBUKO

DR. JABER ALSALAH

LUCIA FUSELLI

MOHAMMAD ABU RASHED



From left to right: Mr. Nayef Al Haddad, Dr. Eyup Vural Aydin, Mr. Atef Majdoub, Mr. Ziad-Alexandre Hayek

DOSSIER ISTANBUL PPP WEEK

WRAP-UP



ISTANBUL PPP WEEK, A HIGH POINT OF THE YEAR

The 8th Istanbul PPP week organized by the Istanbul PPP Center of Excellence under the leadership of Dr Eyup Aydin took place 4-8 March in Istanbul.

It was a tremendous success and included 150 participants from European, Middle East, African, American and Asian countries. Mehmet Şimşek the Minister of Treasury and Finance of Türkiye delivered a brilliant inaugural key note address highlighting the successes of the country PPP program and the perspectives ahead.



The event held under the theme of **“PPP: Global Greener Growthful”** consisted of training programs proffered by leading PPP academicians, simulation of real showcase studies including PPP experiences of 50 countries, interactive workshops regarding PPP project management, and PPP project pipeline presentations of invited countries.

Crucial topics in PPP area such as tools of attracting potential investors to infrastructure, developing a better PPP framework for better service delivery, achieving general standards for mega PPP projects, fundamentals of sustainable infrastructure investments, defining the roles of partners, conflict managements, and sustainable developments goals (SDGs) were at the center of discussion.



MEMBERS OF THE WAPPP STEERING COMMITTEE

WAPPP supported the event and offered a reception on March 7. In addition to Dr Eyup Vural Aydin, event organizer but also Member of WAPPP Steering Committee, among the WAPPP individual members were:



Ziad Alexandre Hayek
President, WAPPP



Jean-Christophe Barth Coullaré
Executive Director
WAPPP

- **Ziad-Alexandre Hayek**, WAPPP President. Ziad delivered one of the opening speeches, addressed the participants in the “visionary session”, and moderated the panel on “Small-Scale PPPs”.
- **Jean-Christophe Barth-Coullaré**, WAPPP Executive Director. Jean-Christophe moderated the session on PPP units and delivered a workshop on Dispute Avoidance, Deal Mediation and Arbitration in PPP contracts with Helga van Peer.

As well as (*in alphabetical order*):

- **Max von Abendroth**, Chair of the Philanthropy in PPPs Chapter, moderated the panel on “Philanthropy in PPPs”.
- **Nayef Al Haddad**, Chair of the WAPPP MENA Chapter, participated in the PPP unit session (representing the PPP Unit of Kowait) and moderated the panel on “PPP in the MENA region”.
- **David Baxter**, Chair of the WAPPP North America Chapter and Co-Chair of the Istanbul PPP Week, delivered a lecture on PPPs, participated in the multilateral financing tools panel, moderated the “quality infrastructure standards” panel, led the “PPP in the USA” discussion, and gave brilliant daily summaries.
- **Jyoti Bisbey**, Member of WAPPP Executive Committee, participated in the “Philanthropy in PPPs” session and delivered an inspirational keynote address on World Women’s Day.
- **David Dodd**, Member of WAPPP Executive Committee, Chair of the WAPPP Resilience and Sustainability Chapter, participated in the “PPP in the USA” panel and moderated the “Beyond COP28” panel.
- **Valérie Ducrot**, Executive Director of the Global Gas Centre, actively participated in the discourse and joined WAPPP during the event.

- **Jinane Ghosh**, Member of WAPPPP Executive Committee, Chair of the Young PPP Professionals' Chapter, delivered an inspirational speech on women in PPPs and participated in the panel on the "next generation in PPPs".
 - **Sharifah Sazita Hamzah**, Member of WAPPP Steering Committee, discretely pulled the strings in the background and managed to onboard various PPP Units.
 - **Nasser Massoud**, Chair of the WAPPP Social Sector Chapter, moderated the "social sector" panel.
 - **Mark Moseley**, Member of the Europe Chapter Leadership Committee and Peer recognized PPP expert, delivered a lecture on "new approaches to infrastructure development (PPP 2.0)" and participated in the panel on "transformative PPPs".
 - **Thibaut Mourgues**, Member of the Executive Committee, Head of WAPPP Editorial Board. Thibaut participated in the panel "Beyond COP28"
- Several PPP units members participated in the event, among which:

•Tunisia •Cameroon •Jordan •Saudi Arabia •Qatar Egypt •Kuwait



Our warmest thanks to **Dr. Eyüp Vural AYDIN**, Chairman, İstanbul PPPCoE, and WAPPP Co-Chair of the Eastern Europe & Central Asia Chapter, for fostering such an intense cooperation with WAPPP. We already look forward to next year edition!

In this dossier, you will find some key presentations and summaries of the interventions delivered during the event.

PRESENTATION



NEW APPROACHES TO INFRASTRUCTURE DEVELOPMENT: PUBLIC-PRIVATE PARTNERSHIPS (PPP) 2.0

by **Mark M. Moseley**, Principal, MMM Infra

NEW APPROACHES TO INFRASTRUCTURE DEVELOPMENT: PUBLIC-PRIVATE PARTNERSHIPS (PPP) 2.0

BY MARK M. MOSELEY

The latest installment of the World Bank's half-yearly reports on Private Participation in Infrastructure (the PPI Database Half Year (H1) Update 2023, [available here](#)) paints a depressing but familiar picture. Investment by the private sector in Emerging Market and Developing Economies (EDME) continues to 'flatline', at levels well below the heady metrics of 2014 and 2015.

And the malaise with Public-Private Partnerships (PPPs or P3s) is not confined to EDME countries – it extends as well to advanced economies. Even in Canada – which

has been a long-standing champion of P3 projects – enthusiasm seems to be waning. As discussed in a November 2023 paper by the University of Toronto's Munk School of Global Affairs and Public Policy, there is an evident loss of interest in PPPs, in both the public and private sectors:

At the turn of the 2020s, the narrative on PPPs shifted, along with public sentiment and project delivery practice...

Institutionally within government, the overwhelming preference for PPPs faded...

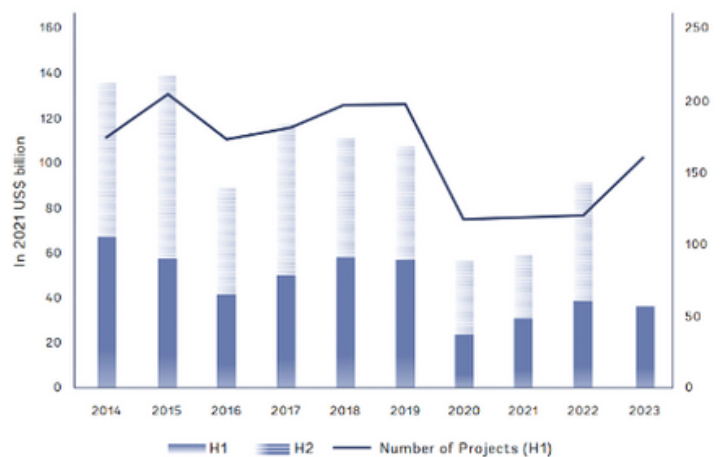
As governments sought to transfer significant construction cost risks to the private sector to achieve on time and on budget performance, these risks began materializing and becoming more costly than some firms could bear. ...

Receiving sufficient competition for PPP project calls for proposals became increasingly difficult, as fewer firms had the appetite or the financial ability to bid for the largest and most complex projects.

Yet there is – clearly – still a compelling need for private sector infrastructure investment, if we are to close the global 'infrastructure gap'. This is particularly true in lower-income countries, where we are falling well short of meeting the infrastructure commitments set out in the United Nations Sustainable Development Goals.

These discouraging realities were the subject of a presentation I gave at this year's annual Istanbul PPP Week conference, on 6 March 2024. The argument I advanced was that the public and private sector disaffection with PPPs is due, at least in part, to a perception that long-term PPP contracts are 'too inflexible' – *and unable to respond appropriately to an increasingly fast-changing world*. I also made the point that, *going forward, the need for adaptability in long term infrastructure contracts will become even more acute, due to the profound uncertainties being caused by climate change*.

Figure 1. Investment Commitments in Infrastructure Projects with Private Participation in Low and Mid-Income Countries, 2014–H1 2023



My suggested approach is to increase the flexibility of our PPP contracts, by taking a fresh look at the issues of risk sharing, dispute resolution and renegotiations. By taking such an approach, we can create “PPP 2.0 Contracts”, which more closely embody the concept of true partnerships.

PPP 2.0 Contracts will need to be more collaborative, which entails:

- a greater emphasis on risk sharing, as opposed to risk allocation
- a less adversarial approach to dispute resolution
- a more systematic approach to renegotiations
- a stronger commitment to partnership

In addition to PPP 2.0, there are a wide range of other possible contracting models. During my presentation in Istanbul, I discussed the following approaches:

- Refining the Existing PPP Model (i.e., PPP 2.0)
- Institutional Public-Private Partnerships
- Progressive Design-Build
- Alliance Contracting

Refining the Existing PPP Model (PPP 2.0)

This option consists in making targeted adjustments to conventional PPP contracts:

- risk sharing: e.g., adjustments allowed for cost increases in construction materials

- dispute resolution: use of Dispute Resolution Boards
- renegotiations: use of an expert panel to approve renegotiations designed to address unforeseen risks

Institutional PPPs

Various jurisdictions have experimented with arrangements whereby the Government Contracting Authority (GCA) is a minority shareholder in the PPP Project Company:

- the Wales Mutual Investment Model (MEM)
- France’s Société d’économie mixte à opération unique (SEMOP)
- Italy’s Sperimentazioni Gestionali legislation Company

Progressive Design Build Projects

In a Progressive Design Build project, the GCA selects a qualified design-build contractor and ‘progresses’ the design of the project towards a proposal that meets the GCA’s needs:

- the design-builder is retained by the Government Contracting Authority early in the life of the project – in some cases, before the design has been developed
- the design-builder is generally selected primarily on the basis of qualifications, and the design-builder’s final project cost/price and schedule commitment is not established as part of

the selection process

- the design-builder delivers the project in two distinct phases, with (i) Phase One including budget level design development, preconstruction services and the negotiation of a firm contract price; and (ii) Phase Two including final design, construction and commissioning.

Alliance Contracting Model

In the Alliance Contracting model, the Government Contracting Authority and the contractor form a joint organization to plan and deliver the project collaboratively.

Key principles to drive collaboration in Alliance Contracting include:

- sharing information with an ‘open book premise’
- collective decision making
- apportioning risk and reward on a ‘pain share/gain share’ basis to align interests
- prohibiting legal actions between the parties other than under specific circumstances

Alliancing is a slower and more labour-intensive model of contracting, that is intended to deliver improved results through the fostering of meaningful collaborations.



I believe that, with some targeted refinements, we can and should be able to ‘rescue’ PPP contracting and make PPPs the preferred choice for the increased investment in infrastructure we desperately need. Recently, I have been asked by the International Federation of Consulting Engineers (FIDIC) to lead a Task Group charged with exploring this concept of PPP 2.0 contracting in greater detail, to determine what those ‘refinements’ might entail, in terms of specific contractual wording. **Suggestions are welcome!**



DISCUSSION



EXPLORING THE CATALYTIC ROLE OF PHILANTHROPY IN PPPS



by **Max von Abendroth**, Chair of Philanthropy in PPPs Chapter, WAPPP & Lead – Public-Private-Philanthropy Collaboration, The Partnering Initiative

EXPLORING THE CATALYTIC ROLE OF PHILANTHROPY IN PPPS

BY MAX VON ABENDROTH, CHAIR OF PHILANTHROPY IN PPPS CHAPTER, WAPPP

The Istanbul PPP Week on 7 March 2024 for the first time ever hosted a discussion about the potential of philanthropy to work with PPPs with **Liana Varon** from WINGS, the global network representing philanthropy support organizations, **Jyoti Bisbey** from WAPPP, the global association representing PPP Units and professionals and **Secil Kinay** from Vehbi Koc Foundation, the biggest philanthropic foundation in Turkey. As Chair of the Philanthropy in PPPs Chapter at WAPPP, **Max von Abendroth** moderated the conversation when the panel explored the catalytic role of philanthropy in PPPs. During the conference many references have been made to Next Generation PPPs. Its inherent concept of “people first PPPs” contributing explicitly to the achievement of the SDGs, benefiting people and planet, is a strong value proposition of PPPs represented by WAPPP, that links PPP as a business opportunity while contributing to public good.

So it is no surprise that there were regular references made during Istanbul PPP Week to the potential role of philanthropy in PPPs, such as in the Just Energy Transition Partnership projects (JETPs) in South-Africa, Indonesia, Senegal and 16 other countries around the world. Philanthropy is defined as “private resources for public good” and in our discussion we referred to institutionalised philanthropy, namely foundations.

This backdrop served as Max von Abendroth’s opening building on the findings of the recently published joint TPI & WAPPP report titled “Systems Change Activation: Empowering philanthropy’s catalytic role in transformational PPPs” for COP28.



Secil Kinay presented an ongoing public-private-philanthropy partnership that has been realised in the immediate aftermath of the terrifying earthquake in Turkey in February 2023. Koc Foundation teamed up with companies building temporary large-scale housing for the many people that became homeless overnight. These “Hope Cities” are hosting 25,000 people in 5 cities and Koc foundation estimates to stay involved in running the social services, including medical and educational services, for at least 5 more years. She described the roles of the different partners involved: the private sector brought agility and funding for constructions as well as procurement, construction and field coordination power; the public sector provided land, infrastructure as well as the capacity to run the compound by appointing local authorities; the philanthropy brought human centred design expertise, funding for social and educational programmes to sustain the efforts and rebuild life after the construction of the cities.

Secil confirmed that the power of collaboration as public-private-philanthropy partnership (PPPP) has been very strong in the most destructive

natural disaster of the republic's history. The Hope Cities are a rare example of a rapidly executed, inclusive and community focused city planning that could be replicated globally by PPPs in case of acute disasters.

Liana Vanon explained that the philanthropic foundations' sector is larger and more diverse than people usually acknowledge - in terms of the missions, resources, and expertise of these organizations. According to a recent OECD study foundations globally represent \$1.5 trillion in assets. Today we are also witnessing the transformation of foundations and the philanthropic sector. The philanthropy sector is realising that it is essential to build multi stakeholder partnerships and join forces to address the complex and interconnected challenges we are facing. This requires a shift in the mindset in terms of our ways of working. That's why an increasing number of foundations are engaging in partnerships amongst themselves and with public and private sectors, as illustrated nicely in the PPPs Library.

Liana highlighted that in the case of PPPs, contributions of philanthropy can be much more than "just" financial resources. To name a few, philanthropy can bring to the table catalytic funding that can support partnerships with grants, endowments and full use of capital. In addition it can provide more flexible and high risk capital that can be used for piloting and testing. Even more importantly, philanthropy can play a catalyst role in bridging together different organizations, as well as bringing in local knowledge, resources and expertise. "To me what stands out is philanthropy's enabler role. Philanthropy is an enabler of more financial resources but more importantly it is a force that can bring together different actors, facilitate exchange of local knowledge and expertise, ensure diversity and participation.", says Liana in her closing statement.

Jyoti Bisbey explained that in the realm of rising needs for financing to achieve the SDGs and 2030 Agenda, climate action and prevailing the aftereffects of pandemic on global economic development, philanthropy is playing a significant role. WAPPP is engaging this emerging class of stakeholder in PPPs as a partner in development.

She stated that philanthropy works at the community level, bringing impact, enhancing cooperation amongst public and local private sector, who are mostly micro, small, and medium enterprises (MSMEs). In a world where 70% of jobs are generated by MSMEs contributing to 40% of GDP in emerging markets, the catalytic role of philanthropy has become essential.

The panelists agreed that the philanthropy sector can take more risks, provide "venture capital" to innovative ideas, drive need-based capital investment, reduce cost of capital among many other benefits.

In the discussion representatives of PPP Units expressed high interest in exploring the nexus of philanthropy and PPPs further. Also the need for use cases for small scale PPPs (up to \$50 million) has been raised.



This work will be taken forward by the "Philanthropy in PPPs" Chapter at WAPPP in partnership with The Partnering Initiative, TPI, and a global support network. If you wish to join shaping this innovative space, please do not hesitate to contact Max von Abendroth at max@wapp.org

ARTICLE



HOW TO STEP-UP PRIVATE SECTOR ENGAGEMENT IN THE POWER SECTOR: THE ROLE OF THE LEGISLATIVE FRAMEWORK



by **Thibaut Mourgues**, Member of the Executive Committee, WAPPP
& Managing Partner, Camden Advisory

HOW TO STEP-UP PRIVATE SECTOR ENGAGEMENT IN THE POWER SECTOR: THE ROLE OF THE LEGISLATIVE FRAMEWORK

BY THIBAUT MOURGUES

COP28 urged Governments to step up private sector engagement in sustainable infrastructure, and particular in infrastructure. The infrastructure financing gap standing at USD 15 trillion by 2040 according to OECD is so huge that public finance alone will stay short of the requirements. In this context, ensuring a conducive environment for private sector investment is of utmost importance. As for the power sector, probably the most important one in the dynamics of the energy transition, legislative and regulatory framework is often overlooked as a key component of the investment ecosystem. In many developing countries, electricity laws date back to over 20 years, reflecting the priorities of the time and not suited to the present requirements.

In this article based on the legal upgrade advisory work I have conducted in several African countries over the last few years, I address the main components of a modern framework for power sector.

A strong and independent regulatory authority

As a general rule, the independence of the regulatory authority is inseparable from the opening up of the market. This involves moving from a logic of control by the political power to a market logic in which operators and consumers must have the certainty of being treated fairly and impartially. In a context of increased recourse to private investment for the development of the sector and of coexistence between public and private operators, investors prefer an environment dominated by the rule of law rather than political preference, especially since in most cases the public operator will continue to play a dominant role in the foreseeable future (the political power may be tempted to prioritize the interests of the public operator over the private sector). The role of regulation of a competitive

market with monopolistic components, as is the case with the electricity market, is therefore to maintain a certain equidistance from the three main categories of market players: operators and investors, consumers/users and the State. The role of the regulator is extremely important for this purpose, as it has to watch over the interests of these three key groups. Each group may have interests that are potentially in conflict with those of the other groups. The balance and primacy of these interests, as well as the settlement of disputes if they arise, must therefore be applied in a neutral and appropriate manner.

Of course, the role of regulation does not exclude the role of guidance by the political power, which must be able to put in place a long-term vision for the development of the market based on the general interest. However, the reforms that may be necessary for this purpose should not have the effect of destabilizing the regulatory authority.

To guarantee the independence of the regulatory authority, several prerequisites are essential:

- Role and powers of the authority defined on the basis of clear principles, rules and procedures;
- Own resources from the payment of a secure, stable and adequate fee;
- Transparent, clear and impartial recruitment process for members of the commission;
- Neutral and fair control to promote and protect competition and private investment.
- **Third party access to the transmission network**

The right of third parties to access the electricity transmission network is a key concept in opening up the market to competition. This involves giving electricity producers, their customers and authorized intermediaries the possibility of using the electricity transmission network owned and operated by other entities. This right is symmetrical with an obligation to contract and carry out the operation for the entity that manages the network. This right of access is fundamental in relation to electricity supply contracts established in favor of eligible customers. Indeed, in the absence of a right of access to the network for third parties, the notion of an eligible customer could remain purely abstract without the physical possibility of changing supplier.

Given the high costs involved in building a transmission or distribution network, these are often referred to as natural monopolies. In some cases, it may also be a legal monopoly, where the law grants a monopoly on transmission or distribution to an operator.

The challenge of regulating third-party access to the network is to determine how to regulate the market and promote competition

without harming the legitimate interests of the network owners and operators.

In the European context, non-discriminatory access to electricity transmission and distribution networks has been central to the opening up of markets since the late 1990s.

A network operator attempting to discriminate between market players, for example by granting preferential connection conditions (time, price, etc.) to a supplier, would thus hinder the access of alternative suppliers to the energy market and would lead to a distortion of competition detrimental to the end consumer.

Non-discrimination is also necessary for consumers to have confidence in the transparency of the market. If a distribution network operator unduly favors the energy supplier of the group to which it belongs in any way whatsoever (whether in terms of price but also of quality of service, speed of intervention, etc.), the end customer will no longer benefit from the competition and its expected benefits will be lost.

The challenge of regulating third-party access to the network is to determine how to regulate the market and promote competition without harming the legitimate interests of the network owners and operators.

• Clear procurement rules

The objectives of the title award procedures are essentially to ensure equality of operators and to avoid any form of arbitrariness in decisions in order to guarantee an efficient, competitive and transparent market. This will reassure potential candidates and attract new players to the market. Prerequisites may include:

- **Demonstrating the fair treatment of applications**, by explaining the conditions and criteria retained for the award of titles in order to guarantee the step-by-step monitoring of the process, without surprises or misunderstandings;

- **Specifying the deadlines for the stages of the procedure**, both for the candidate and for the contracting authority, so that investors can plan their activities in full knowledge of the facts;
- **Specifying for each project the conditions that must be met**, the criteria taken into account by the administration, and the content of the files that must be provided;
- **Ensuring that calls for tender comply with best international practices;**
- **Clearly establishing the roles and missions of the authorities involved in the procedure.**

The Ministry of Energy must provide strong leadership to support the effectiveness of the procedures in force in the electricity sector in favor of the private sector. This can be done in particular by:

- **Drawing up and disseminating a procedural manual (beyond a simple investor guide)** in the energy sector which specifies the steps, the actors and their roles, as well as the conditions to be met, the evaluation criteria and the corresponding deadlines;
- **The establishment by the Ministry of a regular framework for information, communication and management of the procedures in force;**
- **Strengthening the capacities of the public personnel involved, particularly those in the energy sector, at each stage of the procedures.**
- **Dispute settlement rules**

Dispute settlement procedures must be predictable, clear, transparent and fair in order to inspire confidence in market participants.

Indeed, each operator on the market has the right to know exactly who and how disputes are managed, between operators or between operator and customer, what their remedies are and how sanctions are applied, even in the case of mini-grids.

Moreover, in a regional market, with players potentially located in different countries, it is necessary to define precisely which authority (and therefore which regulatory framework) is responsible for settling complaints and disputes. Coordination between national regulators and the regional regulator is essential in this respect and a clear coordination mechanism must be established.

It requires to establish rules relating to:

- Coordination between national and regional regulatory authorities in the event of cross-border exchanges;
- Clarification of the role of the regulator in the event of disputes outside the interconnected network;
- Dispute settlement procedures that meet the criteria set out above, with a specialized body within the regulator (in the first instance) and a code of procedure.

• **Separation of activities**

The separation of the activities of vertically integrated operators has been recognized since the 1990s as a prerequisite for opening up regulated markets to competition. This is particularly true in the electricity markets, which in many countries have been entrusted by the public authorities to state-owned companies in a monopoly position. The opening up and liberalization of these markets has therefore required the implementation of preparatory and support measures, the first of which is the separation of the operators' activities.

In the electricity sector, there are essentially production, transmission, dispatching, distribution and marketing activities. These activities are carried out on markets that can be monopolistic, regulated or open to competition.



As a general rule, the independence of the Transmission system operator (TSO) has several objectives:

- To prevent a network operator from granting preferential conditions to its own production compared to the competition;
- To ensure similar access conditions to the networks for all operators (absence of cross-subsidization, taking into account all costs in pricing, and non-discrimination);
- To avoid favoring an integrated operator that would make undue profits on monopoly activities, allowing it to compete unfairly with other operators.

To guarantee the independence of the TSO, several models are possible, presented below from the most elementary separation (accounting separation) to the most accentuated separation (legal separation):

- **Accounting separation within the integrated operator.** It allows the calculation of the costs related to the transmission function in order to avoid discriminatory cost transfers in favor of the transmission operator, which is an essential condition for objective pricing. Accounting separation requires determining the tariffs and remuneration of future concessionaires, defining the financial flows between activities and determining the principles of remuneration for the different activities in the sector;
- **Functional separation.** Decision-making within the TSO is carried out at the TSO level without external interference;
- **Legal separation.** It is based on the creation of separate companies specialized by activity, if necessary with a different shareholding (patrimonial separation).
- **Market liberalization : eligible clients.**

The notion of eligible customer is essential for the development of a competitive national market open to the regional market.

It allows the largest customers to enter into electricity supply agreements with the supplier of their choice, which may therefore not be the incumbent operator. This derogation from the principle of the monopoly formerly held by the public operator represents a first step towards market liberalization.

In this context, the notion of eligible customer is indeed fundamental, for several reasons:

- This status allows large consumers to escape the regulated tariff to enter into a competitive relationship with their electricity supplier. This allows them to lower their costs or, at the very least, to obtain a better quality of service. This results in a better competitiveness for these players, which benefits the national economy. Access to reliable and affordable energy is also a decisive factor for investment decisions. The national economy can therefore hope, in the medium term, for an increase in the volume of domestic and international investments thanks to the implementation of the eligible customer status;
- The incumbent operator enters into competition with new players, which pushes it to improve its performance and lower its production costs by using clean and inexpensive energy sources, if it wants to remain competitive;
- The State has objective references to evaluate the performance of the incumbent operator and therefore to calibrate as well as possible the operating or capital subsidies that may be necessary, and to set realistic objectives within the framework of program or company agreements;
- The gradual introduction of eligible customers will allow other customers to be connected and therefore could also contribute to better meet demand and increase the energy access rate;

• Promotion of renewable energy

The development of renewable energies requires a specific legal framework: investment and financing framework,

technical aspects of the development of the dissemination of renewable energies, specific investment incentives and financing mechanisms for sustainable and renewable energies, including tax breaks and subsidies, regulations on purchase tariffs, private sector participation and a fund dedicated to renewable energies.

One of the fundamental points is to give priority to the injection of variable renewable energies into the grid.

This ensures that in the event of competition between thermal and renewable generation, the latter will be used as a priority. Furthermore, in order to encourage renewable energies in the context of isolated networks and mini-grids, it is necessary to establish clear procedures and regulations for the construction and operation of isolated networks and mini-grids based on off-grid renewable energies.

Technical aspects of the development of the dissemination of renewable energies

include developing standards and regulations for the installation and operation of renewable energy technologies, as well as ensuring that the grid is able to accommodate the variable nature of renewable energy generation.

Each country should check whether the current power sector legislative framework could be improved under the type of analysis synthesized above. In case upgrade is required, the whole process can be conducted with expert support in a few months and lead to increased investors confidence helping to reach the objectives of the energy transition.



ARTICLE



WHY AND HOW TO SELECT ONE OF THE PFPPP DELIVERY FORMS OVER OTHER FORMS OF PROCUREMENT FOR THE DELIVERY OF ESSENTIAL PUBLIC SERVICES

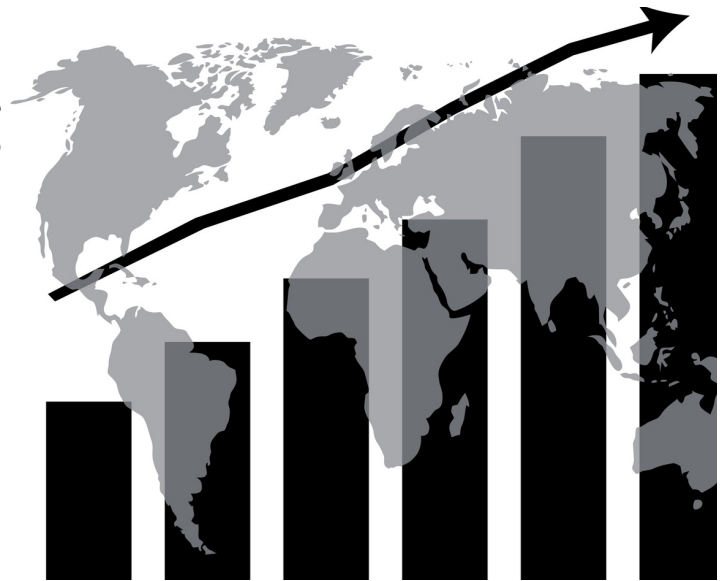


by **Marc Frilet**, Chair of the Legislative Frameworks Chapter, WAPPP

WHY AND HOW TO SELECT ONE OF THE PFPPP DELIVERY FORMS OVER OTHER FORMS OF PROCUREMENT FOR THE DELIVERY OF ESSENTIAL PUBLIC SERVICES

BY MARC FRILET

After decades of controversy on the benefits and drawbacks of PPP around the world, with rise and fall around the turn of the millennium of some PPP delivery form totaling billions of dollars in several countries, it is possible to identify better situations where PPP are not the best procurement option for the public sector and concentrate on sustainable PPP as a major development tool forward.



This is the outcome of various programs aiming at promoting sustainable PPP developed by several public and private organizations and countries aggregating empirical evidence, regulations, and case law, culminating in the UNECE PPP Centre of Excellence Program and its package of best practices and standards adopted by the Member States. In a nutshell, it is now possible to identify and promote “Next-level PPP” and defuse most of the criticisms against PPP.

For UNECE “Next level PPP” translates into PPP for the SDGs designed to, satisfy the essential needs of people in public services commonly referred to as People First PPP (PfPPP).

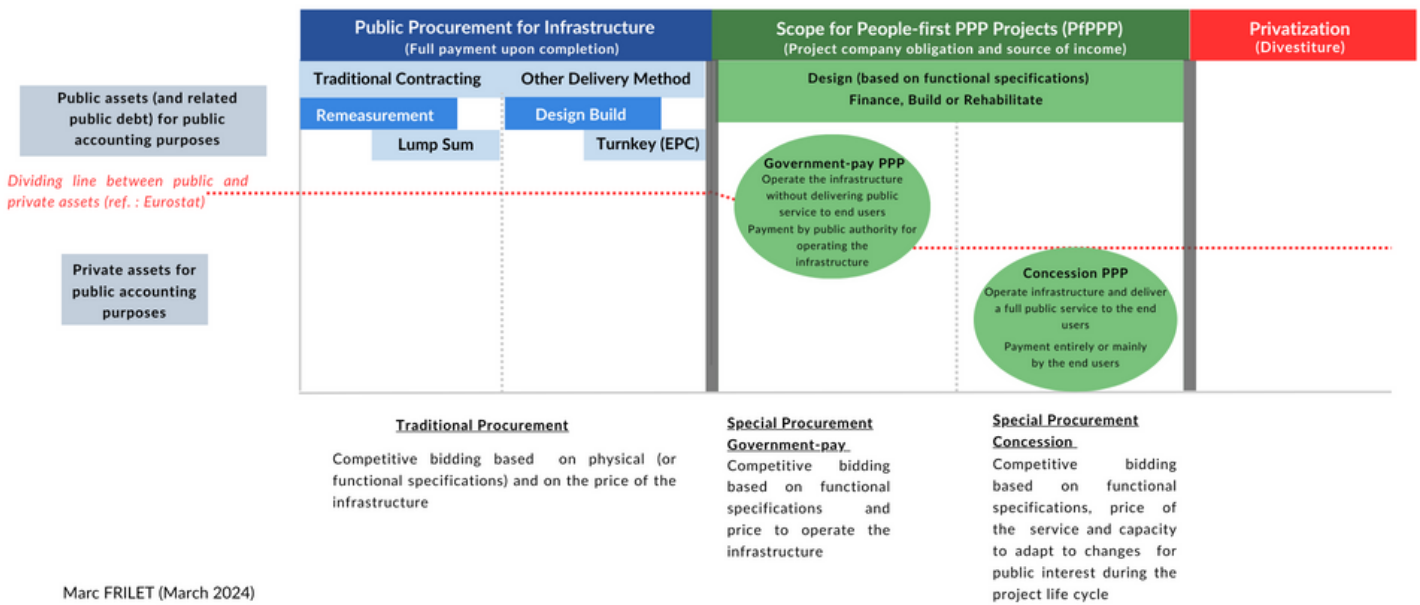
Why select People-first PPPs over other form of procurement for private sector involvement in public infrastructure and services?

This is often the first question raised by Public Authorities or government representatives aware of the potential benefits of PPP and considering to contract with the private sector to build or rehabilitate a public infrastructure and/or deliver a public service,.

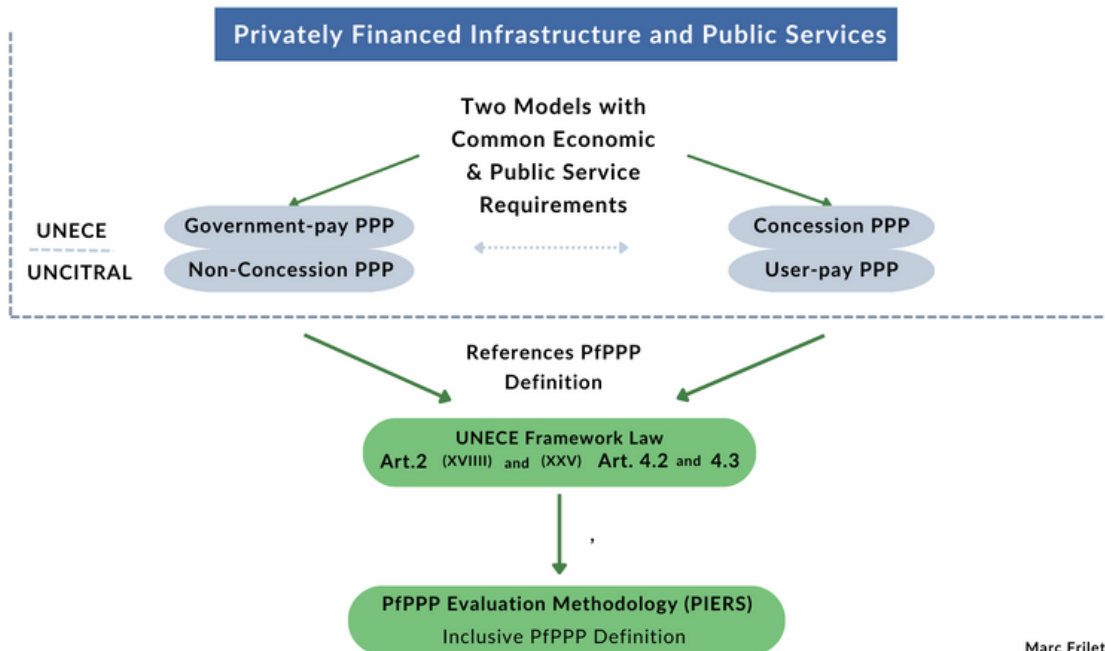
Those authorities having generally an institutional organization and good practice of the traditional forms of procurement for public infrastructure and services it is worth addressing their most common queries.

To this effect, the following charts aiming at identifying the place of PfPPP among the various delivery forms at the disposal of the Public Authority and the related definition of PfPPP in the UNECE standards are a first step to clarifying the matter.

PRIVATE PARTICIPATION IN PUBLIC INFRASTRUCTURE AND SCOPE FOR PfPPP



PEOPLE-first PPP (PfPPP) - MAIN CHARACTERISTICS UNCITRAL & UNECE GUIDELINES AND STANDARDS ADOPTED BY MEMBER STATES





+



People-first PPP

/'pi:pəl/ - "people" pee-puhl /fɜrst/ - "first"

A physical infrastructure which is the support of a public service designed, financed, built or rehabilitated and operated by a commercial company selected by way of competitive bidding and operating the service in accordance with the provisions of a contract, entered into with the public authority in charge of delivering such a service.

The contract, based on functional specifications and performance criteria, provides for a compensation of the company by the public authority or by the end users (or a combination of both). The service is rendered for a time period calculated in such a way that the company may amortize all costs and make a reasonable profit.

At the expiry of the term, the infrastructure is transferred in good operating conditions to the public authority, generally without compensation unless, such a compensation is provided in the contract.

Ref.: [UNECE Inclusive Definition of PfPPP \(Evaluation Methodology Standard - PIERS\)](#)

WHY?

Why select the PfPPP route over other Procurement methods?

Sample of FAQ; Responsible Contracting Authorities generally question the competitive advantage of the PfPPP delivery form.

Examples: To which extent PfPPP will permit;

- Better design for the infrastructure, building, or facility support of a public service.
- Better guarantees of construction?
- Better guarantees of service delivery?
- Better, guarantee for adaptation of the service to changes in needs, to economic circumstances, to force majeure...

- Optimization of economic effectiveness and fiscal sustainability;
- No or much limited drain on existing and future tax budgets and on public debt?
- Fewer risks on contingent liabilities.
- Better value for people and future generations?
- Better guarantees of accountability, and transparency?
- To impose sovereign rights of adaptation and changes when justified by public interest?
- To refer to reliable and balanced contracts, templates or heads of term addressing in simple and inclusive manner issues which cannot be identified and quantified upon contract signature but are likely to affect any Authority accountable to the public for delivering public for a long period of time?
- To have access to reliable and independent experts at a reasonable price?

The real world

In many cases, it will be difficult for a Contracting Authority to get a satisfactory answer to all those queries even in countries having a specific PPP law (and those FAQs are only a sample leading too often to skyrocketing PPP project preparation and transaction costs.)

The practical consequences are deficiencies in PPP project preparation leading to unacceptable statistics on failure. For example, in Africa over 80% of projects designed to become PPP are canceled before being ready for procurement.

HOW?

How should a Contracting authority decide to develop a project under a PfPPP delivery form over other Procurement methods?

Experience indicates that the solution lies in a well-structured project preparation and that the fundamentals and steps for such preparation (which was referred to as gold standards by the G20) are similar for most projects irrespective of sectors and legal systems.

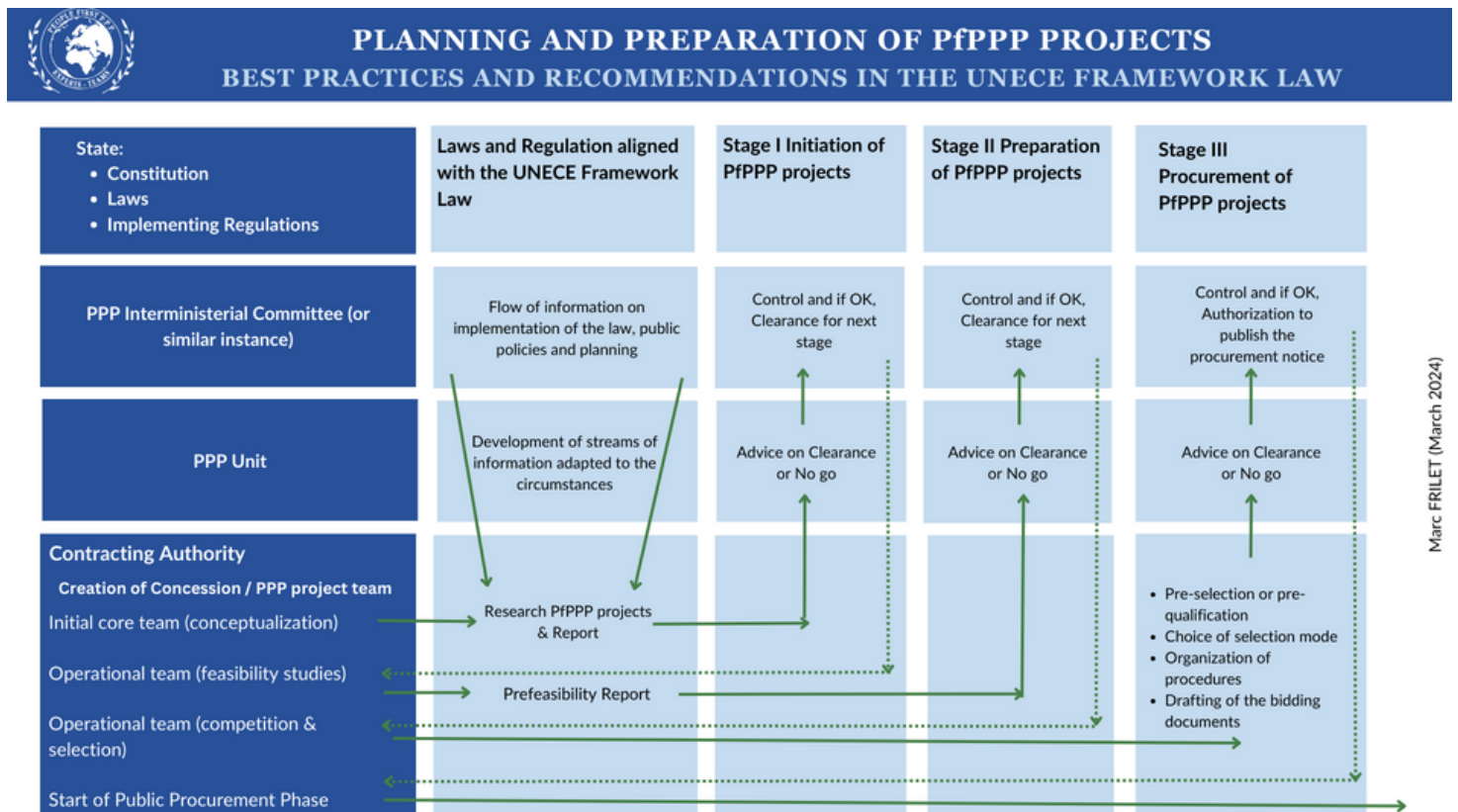
This has been progressively confirmed through several institutional programs (G20, OECD, World Bank, UNCITRAL and UNECE) sometimes under the heading “Well Prepared Projects”.

One of the focuses of the UNECE Centre of Excellence program has been on project planning and preparation for developing PPP contributing to the SDGs (PfPPP).

Several standards and best practice documents endorsed by the member states representing altogether an inclusive PfPPP package (also referred to as the PfPPP Pantheon) contain recommendations and operational prescriptions both for an Institutional and regulatory Framework fostering the development of sustainable Pf PPP projects and for a related evaluation methodology (PIERS).

An example of the combination of those recommendations and prescriptions for selecting and preparing Sustainable PfPPP up to the procurement stage is illustrated in the chart below. It clarifies the respective role of a State, of an inter-ministerial Body, of a PPP Unit, of a Contracting Authority and their interaction at different stages to end up possibly with a well prepared Pf PPP project having the best possible chance to attract serious bidders (and to stop the process early when PfPPP is not the best delivery form in a particular case).

Depending on the country’s institutional and legal framework, the need to acclimate this “UNECE Package” is of course different but it remains that the fundamentals of the chart below, which is the result of aggregated experience of several international project teams, within UNECE, deserve serious consideration;



THE GLOBAL & INCLUSIVE UNECE CONCESSION/PPP PACKAGE

*as visualized by the UNECE specialized Centre of Excellence
Concession/PPP Policies, Laws, Institutions*



Drafting: UNECE Project Teams & Expert Groups

comprising core experts from the UNECE specialized Centre of Excellence

Among sources: UNCITRAL, World Bank, CICA, IFEJI, International Bar Association...



International Centre of Excellence
Concession/PPP Policies Laws & Institutions



International Centre of Excellence
Concession/PPP Policies, Laws, Institutions



contact@pfpppcoe.com

CASE STUDY ANALYSIS



BRIDGING THE GAP: INFRASTRUCTURE FINANCE AND PPP DELIVERY IN DEVELOPED AND DEVELOPING ECONOMIES UNITED KINGDOM & INDIA



by **Divya Srita Ambati**, Partnerships Associate, WAPPP

BRIDGING THE GAP: INFRASTRUCTURE FINANCE AND PPP DELIVERY IN DEVELOPED AND DEVELOPING ECONOMIES | UK & INDIA

BY DIVYA SRITA AMBATI



With the exponential growth in infrastructure needs globally, Public-Private Partnerships (PPPs) have emerged as a prominent development model for governments for infrastructure development and service delivery by mobilizing private sector financing, innovation, and expertise to fill the gap. It is a critical catalyst to meet the United Nations 2030 agenda across the world.

The private investment in infrastructure has shown a declining trend in middle-and low-income countries. As per the Private Participation in Infrastructure (PPI) Annual report of 2022 by the World Bank, the private sector investment commitments reached US\$ 91.7 billion across 263 projects, equivalent to 0.25 % of the gross domestic product (GDP) of all Low-and-Middle-Income (LMIC) countries. The Global Infrastructure Hub's Infrastructure Monitor 2023 report states that the high-income countries attracted the lion's share of global private infrastructure investment with over 61% average growth over the last 5 years while the middle-and low-income countries experienced growth albeit only 6%. Almost two-thirds of the world's infrastructure needs to 2035 are in emerging economies. The need of this hour is to address this gap by devising effective mechanisms for accelerating PPPs in LMICs where the infrastructure deficits and financing gaps are the largest to sustain economic growth and meet developmental objectives.

While PPPs are implemented across the globe, the dynamics of the implementation and its outcomes differ significantly between developed and developing economies influenced by various factors. While PPPs offer potential benefits in addressing infrastructure gaps and promoting economic development, they also pose challenges related to governance, accountability, and social equity. Achieving successful PPP outcomes requires integrated planning, robust regulatory frameworks, and meaningful engagement with stakeholders to foster inclusive and sustainable infrastructure development. This blog aims to delve into the comparative overview of these scenarios in the case of UK and India.

Case Study Analysis: United Kingdom and India

While PPPs offer a promising model for infrastructure development and service delivery in both the UK and India, disparities in governance frameworks, regulatory environments, and financing mechanisms influence their effectiveness.

Global Infrastructure Hub's InfraCompass 2020 assessment evaluated both the economies on various drivers of the enabling environment for infrastructure development. While UK has emerged to be the global leader in planning,

procurement, permits, and regulatory frameworks, the potential for uptake in the infrastructure investment activity and sustainability of government's fiscal management still needs to be leveraged.

The UK with its matured infrastructure landscape, robust legal system, and stable regulatory reforms provide a conducive environment for PPPs, facilitating private investment and project delivery. National level infrastructure plan development, detailed PPP preparation mechanisms, and economic impact assessments help the United Kingdom deliver infrastructure projects efficiently. In addition, the quality of UK's infrastructure governance systems and financial markets attract investment in infrastructure and facilitate improved project outcomes. At 96, the United Kingdom's score on the preparation of PPPs is much higher than average of 67 for high-income countries. However, significant government debt, low long-term GDP growth, the potential economic fallout from BREXIT and the COVID-19 pandemic presented challenges to the United Kingdom's ability to fund infrastructure investment.

On the other hand, **India's progressive set of reforms in the recent years has increased the ranking as a global leader in planning and top performer in procurement.** Governance, regulatory and permits reforms have led to a marked improvement in the ease of starting a business, encouraging investment. At 82, India's score on the preparation of PPPs was much higher than the LMICs' average of 49.



Driver Comparison

| Driver | India | United Kingdom |
|---------------------------------------|-------|----------------|
| Governance | 49.1 | 79.5 |
| Regulatory frameworks | 55.3 | 81.2 |
| Permits | 59.7 | 89.2 |
| Planning | 97.3 | 99.4 |
| Procurement | 75.0 | 92.0 |
| Activity | 16.2 | 27.8 |
| Funding capacity | 34.5 | 68.5 |
| Financial markets | 46.3 | 77.5 |

However, the value of closed infrastructure deals in India was low compared to the LMICs' average of 38 due to the Covid-19 pandemic and further due to inadequate institutional capacity, weak governance structures, and bureaucratic inefficiencies that deter private sector participation and hinder project implementation.

UK was a pioneer in establishing and delivering PPPs through the HM Treasury's Private Finance Initiative (PFI) in 1992 along with Partnerships UK unit for promoting local partnerships followed by enhanced mechanisms with Private Finance 2 (PF2) in 2012 across transportation, healthcare, and social sectors through Infrastructure UK (IUK) and the Major Projects Authority (MPA). However, over the years, the government faced significant challenges with these programs. Political and regulatory uncertainties, ineffective cost mechanisms, lack of transparency and accountability, inappropriate risk allocation, limited value for money, lack of flexibility, and long-term financial implications for the public sector impacted investor confidence and project viability leading to discontinuation of PFI in 2012 and PF2 in 2018 for new projects.

Post discontinuation of PFI, the government introduced a new set of structured reforms to address these challenges and improve its global ranking for infrastructure development. The Infrastructure Act of 2015, National Infrastructure Delivery Plan 2016-2021, Concession Contract Regulations 2016, Public Contract Regulations 2015, and Green Book for project guidelines with a standardized approach towards infrastructure development and financing were some of the initiatives in this direction. It combined IUK and MPA and set up a dedicated facility - Infrastructure and Projects Authority (IPA) in 2016 for governance of infrastructure projects and

the National Infrastructure Commission in 2015 for enabling long-term strategic decision-making for UK infrastructure development.

The government continues to support the portfolio of existing PFI and PF2 contracts by setting up the PFI Centre of Excellence and the PFI Contract Management Programme in 2020 to manage the risks in operational PFI projects. As of 2023, there were 669 PFI projects reflecting a capital investment of around US\$ 54.69 Bn with majority of projects in the social sector.

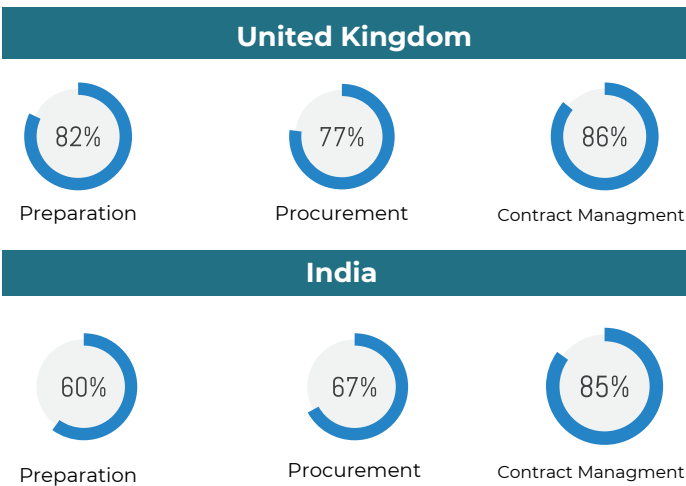
As per the Private Participation in Infrastructure (PPI) 2022 Annual Report by the World Bank, India has witnessed a significant surge in PPI investments, marking the highest level of investment over the past decade with the majority in the transport sector. 86% percent of South Asian Region's PPI investments were in India.

However, while India continued to remain a dominant player in Global PPI in H1 2023 with around US\$ 1820 Mn of total investment, it reported a decline of commitment from the previous year, underscoring the absence of mega-projects. On a brighter note, the number of projects that achieved financial closure remained steady at 15.

While India has been progressing towards developing substantial reforms for promoting PPPs over the years, challenges related to regulatory complexity, financing constraints, and institutional fragmentation have hindered the effectiveness of the PPP projects. Further, number of structural and operational challenges such as land acquisition delays, time and cost overruns, lengthy clearance procedures, limited availability of long-term financing, inappropriate risk sharing mechanism, and lack of speedy dispute resolution mechanisms still needs decisive tackling.

In order to address these impediments, the Government of India has undertaken a series of progressive reforms through administering a programmatic approach for paving the way for PPPs in infrastructure development.

Along with setting up of a dedicated PPP cell- Private Infrastructure Unit for policy development and the Public Private Partnership Approval Committee (PPPAC) for the streamlining appraisal of PPP projects, the burgeoning emphasis towards undertaking policy, institutional, and regulatory reforms, include the National Infrastructure Pipeline (NIP), National Monetization Pipeline for asset recycling, Infrastructure Project Development Fund (IIPDF) for assisting PPP authorities, and innovative financing models with India Infrastructure Finance Company Limited (IIFCL), Infrastructure Investment Trust (InvIT) and Real Estate Investment Trust (ReIT).



Further, initiatives like PPP guidelines, Viability Gap Funding (VGF) scheme, standard bidding documents including model concession agreements, tools for VFM, PPP structuring, contingent liability assessment, post award contract management along with sector specific tool kits and innovative delivery models like Hybrid annuity model and Toll-operate-transfer indicate the progress towards PPPs gaining momentum over the recent years.

The recent initiatives by the Infrastructure Finance Secretariat (IFS) - Department of Economic Affairs of India in 2023 include reference guides on project appraisal, setting up of state PPP units, and selection of project implementation mode.

In view of the above, as per the World Bank’s Benchmarking Infrastructure Development 2023 report, UK ranks 82 in preparation, 77 in procurement, and 86 in contract management indicating its matured PPPs enabling environment in comparison to global average of 46, 64, and 65. While India ranks 60 in preparation, 67 in procurement, and 85 in contract management suggesting its evolving PPP environment over the years.

The UK’s experience with PPPs and project finance is an example that with the evolving development scenarios in the country influenced by various factors, the enabling PPP ecosystem should be enhanced and adopted to meet the emerging requirements. The approach and willingness of policymakers in the UK to acknowledge challenges in PFI projects, and to reform some central aspects of the initiative, was commendable. This is especially relevant for India, as there is scope for continuous reforms in strengthening the growing PPP enabling frameworks in the country. Hence, it is imperative that the governments continue to formulate and implement progressive PPP measures on the road to proliferating development of futuristic and resilient infrastructure.



Road ahead – Lessons learned:



Moving forward, bridging the gap between PPPs and project finance in developed and developing economies requires tailored approaches that account for local contexts and challenges backed by sector specific policies with an integrated technical and financial planning approach. While there is no one-size-fits for all solution, it is of paramount importance that conducive policy frameworks, strengthening institutional capacity, enhancing regulatory frameworks, promoting transparency and accountability are critical steps towards unlocking the full potential of PPPs.

The call for action is to develop a robust PPP enabling ecosystem with long-term expertise and sustainable capacity to address the complexity of PPPs:

- To address institutional fragmentation and weak governance structures, streamlined institutional frameworks and capacity building for project management capabilities, estimation of whole life-cycle costs, value for money assessment, contract negotiation capabilities, and post-award contract management is crucial.
- Secondly, a well-defined regulatory framework with appropriate risk-allocation mechanism is imperative for PPPs. Estimation of fiscal risks and contingent liabilities and a structured approach towards ensuring accountability and transparency in financial reporting and fiscal management of public sector is required.
- A dedicated performance monitoring and continuous evaluation frameworks are essential to determine the value of the development and implementation of the PPP projects with room for renegotiation of contracts and cost savings.
- Establishing a dispute resolution mechanism for conflict resolution/ grievance redressal with a platform for facilitating corporation and settlement between the public and the private sector is vital to ensure effectiveness of PPP contracts.

PPPs in both developed and developing economies are evolving towards adopting various progressive reforms over the years in addressing infrastructure gaps and improving service delivery with a long-term objective of meeting the UN Sustainable Development Goals. Further, to ensure that the PPP ecosystem is dynamic, the Governments should identify and implement interventions which are critical to meet the needs of the next generation of PPP projects and formulate a road map to undertake systematic improvements to accelerate private sector participation in infrastructure development.

ARTICLE



UNLOCKING TECHNICAL CAPACITY TO SCALE UP PPP PROGRAM DEVELOPMENT

by **Jyoti Bisbey**, Member of the Executive Committee, WAPPP
and **Mpumi Zanele MAZIBUKO**, Partnerships Associate, WAPPP

UNLOCKING TECHNICAL CAPACITY TO SCALE UP PPP PROGRAM DEVELOPMENT

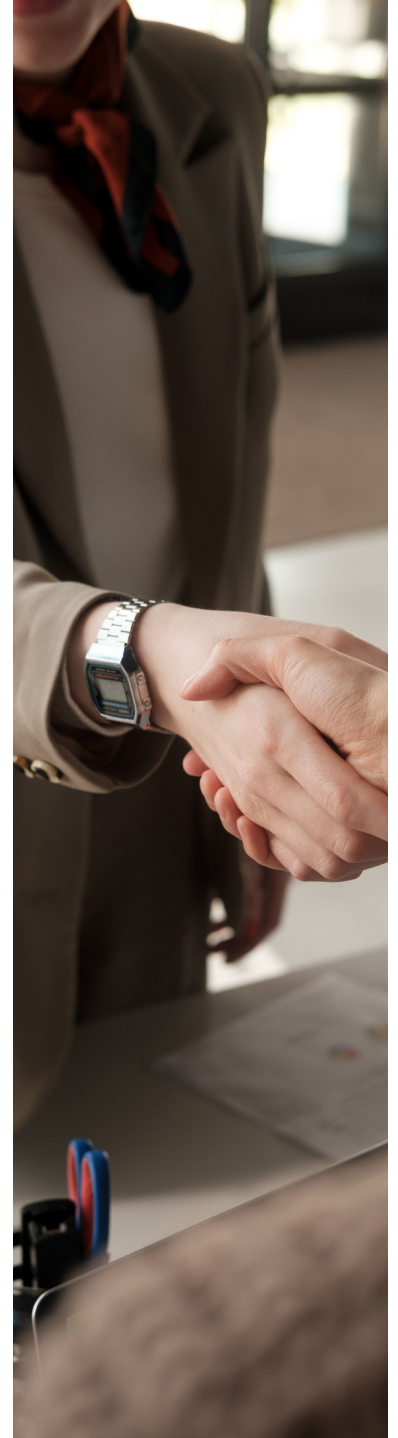
BY JYOTI BISBEY & MPUMI ZANELE MAZIBUKO

The Catalytic Role of Technical Assistance Facilities

In the realm of global infrastructure development, Public-Private Partnerships (PPPs) have emerged as a potent force for delivery, driving innovation and fostering economic growth. However, the successful implementation of PPP projects hinges on the availability of robust technical expertise and capacity-building initiatives and the use of PPP as a project structuring approach remains underwhelming. This is where the catalytic and transformative role of Technical Assistance Facilities (TAFs) comes into play. A Technical Assistance Facility (TAF) provides targeted capacity building, financial and advisory support to public sector entities involved in complex infrastructure transactions that can be structured as Public-Private Partnerships. TAFs play a vital role in helping governments move from idealization to execution by supporting the planning, structuring and implementation of PPP programs and projects. The impact of TAFs is manifold; albeit underestimated in the delivery of a successful PPP program.

What is a Technical Assistance Facility (TAF)

At its core, a Technical Assistance Facility (TAF) serves as a catalyst for progress in infrastructure development and deployment. TAFs are specialized mechanisms designed to provide critical support and resources aimed at enhancing the efficient implementation of PPP projects. Technical Assistance Facilities play a critical role in bridging capacity gaps and strengthening the capabilities of public sector officials involved in PPPs. These infrastructure projects tend to be sophisticated undertakings that cut across multiple disciplines and require diverse skill sets at each step of the lengthy project life cycle, from initial concept development through detailed planning, execution and long-term operations. These facilities offer a diverse range of technical assistance, including comprehensive training programs, workshops, research initiatives, and advisory services tailored to the unique challenges faced by the market. Ultimately TAFs aim to build sustainable in-country competencies beyond discrete assignments.



Multilateral Development Banks (MDBs) have recognized the importance of TAFs in supporting countries' efforts to develop and implement PPP projects. Some examples include:

- The World Bank's Public-Private Infrastructure Advisory Facility (PPIAF) is a prime example of an MDB-operated TAF. PPIAF established in 1999, provides technical expertise, policy advice, and knowledge sharing to governments, facilitating the preparation and execution of PPP projects worldwide. It is a multi-donor technical assistance facility administered by the World Bank. Key donors currently include Australia, Austria, Canada, Denmark, Finland, France, Germany, Italy, Japan, Norway, Sweden, Switzerland, United Kingdom, and the World Bank Group. Since its inception, PPIAF has funded 1727 activities in 131 countries. By collaborating with national PPP units and other stakeholders, PPIAF enhances the capacity and effectiveness of PPP development initiatives. In 2023 PPIAF approved 51 activities with a total value of \$10.5 million.

- Established in 2014, the Asia Pacific Project Preparation Facility (AP3F) is administered by the Asian Development Bank (ADB). AP3F aims to increase infrastructure development and enhance quality through PPPs across Asia-Pacific. It does so by assisting governments and public agencies with critical project preparation activities, such as feasibility studies, financial modeling and bidding document preparation. The Fund

foundings contributors are Australia, Canada and Japan with the Republic of Korea having joined as a Financing Partner.

As of 2023, AP3F had assisted over 68 projects in 23 countries and catalyzed a total of \$1.34 billion of commercial investments, which is 25 times more than what the fund has dispersed.

While Technical Assistance Facilities have played a pivotal role in seeding initial Public-Private Partnership programs in developing nations, the question does arise whether their impact could be magnified further through refinement. While demonstrably helpful, TAF scope could broaden further still to maximize infrastructure progress. TAF's support globally with local participation in both funding and skills transfer holds promise. Even with existing TAFs there remains a wide gap in terms of repeated successful implementation of PPP's with implementation globally being sporadic and lacking in systemic rollout.

How do TAFs Support PPP Units and Stakeholders

PPP units are the primary coordinating and governing body for PPP initiatives within a government, streamlining processes to enable successful infrastructure delivery via public-private partnerships. Acting as intermediaries, PPP units identify specific capacity-building needs and work closely with TAFs to address country requirements. These units, whether operating at the national or subnational level, play a pivotal role in coordinating and facilitating the exchange of knowledge and best practices between TAFs and various stakeholders involved in PPP projects.

TAFs assist PPP units by providing tailored training programs, organizing workshops and seminars, and offering specialized advisory services.

Through these activities, TAFs aim to equip PPP units with the necessary tools and skills to navigate the intricacies of PPP development, including project preparation, contract management, and regulatory frameworks. The knowledge-sharing platforms facilitated by TAFs also foster networking opportunities, enabling PPP units to learn from peers and experts, ultimately enhancing the success rate of PPP projects.

Exploring the Funding and Organizational flow of TAF's

The financial resources allocated to TAFs by financing partners are derived from diverse funding sources. MDBs typically allocate funds from their own budgets to support TAF activities. Additionally, donor countries and international organizations play a crucial role in contributing financial resources to TAFs. These contributions can manifest as grants, loans, or technical assistance funds. The collective investment in TAFs underscores the global recognition of their pivotal role in driving sustainable infrastructure development through PPPs.

Governance structures for TAFs within MDBs play a crucial role in promoting donor confidence and maximizing the impact of TAFs. These governance structures ensure transparency, accountability, and effective utilization of resources. The importance of governance for donors lies in ensuring that their contributions are used effectively and in alignment with their priorities and objectives.

are used effectively and in alignment with their priorities and objectives.

Governance mechanisms may include boards, committees, or other decision-making bodies comprising representatives from both financing and recipient parties. The governance structure ensures a balanced representation of interests and expertise.

These governing bodies provide strategic direction, approve funding allocations, and monitor the performance and impact of TAFs.

Transparency and accountability are fundamental principles in TAF governance.

Equally governance is important for recipient parties of Technical Assistance Facilities (TAFs). Strong governance frameworks provide several benefits to recipients, ensuring effective utilization of TAF resources and maximizing the developmental impact of PPP projects.

Dedicated units within the respective recipient institutions hosting TAFs are responsible for managing these funds. These units ensure that the funds and resources received are allocated judiciously, in line with the stated mandate, supporting capacity-building activities, training programs, research, and advisory services. Fiduciary oversight tracks funding utilization toward predefined objectives, with boards composed of representatives from financing and recipient parties.

Day-to-day activities fall under the governance framework of host implementing agencies like PPP units, line ministries or adjacent public organizations.

This ensures suitable institutional alignment.

Financial management systems are implemented to track and report the utilization of funds, ensuring compliance with relevant regulations and guidelines. Robust monitoring and evaluation mechanisms are also established to assess the impact and effectiveness of TAF interventions, enabling continuous improvement and accountability.

Optimizing the Impact of TAFs to Accelerate Infrastructure Progress

Technical Assistance Facilities (TAFs) play a vital role in driving global infrastructure development through Public-Private Partnerships (PPPs). By providing essential support and expertise, TAFs enable governments, PPP units, and stakeholders to navigate capacity gaps and the complexities of PPP projects. The examples of TAFs in MDBs and countries showcase their transformative potential in enhancing the effectiveness and success of PPP initiatives. As we look to the future, it is essential to continue investing in TAFs, ensuring sustainable funding and innovative approaches.

Sustained impact and progress of PPP's hinges on optimisation. Ongoing optimization of delivery structures and focus areas or complementary support modalities better suited to local context will be key to realizing PPPs' potential to accelerate infrastructure progress on a sustained basis.

In countries experiencing PPP programs for the first time, targeted Technical Assistance Facilities have proven critically enabling both institutionally and practically at the ground level.

Now building on this foundation, fine-tuned support mechanisms carry opportunities for even greater infrastructure dividends through deepened public-private cooperation and accelerated local skills development.



ARTICLE



GROWTH OPPORTUNITIES WITH REVOLUTIONIZED HEALTHCARE TRANSFORMATION: SAUDI ARABIA'S JOURNEY WITH PUBLIC-PRIVATE PARTNERSHIPS (PPPS)



by **Dr. Jaber Alsalah**, Chair of the Academic Chapter of WAPPP

GROWTH OPPORTUNITIES WITH REVOLUTIONIZED HEALTHCARE TRANSFORMATION: SAUDI ARABIA'S JOURNEY WITH PPP

BY DR. JABER ALSALAH

Public-private partnerships (PPPs) in healthcare are increasingly recognized globally by world leaders and healthcare industry leaders as a means of revitalizing healthcare through innovative approaches to address healthcare challenges. Research indicates that PPPs can enhance healthcare access, quality, and efficiency while leveraging private sector expertise and resources. For example, PPPs can successfully facilitate access to healthcare services in primary healthcare care (PHC), particularly in remote areas (1,2).

Many countries, including the United Kingdom (UK), Australia, Canada, and Saudi Arabia, have successfully implemented PPP models to enhance their healthcare infrastructure development and service delivery. The UK launched its first PPP projects more than twenty years ago, and the benefits to the nation's economy of having healthy citizens are even clearer. In 2023, the National Center for Privatization (NCP) in Saudi Arabia announced the launch of its Privatization and PPP (P&PPP) project pipeline, which consists of 200 approved projects in diverse sectors which aligns with the goals of the Saudi Vision 2030 to increase the private sector's contribution to the gross domestic product from 40 percent to 65 percent by 2030. (3,4,5, 6).

Saudi Arabia's Healthcare Transformation and PPPs

Healthcare is a major area of focus of the Saudi Vision 2030, with private sector participation (PSP) in Saudi Arabia being one of the six pillars that supports the health sector transformation program. PSP will enhance the role of the private sector in terms of service provision and asset utilization and availability in healthcare. More specifically, PPPs have gained significant attention because they play a crucial role in improving health service quality. They also facilitate faster decision-making processes, risk-sharing, and reduced government healthcare spending as well as access to additional financial resources and the creation of new job opportunities (1,7).

Increased PSP is a key priority of the Saudi Vision 2030, which seeks to empower the private sector to increase its contributions to economic growth and sustainable development. PPPs involve collaboration between public sector authorities and private sector entities to jointly deliver public services, share risks, and efficiently allocate resources. In healthcare, PPPs contribute to developing infrastructure, such as hospitals and healthcare centers, with private partners contributing funding, design expertise, and construction and operational capabilities.

This approach allows the government to expand healthcare facilities without bearing the entire financial burden (7,8).

The NCP includes a pipeline of 200 PPP projects across 16 sectors that involve more than \$50 billion in investment. Three of the 16 sectors—health, education, and defense—have healthcare-related PPP projects in the pipeline. These PPP healthcare projects are either closed or in the pipeline (i.e., they are classified as either live transactions or upcoming opportunities) (3). The closed PPP projects are listed in Table 1. The NCP has also become a member of the World Association of PPP Units & Professionals (WAPPP), a move that was approved by the Council of ministers in Saudi Arabia. This member’s goal was to increase participation and influence in the international Privatization and PPP ecosystem.

Table 1. Closed (financial- close) PPP projects.

| Project Name | Sector | Contract Type |
|---------------------------------------------|--------|---------------|
| Renal Dialysis Service— Diaverum AB Company | Health | DBFOM |
| Renal Dialysis Service— DaVita Company | Health | DBFOM |
| Radiology Medical Imaging Services | Health | DBFOM |
| Al-Ansar Hospital | Health | DBFOM |

*Design-Build-Finance-Operate-Maintain (DBFOM)

Recently Closed Healthcare PPP Projects in Saudi Arabia

The recently closed PPP healthcare project for the Al-Ansar Hospital was awarded to the Alghanim International-Tamasuk Consortium, Tamasuk (A subsidiary of Al Blagha Group, Saudi Arabia), along with Consortium partner Alghanim International General Trading & Contracting Co. WLL, Kuwait.

The consortium announced the financial closure, the point at the end of the procurement phase where the PPP contract has been signed, of this PPP project in February 2024., which marked a significant milestone in the development of the healthcare infrastructure of the Kingdom of Saudi Arabia. The project involves the construction of a 244-bed public emergency hospital and associated facilities under a twenty-year design, build, finance, operate, and maintain contract (9).

Another recent healthcare PPP project involves delivering radiological services to more than one million patients in seven hospitals. The project was awarded to Altakassusi Alliance Medical (AAM). AAM is a joint venture between Alliance Medical Group, Europe's leading independent provider of imaging services; Nexus Gulf Healthcare; and King Faisal Specialist Hospital International Holding. The project will serve as a pilot for the rollout of similar PPPs nationwide. AAM will operate and maintain the radiology and nuclear medicine departments throughout seven hospitals, with around 450 employees. This PPP project will help improve the quality and efficiency of medical imaging services as well as help maintain or replace vital equipment through AAM’s ten-year capital investment plan. This groundbreaking achievement, realized as part of the Ministry of Health’s PSP initiative, sets a precedent for future healthcare PPPs and underscores its commitment to advancing healthcare services (10).

The Saudi PPP pipeline also includes nineteen projects in the live transaction and upcoming opportunity statuses. Among these projects are five university hospitals, one of which is a live transaction that is expected to be tendered in 2024. All of these hospitals are under the Education sector. The PPP university hospitals have the potential to include both medical and nonmedical operations that are in alignment with the educational standards and norms of the university and health systems.

In addition, under the Defense sector, a new PPP project in the pipeline for long-term care (LTC) is planned to feature 386 beds in a facility spanning 5,000 square meters. Other PPP projects in the pipeline under Health sector are listed in Tables 2 and 3.

Table 2. PPP projects that are currently live transactions.

| Project Name | Sector | Contract Type |
|-------------------------------------------------|-----------|----------------------------------|
| Rehabilitation Hospitals | Health | DBFOM (clinical and nonclinical) |
| Al Iman Hospital Staff Accommodation | Health | DBFOM |
| Long-Term Care and Skilled Nursing Homes | Health | DBFOM |
| Home Healthcare | Health | Services Contract |
| Imam Abdulrahman Bin Faisal University Hospital | Education | BOOT |

Table 3. Upcoming opportunities projects.

| | |
|----|----------------------------------------------------------------------------------|
| 1 | Primary Health Centers 150, the tender will be for 74 primary healthcare centres |
| 2 | Primary Health Centers 74, the tender will be for 74 primary healthcare centres |
| 3 | Virtual Care |
| 4 | Dialysis Services |
| 5 | Digital Blueprint |
| 6 | Umm Alqura University Hospital |
| 7 | Jazan University Hospital |
| 8 | Tabuk University Hospital |
| 9 | King Khalid University Hospital |
| 10 | Long-Term Care Center In Riyadh |
| 11 | Al Yamama Women and Children Hospital |
| 12 | Al Ahsa Women and Children Hospital |
| 13 | Telemedicine Network |
| 14 | Medical Laboratories |
| 15 | Al Masadiyah Women and Children Hospital |

Saudi Arabia’s Promising Future Outlook and Initiatives in Healthcare in Partnership with the Private Sector

The Kingdom of Saudi Arabia continues to pursue healthcare initiatives as outlined in the Saudi Vision 2030 that will increase PSP in healthcare and ultimately lead to the establishment of more hospitals and healthcare services. In total, 125 projects are expected to be launched in cooperation with the private sector over the next four to five years. The projects will be worth approximately SAR 52 billion in capital expenditures (CAPEX) with estimated operating expenses (OPEX) of SAR 300 billion. This initiative consists of several PPPs, including the establishment of two medical cities along with providing 900 beds for medical rehabilitation and LTC services. The initiative also includes the renovation, improvement, and restructuring of primary health services in the Kingdom, beginning with 200 centers in the initial phase (11,12).

Saudi Arabia’s journey of healthcare transformation through PPPs signifies a significant step toward achieving the goals of the Saudi Vision 2030. By leveraging private sector expertise and resources, the Kingdom aims to enhance healthcare access, quality, and efficiency, thereby ensuring sustainable development and economic growth.



References

1. Alasiri AA, Mohammed V. Healthcare Transformation in Saudi Arabia: An Overview Since the Launch of Vision 2030. *Health Serv Insights*. 2022 Sep 3;15:11786329221121214. doi: 10.1177/11786329221121214. PMID: 36081830; PMCID: PMC9445529.
2. Joudyian N, Doshmangir L, Mahdavi M, Tabrizi JS, Gordeev VS. Public-private partnerships in primary health care: a scoping review. *BMC Health Serv Res*. 2021 Jan 4;21(1):4. doi: 10.1186/s12913-020-05979-9. PMID: 33397388; PMCID: PMC7780612.
3. National Center For Privatization & PPP (2024). Privatization project pipeline launched. https://www.ncp.gov.sa/en/MediaCenter/News/Pages/Privatization_Project_Pipeline.aspx
4. World Health Organization. (2020). Public-private partnerships in healthcare: Best practices and lessons learned. Geneva: World Health Organization. https://www3.weforum.org/docs/WEF_Public_Private_Partnerships_for_Health_Access_Best_Practices.pdf
5. Healthcare UK (2013).:Public-private partnerships. https://assets.publishing.service.gov.uk/media/5a7c7835e5274a559005a152/07_PPP_28.11.13.pdf
6. Ministry of Economy and Planning, Saudi Arabia. (2023). Privatization program: Annual progress report. Riyadh: Ministry of Economy and Planning. <https://www.mof.gov.sa/en/budget/2024/Documents/Bud-E%202024%20F4.pdf>
7. Vision 2030. (2024). Health sector transformation program. <https://www.vision2030.gov.sa/en/vision-2030/vrp/health-sector-transformation-program/>
8. Vision 2030. (2024). Privatization program. <https://www.vision2030.gov.sa/en/vision-2030/vrp/privatization-program/>
9. Tamasuk, Alghanim Consortium announces financial close for Al Ansar Hospital PPP. <https://www.saudigulfprojects.com/2024/02/tamasuk-alghanim-consortium-announces-financial-close-for-al-ansar-hospital-ppp/>
10. Saudi Ministry of Health. (2023). Public-private partnership initiative in healthcare. Riyadh: Saudi Ministry of Health. <https://www.agbi.com/health/2023/06/saudi-awards-first-healthcare-ppp-project/>
11. [https://insights.omnia-health.com/management/prominent-role-ppps-advancing-saudi-arabias-healthcare-landscape\(2024\)](https://insights.omnia-health.com/management/prominent-role-ppps-advancing-saudi-arabias-healthcare-landscape(2024))
<https://insights.omnia-health.com/management/growth-opportunities-specialised-sectors-saudi-arabia>
12. Health Ministry expects to launch 125 PPP projects at SAR 52 bln (2024) <https://www.argaam.com/en/article/articledetail/id/1684481>

ARTICLE



MAINSTREAMING PPPS FOR THE GLOBAL TRANSITION: TOWARDS A DIGITALLY-ENABLED PLATFORM APPROACH



by **Lucia Fuselli**, Chair of the Energy Chapter, WAPPP

MAINSTREAMING PPPS FOR THE GLOBAL TRANSITION: TOWARDS A DIGITALLY-ENABLED PLATFORM APPROACH

BY LUCIA FUSELLI

We live in a decade where humongous mobilization of capital is needed: for the development of emerging markets, for the maintenance of mature infrastructural and economic systems, for social justice and, ultimately, to save our planet - and us all - from climate change ("the energy transition", aka 35t USD needed by 2030 just to escape from ending up fried). Sometimes it's even "all of the above": objectives compound, increasing the size of individual projects.

In this scenario, no single investor can make it alone: not countries, often constrained by limited fiscal capacity and competing financing priorities, not international financing institutions, who can act as catalysts but can't provide concessionality forever, nor private investors, whose requirements and lower risk appetite often create barriers in affordability and scalability.

Public Private Partnerships (PPPs), as flexible mechanisms of joint private and public effort, have historically been utilized to overcome the challenge, especially on large scale projects of strategic national and international significance.

In the past 3 decades, PPPs have been successfully utilized for developments as diverse as transport terminals, social infrastructure, energy and nature based solutions:

acilities, the ongoing grid enhancement in the Philippines,



the Eurotunnel, Singaporean Healthcare fMarine Protected Areas in the Dominican Republic and even the production and distribution of Covid-19 vaccines owed their success to a PPP-based model. Yet each country in the world only realizes a couple of PPPs per year on average: we are still globally unable to utilize this instrument systematically and mainstream it within the economic fabric of countries. The results is sectors struggling to optimize capital mobilization at scale (e.g. power networks and interconnectors) and emerging markets continued dependence from sheer multilateral finance slowing down both development and transition.

Literature points to barriers such as contractual and governance complexities, balancing the public and private roles, measuring impacts, dealing with policy/regulatory changes and with other idiosyncratic factors ranging from currency fluctuations to conflicts of interest. Yet, particularly in sustainable infrastructure finance, success stories such as Scaling Solar in Africa and the super ESCo models (such as Tarshid in Saudi) demonstrate that similar barriers could be overcome.

What's more, PPPs have so far been utilized for large scale, long term, national/international infrastructure co-strategized by a handful of ministerial or quasi-ministerial stakeholders and PPP national authorities. Whilst achieving de-risking and bankability of major projects, this approach fails to recognize that a country economic and infrastructural fabric is more than a handful of giga-sized endeavours, it's actually whatever sits in-between that and the domestic dimension.

Historical statistics show the need for projects below 50m USD to be developed as PPPs. These projects are too small for a development bank, too risky for the private sector (for reasons ranging from low credit rating to technology innovation), too expensive for a fiscally-constrained local public entity and unable to face the complex and bespoke requirements of a national-level initiative. As such, they are experiencing a funding gap that prevents countries from developing beyond critical infrastructure. How to change this?

Build standardization, then disseminate and aggregate

Let's start from the low hanging fruit: successful PPPs, whichever the size, do exist. Success stories could become the first building block towards standardized solutions, replicable at national, municipal or regional scale and packaged as the combination of a business model, a partnership and governance system, a set of contractual and procurement templates, risks mitigation mechanisms and additional side recommendations around policy/regulatory context readiness.

Models for large PPPs could be streamlined, then downsized to fit smaller scale initiatives through a "waiver-type" lens that looks at international technology/market maturity or proximity of precedents as simplification enablers.

In parallel, the role of national PPP authorities should expand to allow them to disseminate knowledge among local institutional and finance actors (e.g. municipalities, local banks etc) and to start aggregating and optimizing pipeline once a sufficient downstream awareness and capacity are reached (i.e. a role similar to that of National Designated Authorities within the climate policy ecosystem). Some federal countries such as Canada, Australia or India had/have a national PPP unit overseeing and supporting federal (i.e. regional) ones, empowering them over time. If implemented in developing countries, such a structure can become an avenue to connect a number of small PPPs (and related sub-national actors) with international development and private funding, the de-risking coming from a portfolio approach.

The energy transition

Initially the focus of this roadmap could be on climate-relevant projects (e.g. sustainable transport, electrification, renewables): this would help attract both concessionality and ESG-oriented private investors whilst "testing the waters" on sub-sectors for which large datasets, examples and sizes of projects already exist.



Let's take a country where large scale PPPs on e.g. public e-transport have already been implemented and tested: that means technology is mature enough and social risk can be contained. The national PPP authority could work at a "sub-national-level" simplification of requirements and templates (i.e. what could be a suitable governance model given the level of local autonomy in this country? what can be waived? what can be standardized?), then pilot it and subsequently incentivize its replication.

A similar reasoning could be applied to distributed renewables or local (even crowdfunded) grid enhancements allowing end users who generate their own renewable electricity to trade it among themselves so as to optimize utilization.

Other projects that might benefit from national aggregation, as they are often connected with or aligned to national environmental recovery plans are environmental regeneration projects such as recovery of shorelines, nature reserves, sustainable forestry activities or climate early warning systems: countries tend to have a definite set of typical climate and hydrogeological conditions and, as such, a definite set of related problematics and suitable interventions. Partners involved in these projects are often concessional financiers and international NGOs but most of these projects, despite responding to a national strategy, lack the scale for IFIs outcome-based finance and the level of profits to trigger a sheer private sector appetite. Foundations do offer support but that leads to pilots rather than a structured response fulfilling country-level ambitions.

Aggregated PPPs could see local public participation and a central effort in channelling outcome-based concessional finance and guarantees to de-risk private funding: in this framework, centralized PPP units could act as a bridge between development finance expertise in PPPs (most IFIs have their own internal centres of excellence) and the local dimension as well as achieve the double outcome of attracting private capital and empowering the local financial sector.

Platformize

Standardization, dissemination and aggregation all pose an efficiency problem: how to deal with a large number of instances, needs, bottlenecks and requests. That's where digital transformation comes to the rescue.

With the advent of digitization and generative AI, internet-based platforms have become ubiquitous: we use them for crowdfunding, distance learning and pooling of job or real estate opportunities. Yet we haven't mainstreamed their use in knowledge management and matchmaking within the institutional and finance ecosystems.

Having built standardization from success stories means there is a wealth of off-the-shelf packages readily available to the inexperienced local stakeholder, together with a repository of cases showing how those packages are implemented in practice.



A form-based interactive questionnaire managed by a generative AI could then – for example - guide such stakeholders to the choice of the model and performance indicators best suited to their sector, risk appetite and needs, whilst at the same time helping the national authority recording the projects, aggregating and monitoring them.

In turn, aggregation could be made visible to multilateral and international private financiers, helping the financing efforts with de-risking, scale-up or credit enhancement capital through the national PPP authority and the relevant country ministries. A platform could also help collect and aggregate feedback from the local stakeholders, enabling more flexible and participatory PPPs as well as knowledge co-creation and continuous improvement.

With such a tool, centralized PPP technical support units would be able to manage the complexity of the “big numbers” and extract insights out of it, identifying trends and gaps for strategic action. Bespoke technical assistance would still be crucial, for first-of-a-kinds or other ad-hoc instances, but that would still be represent on overall a manageable level of workload whilst PPP utilization gets mainstreamed “in the background”. A platform would also allow more transparency in the coordination between institutional and sub-national PPP units and a better dialogue with projects-related stakeholders outside of the PPP world.

Far from being a “starting from scratch” exercise, this initiative could convene stakeholders with existing PPP platforms such as IFIs,

focused associations and Centers of Excellence in a – no pun intended – partnership-based effort. Some examples of deals platformization do exist and are not necessarily only limited to the startup world: in Africa the platform Deal Room does connects innovative SMEs with investors, similar to what Dealflow.eu does in EUROPE, but other initiatives go beyond VC financing. For example, Convergence (a global network for blended finance) has launched a deals matchmaking platform since 2017 whose offer goes beyond connecting projects to investors and encompasses capacity building and support in funding design, in the APAC region, Asiadealhub connects investors with M&A and partnership opportunities (for production, project implementation or R&D).

Conclusion

PPPs nowadays are a mature and tested infrastructure finance instrument: heterogeneous solutions and cases do exist for both traditional and sustainable projects, large and small, to benefit from synergic public and private capital and efforts.

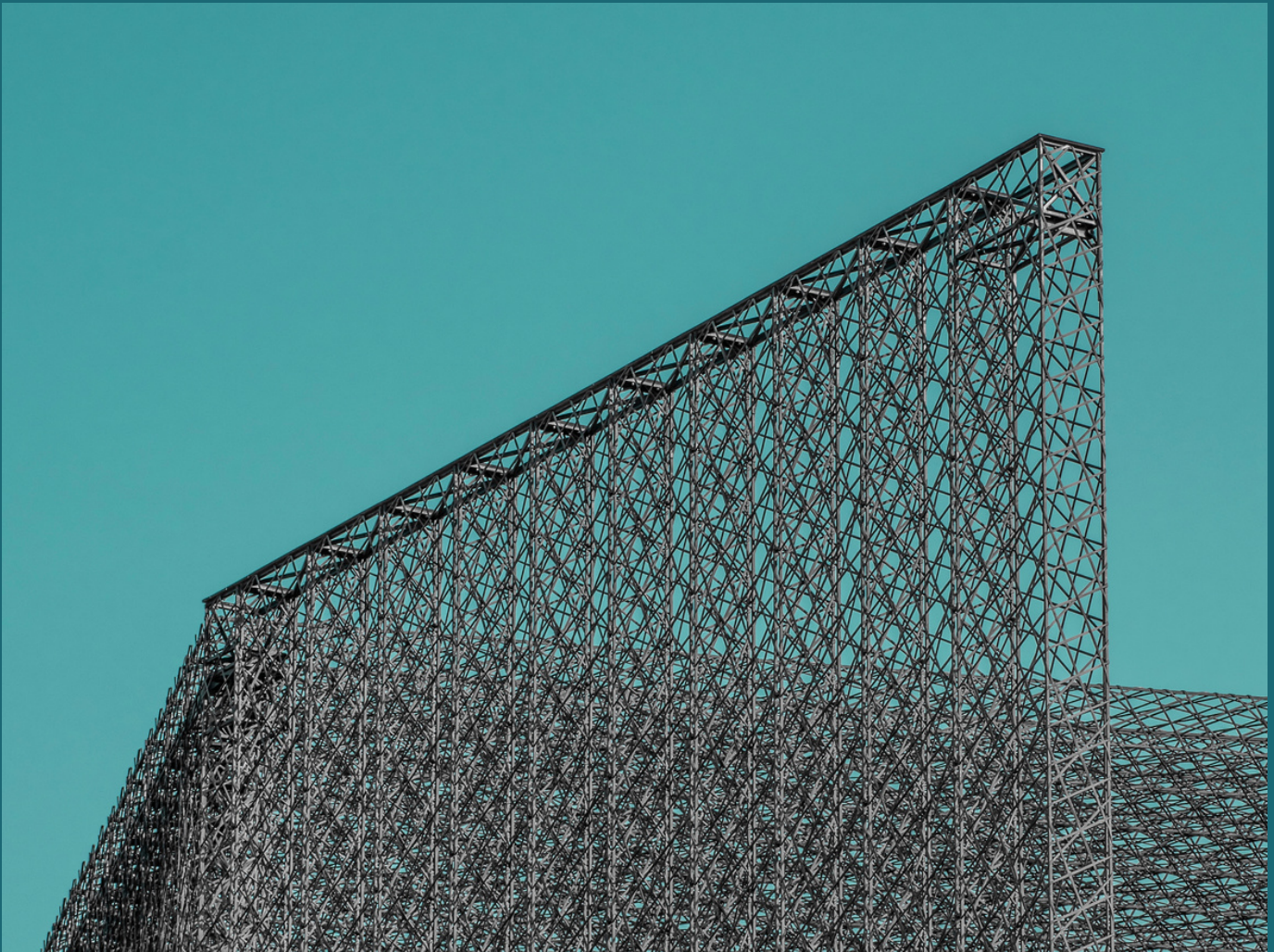
Yet the inherent complexity of this instrument, as well as the geographically disperse body of knowledge and the capacity building needs around it, will need a structured approach that could benefit from both multi-stakeholder collaboration and technology support.

It’s an opportunity that should not be missed: at this juncture in history, it is clear that only concerted action can address current global crises, and PPPs are probably the sole credible response to the level and speed of change the world is required to implement.

ARTICLE



PPP CONTINGENT LIABILITY: ARE WE DOING IT RIGHT?



by **Mohammad Abu Rashed**, CP3P, PPP Director & WAPPP Member

PPP CONTINGENT LIABILITY: ARE WE DOING IT RIGHT?

BY MOHAMMAD ABU RASHED, CP3P

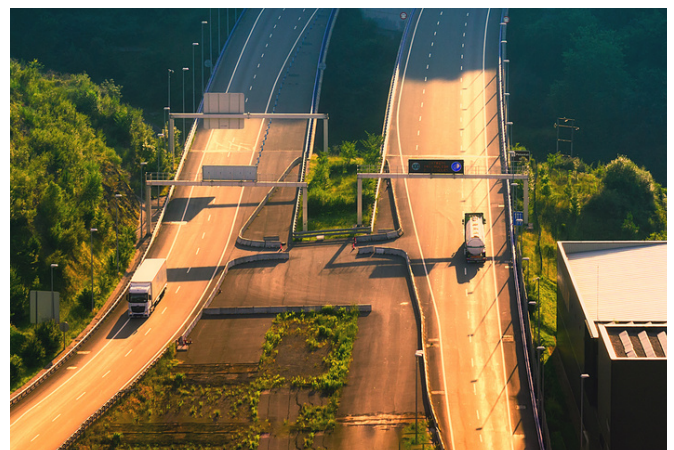
Governments needing infrastructure are often seen turning to PPPs not realising its potential fiscal impact. We know PPPs are off-balance sheet. Is it necessarily be? PPPs often produces contingent risks for government and then may become a fiscal burden which government often ignore or remain unaware of while preparing for a PPP project. Contingent Liability arising from PPP projects can be huge and government can suddenly find itself in situations (like Covid 19) where the payment risk which was latent in different contract clauses suddenly clicks in and a substantial fiscal risks comes into picture.

Worldwide PPP has been logically recognized as a major development tools to ensure greater efficiency and possible cost reductions with the involvement of private sector. However for PPP projects, the presence of government as mitigator of risk is very important, as with exchange rate fluctuation, market risk and force majeure the project may not be feasible for private sector. Hence, government has to step in with supports like revenue guarantee, exchange rate guarantees etc. Such liability adopted by the government entails significant future contingent liabilities.

Therefore proper risk analysis and management of these guarantees are important before a project is implemented. The proper structuring of risks and mitigating them are the fundamentals for the success of a PPP project.

Generally in PPP, risks are planned to be mitigated through allocation of responsibilities to parties (government vs private sector) that is best situated to handle those risks. However, sharing of risks by the government side create substantial explicit and implicit fiscal liabilities for governments. Understanding the potential impacts of such contingent liabilities of the government arising from a PPP projects (mostly through the PPP agreement) and quantification of such risks is critical. European PPP Expertise Centre has set out the range of state guarantees used in PPPs encompassing finance guarantees, and contract provisions such as revenue guarantees, or termination payments.

A government guarantee legally binds a government to take on an obligation if a clearly specified uncertain event should occur. Such obligation for government can be explicit and implicit. Under explicit contingent liabilities, government guarantees payments to the PPP partner by explicitly mentioning specified exogenous events in the contract (e.g. minimum revenue guarantee).



Again such liability can be of explicit liabilities with uncertain amounts and specified amount. Some payment commitment from government cannot be predicted with certainty like land expropriation compensation whereas for specified amount it is possible to include specific provision in the PPP agreement like revenue sharing agreements. The following table provides a brief summary of contingent liabilities of PPP projects:

| | Direct (obligations in any event) | Contingent (obligations if a particular event occurs) |
|------------------------------------------------------------|--------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Explicit (created by contract) | Obligation to purchase output (power purchase agreement) | <ul style="list-style-type: none"> • Revenue guarantees • Debt guarantees • Liabilities guarantees • Exchange rate guarantee |
| Implicit (political obligation of the government) | | Assumption of debt / obligations of concession companies or utilities (e.g. UK, Mexico) |

Along with explicit contingent liabilities, implicit contingent liabilities for government arise when there is an expectation that the government will take on an obligation despite the absence of a contractual or policy commitment to do so. Such an expectation is usually based on past or common government practices, such as providing relief in the event of uninsured natural disasters and bailing out public utility enterprises, or strategically important private infrastructure firms that get into financial difficulties. Implicit contingent liabilities possess even greater fiscal liability for the government as it is difficult to value these risks and occurrence probabilities of such liabilities are uncertain. As these risks are not inherent to a PPP program, it is difficult for government to properly ensure budgetary allocation for such contingent liability.

In Mexico between 1989 and 1994, government awarded more than 50 concessions for 5,500km of toll roads. The concessions were highly leveraged, debt financing for the projects was on a floating-rate basis and provided by local banks. By 1997, a combination of lower than forecasted traffic volumes and interest rate rises pushed the government to restructure the entire toll road program and bail out the concessions. In total, the government took over 25 concessions and assumed US\$7.7 billion in debt. South Korea during 1990s guaranteed 90 percent of forecast revenue for 20 years on a privately financed road linking the capital, Seoul, to a new airport at Incheon. When the road opened, traffic revenue turned out to be less than half the forecast. The government has had to pay tens of millions of dollars every year.

Different governments have taken different initiatives of recognizing the importance of project guarantees along with careful management of associated project liabilities. For example, in Chile the government has guaranteed the revenue of many of infrastructure project including power generation, toll roads and airports. However, such PPP projects get approved by the Minister of Finance based on contingent liability analysis including estimating the cost and risk of the revenue guarantees using a stochastic model.



Along with estimating the risk, the government publishes information on contingent and direct liabilities under PPPs in annual reports on public finance and contingent liabilities. South Africa follows similar kind of approach where the National Treasury must approve projects at major project development stages. National Treasury requires analysis of contingent liabilities as part of project preparation. Contingent liability assessment by National Treasury is also being followed by public reporting by line ministries who include a disclosure note on PPP in their accounts. On the other hand, countries like UK which has extensive previous experience in implementing PPP projects mainly designates most of the project development and contingent liability assessment responsibility to the relevant line ministries. Like Chile, UK also has contingent liability disclosure requirement with public reporting of the fiscal implications of PFI projects after every six months.

However the process of reporting contingent liability from PPP projects varies across countries. For example, in New Zealand PPP contingent liabilities are recognized in Government's balance sheet. Other countries tend to follow more conservative approach of mentioning about contingent liability in notes to balance sheet (e.g. USA, Canada) and often through separate statement (e.g. Australia, Japan). In addition, there exists significant divergence regarding the type of contingent liability reported. Countries like New Zealand and USA reports all the contingent liability whereas Hungary report only the explicit liabilities.

Along with quantitative valuation and reporting process, several governments have created qualitative guideline for fiscal risk management of PPP projects.

| | Chile | Colombia | Brazil | Indonesia |
|-----------------------------------------------------|-------------------------------------|------------------------------------------------------------|----------------------------------|----------------------------------------------------------------------------|
| Defining contingent risks | None, but establishment of standard | Specific risks and mitigation mechanisms defined by sector | None | Principle defined |
| Project Requirements | None | Total exposure to risk must be <10% of project cost | None | Projects must be in priority sectors & selected through Competitive tender |
| Standard valuation | Defined | Under development | Defined | Defined |
| Setting funds to cover expected value of guarantees | None | Expected cost | Expected cost | Expected cost |
| Establishment of independent guarantee fund | None | Fund is managed centrally | Yes | Yes |
| Limit on overall exposure from guarantees | None | No explicit limit | Capped by size of guarantee fund | Capped by size of guarantee fund |

Among the above mentioned countries, both Brazil and Indonesia have chosen to establish an independent guarantee fund, which is separate from government accounts, privately managed, and capitalized upfront by transfers from government. Several countries have established specific rules for controlling total fiscal exposure to PPPs. In Hungary, the public finance law limits the total nominal value of multi-year commitments in PPPs to 3 percent of government revenue. On the other hand, Brazil's Federal PPP Law limits total financial commitments undertaken in PPP contracts to a maximum of 1 percent of annual net revenue.

Contingent obligation proposals may need to be considered alongside competing instruments, and ceilings on total issuance of guarantees may need to be subjected to treasury approval during the budget process.

In principle, the centralized management of contingent liabilities at the government level should involve the overall policy for approving projects; the identification, classification and recording of risk exposure; provision of funds to meet potential liabilities and subsequent implementing systems for monitoring government risk exposure. Designating the responsibility to the Ministry of Finance with close coordination with other important stakeholders like Central Bank will ensure selection of most feasible PPPs. Especially for exchange rate and interest rate guarantee the Central Bank can provide prior insights regarding the potential future contingent liability.

Along with explicit liabilities, it is equally important to control implicit contingent liabilities. Such liabilities can have sizable financial implications, especially when the government backstops public enterprises, public financial institutions, subnational governments, and private firms. One of the most difficult aspects of implicit contingent liability management is that occurrence of such support requirement is counter cyclical and often it is difficult for government to provide support during recession or economic slowdown. The UK National Air Traffic Services (NATS), under a PPP arrangement, was to be paid a fee based on airline traffic volumes. However, the PPP Company took on considerable debt for its investments and operations. After the September 11th attacks, airline traffic fell below forecasts and the company was in danger of not meeting its debt obligations. To reduce the perceived risk of a disruption in service, the UK Government had to step forward and inject GBP 100 million of equity into the project company.

Moreover, for fiscal risks to be properly incorporated in decision making, suitable procedures are required in the budget and PPP approval process. Depending on country context and stages of PPP program development, the ideal process of contingent fiscal risk management process may vary across countries. Multistage review of proposed PPPs projects by authorities who have expertise in fiscal management; quantification of certain contingent liabilities will lead to better value for money assessment of PPPs.

Depending on the individual country, this centralized control process may involve requiring the prior approval of the minister of finance, the cabinet, or the legislature, under guidance provided by a well-articulated policy framework that covers the justification, design, analysis, and approval of guarantees.

Currently Canada, Colombia, Chile, the Netherlands, Sweden, Turkey and the USA carry out valuation of government guarantees for infrastructure projects. However, the valuation method across countries differs like New Zealand carries out valuation of maximum possible loss where in Columbia the practice is to analyze the probability of default for infrastructure projects. A defining characteristic of guarantees and other contingent liabilities is uncertainty about whether the government will have to pay and, if so, about the timing and amount of spending.



A number of analytical techniques are available to value guarantees including for PPP projects including Monte Carlo simulation analysis and the Black-Scholes options pricing formula. Both the approaches can be used for modeling project guarantees such as toll revenue in the case of a minimum revenue guarantee. However, the ultimate choice of valuation technique depends on the structure of the guarantee and the information that is available about the determinants of guarantee payments.

In Monte Carlo simulation the value of the underlying risky variable at any time is assumed to depend on its initial value, the mean and variance of its growth rate. The probability distribution of guarantee payments and the expected guarantee payment can be generated by taking a large sample of outcomes for the random variable and calculating the guarantee payment in each case. The value of the government guarantee will be the discounted present value of expected risk-adjusted guarantee payments over the life of the project guarantee. On the other hand, for Black-Scholes options pricing formula guarantees are valued like financial options. Such valuation methodology is consistent in the sense that that a guarantee provides the beneficiary with the option to make a claim against the government if any contract specific event occurs during the contract period.

The Black-Scholes formula produces a precise valuation but can only be used for fairly simple guarantees.

Whereas, Monte Carlo simulation analysis can be applied to more complex guarantees, but the result is only an approximation.

Development and maintaining a PPP contingent liability fund preferable with treasury department or central bank is a good way forward. Provisions could be included in the PPP agreement for private sector's contribution in the PPP contingent liability fund. For example, for a road PPP, if toll traffic exceeds the expected traffic by more than a certain percentage (or waterfall traffic) the private sector may need to share a certain percent of the increased toll revenue. The government can keep that amount for future contingent liability management for that specific project or other PPP projects. This fund can be managed by Central Bank, private party or financial institution to avoid spending for other purposes.

Indonesia has taken such initiatives through creating Indonesia Infrastructure Guarantee Fund, or IIGF. Under the Ministry of Finance. For initial development of such fund, assessment of the potential contingent risk exposure for the country arising from all the PPP contracts for a particular fiscal year and subsequent allocation of funds can be determined through using appropriate tools (Monte Carlo/Black-Scholes/other). Review of the annual usage of the fund can suggest for further allocation and management. However, independent PPP bodies like WAPPP could be used as a gate keeper to balance the risk intake by the government as opposed to allocation of contingent liability fund for each PPP project.

References:

- Ehrhardt (2004) Avoiding Customer and Taxpayer Bailouts in Private Infrastructure Projects: Policy toward Leverage, Risk Allocation, and Bankruptcy World Bank Policy Research Working Paper 3274, April 2004.
- Irwin (2007) Government Guarantees: Allocating and Valuing Risk in Privately Financed Infrastructure Projects, World
- European PPP Expertise Centre (EPEC) (2011) State Guarantees in PPPs: A Guide to Better Evaluation, Design, Implementation, and Management, European PPP Expertise Centre (EPEC)
- Rashed, M.A. and Alam, M.M. and Mohd Ekhwan, T. 2011. Considerable Issues for Sustainable Public-Private Partnership (PPP) Project, Res Manageria 2(4): 57-65. Online
- Kim, Kim, Shin, and Lee (2011) Public-Private Partnership Infrastructure Projects: Case Studies from the Republic of Korea Volume 1: Institutional Arrangements and Performance Asian Development Bank;
- Irwin and Mokdad (2010) Managing Contingent Liabilities in Public-Private Partnerships: Practice in Australia, Chile, and South Africa, World Bank / PPIAF



WAPPP MAGAZINE

THE WORLD'S PPP PERIODICAL

SPRING
2024

NEVER MISS AN ISSUE!

Sign up to the WAPPP News

Catch the freshest features in PPPs

Read anytime, anywhere

VISIT OUR WEBSITE

WWW.WAPPP.ORG

 [@wapppgeneva](https://twitter.com/wapppgeneva)

 [WAPPPP | World Association of PPP Units & Professionals](https://www.linkedin.com/company/wappp/)


WAPPP