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GUIDANCE NOTE

# Municipal Public-Private Partnership Framework

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# Preface

This Guidance Note is designed to support municipal governments and staff; it is written with their perspective in mind. Though it is written from a government perspective, it is also useful for decision makers and practitioners across a range of municipal infrastructure sectors and services.

The term 'municipal' is used in the Guidance Note to cover the many forms of local government public bodies serving local communities under different administrative, legislative, and constitutional systems around the world. The Guidance Note focuses on the common and unique features of public-private partnerships (PPPs) for municipal authorities, which in turn need to be applied according to specific local frameworks and procedures.

The Guidance Note proposes a 'light touch' process, to provide enough control for the municipality, without burdening the municipality or the project with significant bureaucratic processes.

The Guidance Note provides a simple summary of the issues. A detailed discussion of key issues is provided in 20 modules to allow the reader to access more information on specific topics as and when needed. The Executive Summary provides a summary of the Guidance Note. Finally, project summaries (maximum of two pages each) describe municipal PPP projects with innovative solutions for some of the key challenges facing municipalities.

For further information on municipal PPP, see the following:

- Amirtahmasebi, Rana, Mariana Orloff, Sameh Wahba, and Andrew Altman. *Regenerating Urban Land: A Practitioner's Guide to Leveraging Private Investment*. 2016. Urban Development Series. Washington, DC: World Bank. doi: 10.1596/978-1-4648-0473-1".
- World Bank. n.d. "Public-Private Partnerships Legal Resource Center." PPPLRC. Accessed July 19, 2019. <https://ppp.worldbank.org/public-private-partnership/>. This includes links to national municipal PPP programs in South Africa, the Philippines, Canada, and India.
- World Bank. n.d."PPP Reference Guide 3.0". PPP

Knowledge Lab . Accessed July 19, 2019. <https://library.pppknowledgelab.org/documents/4699>.

- Ahmad, Aijaz and Shyamala Shukla. 2014. *A Preliminary Review of Trends in Small-Scale Public-Private Partnership Projects (English)*. Washington, DC: World Bank Group. <http://documents.worldbank.org/curated/en/658281468128125129/A-preliminary-review-of-trends-in-small-scale-public-private-partnership-projects>.
- Asian Development Bank. 2017. "Cities Development Initiative for Asia". <https://cdia.asia>.
- Delmon, Jeffrey. 2017. *Public-Private Partnership Projects in Infrastructure: An Essential Guide for Policy Makers*. Second Edition. New York: Cambridge University Press.
- Delmon, Jeffrey. 2016. *Private Sector Investment in Infrastructure: Project Finance, PPP Projects and PPP Frameworks*. Third Edition. Wolters Kluwer.

The municipal PPP framework can be found at <https://www.thegpsc.org/knowledge-products/municipal-finance-and-ppp> and <https://ppp.worldbank.org/municipalppp>

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# Overview

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Introduction

What are Municipal PPPs?

Why PPPs?

# 1.0 Overview

## 1.1 Introduction

For the first time in history, more than half the world's population lives in cities, with 90 percent of urban growth taking place in the developing world. This high rate of urban growth has put pressure on cities in various ways.<sup>1</sup> Rapid urbanization is swelling municipal populations globally, putting pressure on an often old and insufficient infrastructure. Municipal budgets cannot keep pace with investment needs. As devolution strategies evolve, municipalities are increasingly responsible for the funding and provision of public services but often in constrained and uncertain budget environments. Municipalities have several tools available to them to deliver infrastructure services in a more efficient and fiscally effective manner, including long-term debt issuances (loans and bonds), asset sale or lease, and partnering with private investors.<sup>2</sup>

The relative pros and cons of each should be considered, in particular, through the lens of efficient service delivery, public investment management,<sup>3</sup> fiscal risk management,<sup>4</sup> and capital planning.<sup>5</sup> These tools provide a link between the municipality's strategic vision, its urban land use plan, its annual budget, and its fiscal position; they identify anticipated public infrastructure and investment projects, as well as a financing approach.

Public-private partnerships (PPPs) create a long-term partnership between municipalities and the private sector, under the premise that the private sector can do some things better than the public sector, in particular around innovation, service delivery, commercial orientation, and the drive for efficiency. In some cases, a municipality can simply hire a private entity to provide a service or deliver a product, for example, under a contract for sale or a construction contract. But for many services, the best way for a project to mobilize the combined strength of the municipality and of the private sector is a PPP, where both parties share critical risks and liabilities to align interests and coordinate efforts.

If they are well designed and managed, PPPs can deliver quality, reliable, and cost-efficient infrastructure. By mobilizing private expertise

and human and financial resources, PPPs can accelerate the construction of infrastructure, improve the efficiency of public services, and foster innovative solutions that offer a better response to user needs than would poorly functioning public service provision.

A growing number of local governments are turning to PPPs for municipal services, solid waste management, recycling, water and sanitation, energy-efficient street lighting, primary health care, local transport terminals, public markets, parking facilities, parks, affordable housing, municipal facilities and 'Smart City' applications. Even the most efficient and functional municipalities such as Singapore<sup>6</sup> and Hong Kong, SAR China, use PPP to achieve specific goals. However, the experience of PPPs at local levels and with smaller municipal projects has received less attention than larger, national PPPs.

To deliver infrastructure well, a PPP must be properly prepared, well structured, and carefully implemented, as appropriate to the municipality's context. But this preparation can be costly and time-consuming, in particular for small projects without economies of scale. This Guidance Note provides municipalities with a rigorous procedural framework and a set of practical tools to enable them to identify promising projects, where PPPs can deliver benefits, to prepare and implement those projects well, all on a programmatic basis to reduce costs and improve efficiency.

<sup>1</sup> Amirtahmasebi, Rana, Mariana Orloff, Sameh Wahba, and Andrew Altman. *Regenerating Urban Land: A Practitioner's Guide to Leveraging Private Investment*. 2016. Urban Development Series. Washington, DC: World Bank. doi: 10.1596/978-1-4648-0473-1".

<sup>2</sup> As discussed, these tools may be subject to restrictions or approvals, for example, from central government authorities.

<sup>3</sup> For further discussion, see [www.pefa.org](http://www.pefa.org) and International Monetary Fund's Public Investment Management Assessment tool (2018).

<sup>4</sup> See Irwin, Timothy C., Samah Mazraani, and Sandeep Saxena. 2018. *How to Control the Fiscal Costs of Public-Private Partnerships*. Washington DC: International Monetary Fund.

<sup>5</sup> For instance, the Government of South Africa established guidelines on capital planning that provide advice to departments on how to appraise capital projects and proposals that will be submitted to the National Treasury for evaluation and funding consideration (National Treasury of Republic of South Africa 2017).

## Tool

- **Public-Private-Partnership Legal Resource Center**

This World Bank managed web-site provides sample checklists, guidelines, laws, regulations, contracts and other resources for the development of PPP projects.  
<https://ppp.worldbank.org>

- **World Bank’s Private Participation in Infrastructure Database**

Provides information regarding more than 6,400 projects with private sector participation, in low- and middle-income countries. The database contains information on the contractual arrangements used, the funding and financing sources, and principal investors.  
<https://ppi.worldbank.org>

## 1.2 What Are Municipal PPPs?

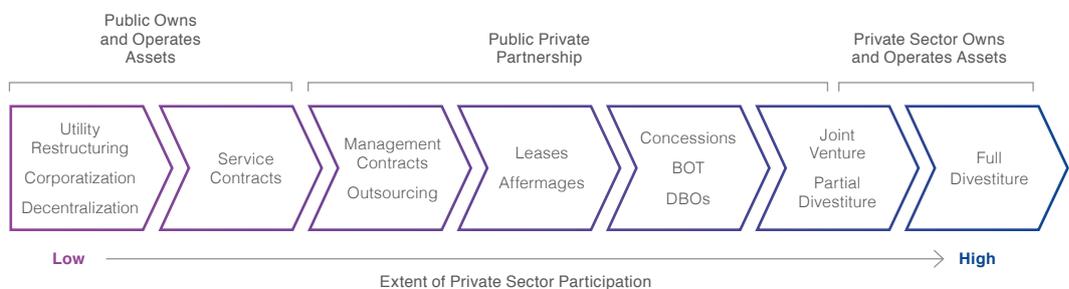
For these guidelines, PPP will include different approaches to private entities partnering with municipal authorities to deliver infrastructure services, with the private sector making a long-term commitment and taking significant project risks. A municipal PPP is a PPP where *the government entity is a municipal or local government body and where the public asset or service is a municipal asset or service.*

The structure of a PPP used for a specific project is flexible. Each approach to PPPs has different characteristics and priorities. Figure 1 shows the relationship between a few of the more common structures. Note that the terms of art associated with PPPs do not benefit from a common definition (see the glossary for some of these terms). Some PPP structures like concession or affermage have the added complexity of being defined at law in different jurisdictions. Therefore, care needs to be taken when using these terms as the person you speak to may have a different perception of the term and the relevant legal system may have its own definition.<sup>7</sup>

<sup>6</sup> See Public Private Partnerships in Ministry of Finance of Singapore. [https://www.ifaq.gov.sg/MOF/apps/fcd\\_faqlmai.aspx?qst=hRhkP9BzcBlmsx2TBbssMsxu7lqt6UJK70a1wAEVmydmntnl%2FAOIN2tQRU4ZLpZlgE5B%2FtUOWfkV%2F05tBMT2iM%2Bk%2FPAF8LWw2e3c8436dh5mseztq24wt31l088lqrJCij4xrmnlFmyuVknWuL5TCWfooeFMtulbxseSZ5g3uan%2F%2BmRWZ9Nq3Na2d%2FsavCclsiUctowKrG2RWWPJkOlvyo%2B3jD9eqwe54tVCXGafgQ%3D#TOPIC\\_176](https://www.ifaq.gov.sg/MOF/apps/fcd_faqlmai.aspx?qst=hRhkP9BzcBlmsx2TBbssMsxu7lqt6UJK70a1wAEVmydmntnl%2FAOIN2tQRU4ZLpZlgE5B%2FtUOWfkV%2F05tBMT2iM%2Bk%2FPAF8LWw2e3c8436dh5mseztq24wt31l088lqrJCij4xrmnlFmyuVknWuL5TCWfooeFMtulbxseSZ5g3uan%2F%2BmRWZ9Nq3Na2d%2FsavCclsiUctowKrG2RWWPJkOlvyo%2B3jD9eqwe54tVCXGafgQ%3D#TOPIC_176).

<sup>7</sup> For further discussion of these terms, their usage, and meaning, see Delmon, Jeffrey. "Understanding options for public-private partnerships in infrastructure : sorting out the forest from the trees : BOT, DBFO, DCMF, concession, lease . . . (English)". Policy Research working paper no. WPS 5173. Washington, DC: World Bank, 2010. <http://documents.worldbank.org/curated/en/999661468323693635/Understanding-options-for-public-private-partnerships-in-infrastructure-sorting-out-the-forest-from-the-trees-BOT-DBFO-DCMF-concession-lease>.

**Figure 1: Common Structures for Public-Private Service Arrangements**



Source: PPP Legal Resource Center, World Bank.

A PPP combines the strengths of the municipality with its private sector partner (PSP). Just as municipalities differ in their relative capacity and sophistication, so too do private entities. Any partnership is only as good as the partners themselves and their commitment to the partnership.<sup>8</sup>

- The municipality will want to examine its own context first, to improve its institutions, regulations, and capacity, to become the best partner it can be, given time and resource constraints.
- Well-implemented, open, competitive procurement will help the municipality select the best available private investor on the best terms.
- A PPP must be carefully prepared to put the municipality in a strong position when negotiating with a private partner.
- The municipality should learn from and apply global lessons learned.<sup>9</sup>

<sup>8</sup> See this blog series comparing PPPs to marriage, and the importance of the partnership in the World Bank's Infrastructure and Public-Private Partnerships blog, <https://blogs.worldbank.org/ppps/what-do-mothers-law-and-national-ppp-structures-have-common#comments>.

The exact definition of PPP can vary significantly between different countries. Where a PPP policy or legal framework is in place, users should take note of exactly how a PPP is defined by law. This is important since the definition of PPP often determines responsibilities, requirements, procedures, stakeholder expectations, and so on when PPP projects are prepared and implemented. Another key driver of the PPP structure to be adopted is the allocation of risks associated with a project among the parties to the PPP. Infrastructure projects are long-term undertakings, during which any number of events might occur that could adversely affect the project. These risks range from catastrophic weather events and changes in law that affect the project to delays and cost overruns during construction. (See Module 3: Sample Project Concept Note for a more thorough discussion of project risks.)

## Case Example

### The Dehradun Interstate Bus Terminal (Uttarakhand, India)



The Dehradun Interstate Bus Terminal (ISBT) was developed by the local development authority on a PPP basis. The PSP was responsible for development of a modern bus terminal, catering to long distance routes, with a capacity to accommodate 750 buses per day and operate the facility for 20 years. The concessionaire had the right to develop a commercial complex within the terminal complex and earn rents from the commercial space for the contract tenure of 20 years.

The sources of revenues for the concessionaire included the rent from the commercial complex, terminal fee charged to the bus operators, advertising in the terminal complex, and parking charges for the vehicles in the complex. The successful bidder committed to share an annual premium of INR 8.1 million (escalated annually at the inflation rate). The local development authority leveraged private investment for a public facility and unlocked value from commercial utilization.

Source: Compendium on Public Private Partnerships in Urban Infrastructure Case Studies, Ministry of Urban Development-Government of India and Confederation of Indian Industry (CII).

Photo Credit: ArmouredCyborg ([https://commons.wikimedia.org/wiki/File:UTC\\_bus.jpg](https://commons.wikimedia.org/wiki/File:UTC_bus.jpg)), <https://creativecommons.org/licenses/by-sa/4.0/legalcode>

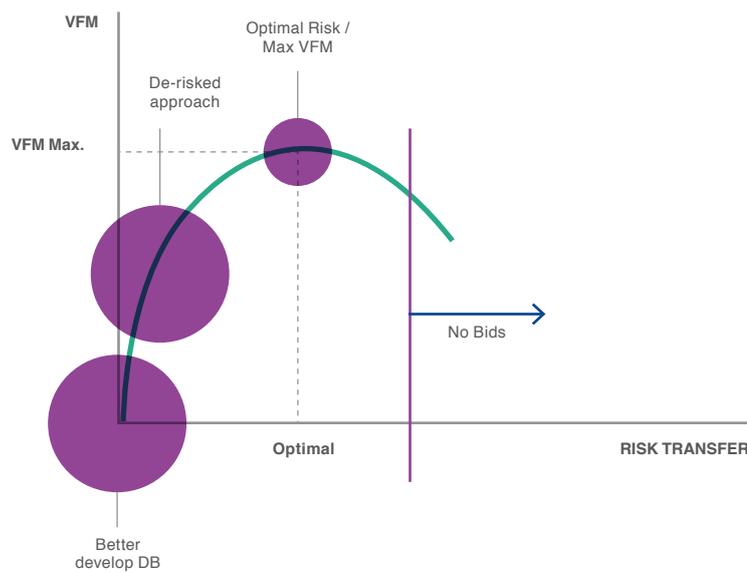
*See Project Summary No. 8*

While the kind and consequence of the risks arising from a project will vary, how the risks are allocated among the parties has significant implications for the success of a PPP. Risk allocation affects the ability to attract private investment, the quality of competition among bidders, and the cost of capital. A sound understanding of the risks inherent to infrastructure projects, risk allocation principles and measures, the profile of likely bidders and their perceptions of key risks, and the available risk mitigation instruments is essential when pursuing a PPP.

In general, the more risk is borne by the private partner, the more control the private sector will need to manage those risks. Thus, referring to Figure 1, as the 'Extent of Private Sector Participation' increases from low to high, so too does the amount of risk transferred to the private partner.

The private partner will need to be compensated for risk borne. The more the risk assumed by the private partner, the higher the cost of capital.<sup>10</sup> Thus, shifting too much risk to the private partner can reduce a project's value for money (VFM) and, in the extreme, lead to failure during procurement where potential investors or their financiers are not willing to bear the levels of risk required. Even if bids are received and the project awarded, the level of risk may be too much for the private sector to manage, which can lead to project failure. The general impact of risk sharing on VFM is depicted in Figure 2.

**Figure 2: Relationship between Risk Transfer and VFM**



Source: Public-Private Partnerships Certification Program, PPP Program Certification Guide.  
 Note: DB = Design build.

The risk premium charged by investors will reflect the context of the municipality, for example, the reputation of the municipality for interfering in commercial activities and for paying its bills on time, the perceived creditworthiness of the municipality and the government, potential macroeconomic and political volatility, instability in inflation and foreign exchange rates, concerns over access to impartial and reliable mechanisms for dispute resolution, the health and depth of the local financial system, transparency and accountability, or any combination of these and other factors. Each potential investor will have a different perception of risk and will value risks slightly differently, for

example, foreign investors will be more sensitive to country risk while local investors may have less experience with PPP and therefore price commercial and financial risks differently.

It is important for municipalities to begin identifying key risks and considering their potential allocation as early as possible; see for example the provisional risk matrix included as part of the Sample Project Concept Note in Module 3. But, clearly, it is not possible to identify every risk in advance; the project structure will need to include mechanisms that provide flexible and responsive means for adapting to the unexpected.

<sup>9</sup> World Bank. n.d. "Public-Private Partnerships Legal Resource Center." PPPLRC. Accessed July 19, 2019. <https://ppp.worldbank.org/public-private-partnership/>; Delmon, Jeffrey. 2017. *Public-Private Partnership Projects in Infrastructure: An Essential Guide for Policy Makers*. Second Edition. New York: Cambridge University Press; Delmon, Jeffrey. 2016. *Private Sector Investment in Infrastructure: Project Finance, PPP Projects and PPP Frameworks*. Third Edition. Wolters Kluwer.

<sup>10</sup> This is commonly referred to as a 'risk premium'



## Note

### Risk Sharing in PPPs<sup>11</sup>

- Risk transfer and risk sharing are essential elements of a PPP—an appropriate allocation of risks between the parties is key to a successful PPP project.
- If the municipality retains too much risk, the project loses value but transferring too much risk to the private partner can unduly increase the cost of capital and even result in project failure.
- Practitioners need to understand investors' perceived project and country risks, as well as basic risk sharing principles and risk mitigation strategies, when pursuing a PPP.

<sup>11</sup> For more information on risk allocation in PPPs: OECD. 2017. Selected Good Practices for Risk Allocation and Mitigation in Infrastructure in APEC Economies. PARIS: OECD. Accessed July 19, 2019. <http://www.oecd.org/daf/fin/private-pensions/Selected-Good-Practices-for-Risk-allocation-and-Mitigation-in-Infrastructure-in-APEC-Economies.pdf>; World Bank. 2017c. Guidance on PPP Contractual Provisions, 2017 Edition. Washington D.C.: World Bank; Global Infrastructure Hub. 2016f. Allocating Risks in Public-Private Partnership Contracts. <https://ppp-risk.github.io/content/uploads/2016/07/1606-10-GIHub-Allocating-Risks-in-PPP-Contracts-2016-Edition.pdf>; Irwin, Timothy C. 2007. *Government guarantees - allocating and valuing risk in privately financed infrastructure projects*. Washington, DC: World Bank. <http://documents.worldbank.org/curated/en/287611468339900724/Government-guarantees-allocating-and-valuing-risk-in-privately-financed-infrastructure-projects>.

<sup>12</sup> For further discussion, see: [www.pefa.org](http://www.pefa.org) and International Monetary Fund's Public Investment Management Assessment tool (2018).

<sup>13</sup> See Irwin, Timothy C., Samah Mazraani, and Sandeep Saxena. 2018. *How to Control the Fiscal Costs of Public-*

### 1.3 Why PPPs?

Municipalities have several tools available to them to help deliver infrastructure services in a more efficient and fiscally effective manner, including, long-term debt issuances (loans and bonds), asset sale or lease, and partnering with private investors. The relative pros and cons of each should be considered, in particular through the lens of efficient service delivery, public investment management,<sup>12</sup> fiscal risk management,<sup>13</sup> and capital planning.<sup>14</sup>

PPPs seek to help municipalities deliver better and more reliable quality of service at a better cost to the municipality when compared to what can be achieved by public sector delivery alone. The PSP has different incentives and accountability for managing design, procurement, construction, inspection, operation, maintenance, and ultimately delivery of services, which in the right circumstances and under a properly structured and procured PPP contract can achieve improved performance and services as compared to publicly managed services.

When a PPP project is well structured, it motivates the private operator to apply its full capabilities to deliver infrastructure services as required by the contract. The private sector's capacity differs fundamentally from the public sector, and it is these differences that provide new opportunities to deliver services for the municipality more efficiently. Some examples are the following:

- To remain competitive, and to continue improving profitability, private entities often deliver more innovative approaches to problem solving, managing costs, and delays more effectively than would a public entity.
- Public entities deliver against performance standards to satisfy political or legal requirements, but the private sector often earns

more profit if it meets or exceeds performance requirements. It is more immediately penalized by its customers if its performance falls short of expectations. A PPP can use output and outcome-based performance requirements to achieve even better service delivery. The payment and penalty regime will reinforce this service orientation. This focus on the customer can help public services achieve better levels of operation, and a happier electorate.

- Maintenance is a perennial challenge for infrastructure, as the impact of poor maintenance may not be perceived for years (during future political cycles). Where budgets are insufficient for requirements, public entities often find it preferable to reduce maintenance expenditure than any other financial obligation they may have. The impact of poor maintenance on profitability is more direct, including specific penalties imposed on the PSP for such failure. Therefore, private entities generally do a better job maintaining equipment, facilities, and assets to ensure they work properly, and managing unscheduled outages effectively.
- Through a PPP, the municipality can have a better understanding of the financial obligations and liabilities associated with maintenance of the project over time. The PPP does not, however, resolve the budget shortfall for maintenance; it only ensures that the budget constraints do not undermine proper asset maintenance.
- The private sector is generally focused on profitability, which includes a focus on revenues. They tend to be better at making sure that any end user tariffs or fees are collected when due and that the project generates any commercial revenues available, such as retail rents from vendors at municipal market places, transport terminals, and other municipal facilities. Billing, collection, and profitability generally improve, often significantly, under private management.

## Case Example

### Redevelopment of Library and Fire Station in Washington, D.C., United States



Washington, D.C. (the District) needed to refurbish the West End Library and West End Fire Station, and develop additional, centrally located low cost housing. The library and fire station were almost functionally obsolete; their renovations would be extremely costly. The District was able to acquire new, modern facilities while also providing affordable housing by leveraging the air rights above the library and fire station. The high-end condominiums provided additional tax revenue to the District, while the affordable housing element added much-needed affordable housing to the city.

The District awarded, through a competitive bid process, a concession to EastBanc WDC Partners. The proposal included US\$149 million of investment in a new fire station and library, approximately 150 condominiums, 52 low-cost rental units, and retail space. Financial assistance was provided by the District to build affordable units.

Source: [www.dmped.dc.gov](http://www.dmped.dc.gov); Committee on Government Operations and the Environment. Committee Report on West End Parcels Surplus Declaration and Approval Resolution. All Council Members. Washington, DC: Council of the District of Columbia, 2010. Accessed June 13, 2019; <http://dcclims1.dccouncil.us/images/00001/20100910152405.pdf>; Office of the Deputy Mayor for Planning and Economic Development. West End Executed Land Disposition Agreement. DMPED. Washington, DC: DMPED, 2015. Accessed June 13, 2019.

Photo Credit: ParentingPatch ([https://commons.wikimedia.org/wiki/File:Shelves\\_of\\_Language\\_Books\\_in\\_Library.JPG](https://commons.wikimedia.org/wiki/File:Shelves_of_Language_Books_in_Library.JPG)), „Shelves of Language Books in Library“, <https://creativecommons.org/licenses/by-sa/3.0/legalcode> (left); Tony Hisgett from Birmingham, UK ([https://commons.wikimedia.org/wiki/File:DC\\_Fire\\_and\\_EMS\\_unit\\_\(27610832282\).jpg](https://commons.wikimedia.org/wiki/File:DC_Fire_and_EMS_unit_(27610832282).jpg)), „DC Fire and EMS unit (27610832282)“, <https://creativecommons.org/licenses/by/2.0/legalcode> (right).

*See Project Summary No. 73*

*Private Partnerships.*  
Washington DC:  
International  
Monetary Fund.

<sup>14</sup> For instance, the Government of South Africa established guidelines on capital planning that provide advice to departments on how to appraise capital projects and proposals that will be submitted to the National Treasury for evaluation and funding consideration. (National Treasury of Republic of South Africa 2017).

- Financiers of infrastructure tend to treat public and private borrowers as distinct markets; therefore, private partnerships make available new sources of capital for infrastructure. Private investors will bring more equity investment, to capitalize the project and provide a cushion to lenders. Private partnerships therefore allow infrastructure to access significant new sources of financing.
- Private financing often involves the experienced monitoring and risk management expertise of lenders and investors. Private investors need clear and predictable revenues to repay financing. Where private financiers rely on project revenues, they will spend more effort performing

- due diligence on the project and ensuring that the project revenues are robust.
- Even more than with publicly procured infrastructure, the use of transparent and open competition is key to obtaining VFM from PPP. It can also stimulate new local private sector market development, and open investment and contracting opportunities for the private sector, including small and medium enterprises (SMEs) and local entrepreneurs. New entrants should be welcomed, in particular, from local businesses where they have the skills and financial capacity. Open competition helps foster new entrants.

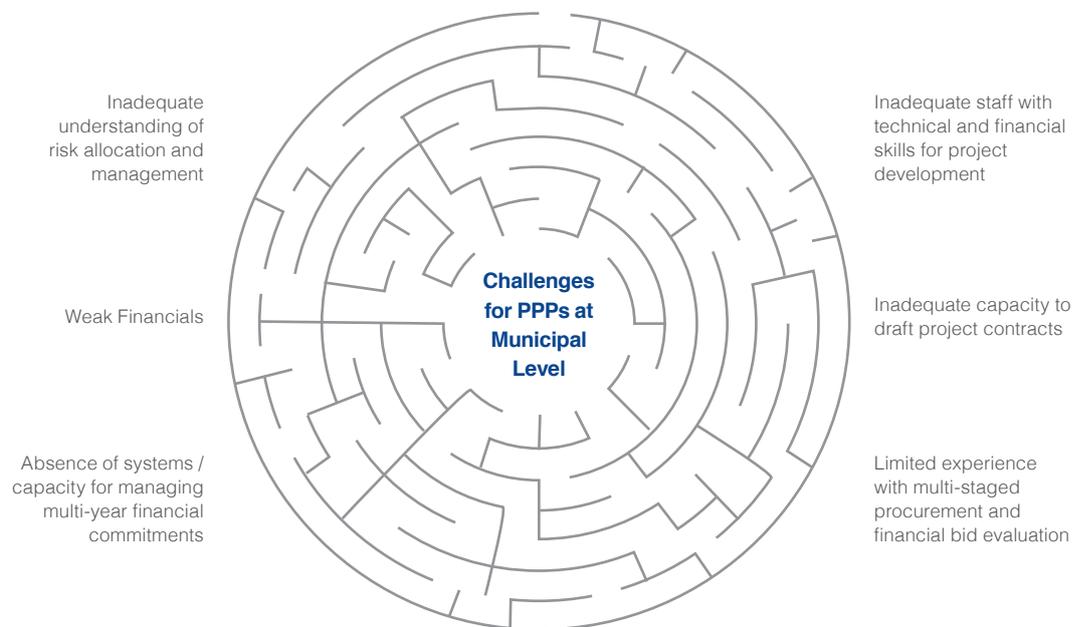
However, implementing PPPs also presents unique challenges for the municipality:

- PPP projects require more careful preparation than public projects, to select only those projects likely to be attractive to private investors, to structure the relationship between public and private. This means that PPP preparation requires more money and more time compared to preparing public projects; this may also mean delayed project execution, which may be politically challenging. Publicly financed projects should invest in an equally robust preparation process, but generally do not.
- PPPs are usually long-term contracts that commit a municipality to future liabilities which the municipality must clearly understand, analyze, value, and manage.<sup>15</sup> They also often include guarantees of liabilities that must be analyzed and valued over time. It is important to consider such fiscal liabilities, both real and contingent, and not use PPP to hide such liabilities. However, PPP highlights these liabilities, while public financing is generally even more opaque, as contingencies are budgeted as and when they arise.

- The project must be properly structured to ensure that the improved efficiency of private sector risk management more than offsets any additional costs of private involvement, which requires investment of time and money to use best quality advice and support.
- The municipality must perform contract management and performance monitoring functions throughout the entire duration of the PPP contract, which requires allocation of staff and budgeting during the life of the project. It is often tempting to declare success after signing the contract, but at that moment the work has just begun.

The municipality remains fundamentally responsible to ensure that essential municipal infrastructure and local services are available to end-users in the local economy. When PPPs are successful, they are 'win-win' arrangements with both partners benefiting; the key to getting there is clear and detailed preparation.

**Figure 3: Institutional Limitations of Municipalities in Implementing PPPs**



<sup>15</sup> For further information on how to assess potential fiscal costs and risks arising from a PPP project, see World Bank and International Monetary Fund. 2016. "Public-Private Partnership Fiscal Risk Assessment Model". <http://www.worldbank.org/en/topic/publicprivatepartnerships/brief/ppp-tools#T2>.

<sup>16</sup> World Bank. 2013. *Value-for-Money Analysis Practices and Challenges: How Governments Choose When to Use PPP to Deliver Public Infrastructure and Services*. <http://documents.worldbank.org/curated/en/724231468331050325/pdf/840800WP0Box380ey0Analysis00PUBLIC0.pdf>; and the reference to Assessing Value for Money in the World Bank's PPP certification program <https://ppp-certification.com/ppp-certification-guide/162-assessing-value-money>.

<sup>17</sup> See Irwin, Timothy C, Samah Mazraani, and Sandeep Saxena. 2018. *How to Control the Fiscal Costs of Public-Private Partnerships*. Washington DC: International Monetary Fund.

When considering whether to implement a project as a PPP, the municipality must consider a number of criteria associated with the project and its context, that is, whether the project represents VFM. The definition of VFM will differ by municipality, depending on priorities and needs. VFM is not a strict, mathematical assessment, but rather a set of criteria to help understand whether the municipality gets a better deal from a PPP solution than other uses of public resources and opportunities.<sup>16</sup>

PPPs are part of a fundamental, global shift in the role of the municipal government—from being the direct provider of all local public services to becoming the *planner, facilitator, contract manager, and/or regulator*—who ensures that all key local services are available, reliable, meet key quality standards, and are affordable for users and the local economy.

This paradigm shift, along with the unique challenges that PPPs present, can in turn have consequences on the size, structure, nature of work, and skill requirements of the municipality, and expose its inherent limitations as illustrated in Figure 3.

## Remark

### Mythbusters

*PPPs are not 'free money'.* PPP always includes a source of revenue sufficient to cover all operating costs and bank loans, and a reasonable return on the investor's equity is repaid. This revenue will come from some combination of payments from (a) users of the service, (b) commercial revenues generated by the project, and (c) public sector. Understanding who will pay, and how much they must pay, is an essential step for the municipality before undertaking a PPP. Therefore, municipalities must always account for the fiscal risks arising from PPP.<sup>17</sup>

*PPPs are not 'easy'.* PPP projects require time and money to prepare well. This investment will reap benefits in terms of likelihood of success of the project, lower cost of private investment due to reduced project risk and attracting better, more effective private partners.

*PPPs are not anti-labor.* A PPP will provide more opportunities, better training, and a performance-based employment regime. For those with vested interests in avoiding change, a PPP can be designed to provide a special regime for these staff and their representatives.

*PPP is not privatization.* The project assets either remain under government ownership or will revert to government ownership at the end of the project period.





# Making it Work

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Municipal Context

Private Context

PPP Project Cycle

Funding PPP

Success Factors

## 2.0

# Making Municipal Public-Private Partnerships Work

This section explains how to implement municipal PPPs, and the key challenges in their implementation.

### 2.1 Municipal Context

Before considering the potential to implement a PPP, it is important to first clearly understand the context of the municipality, the legal framework that determines authority and responsibility related to PPPs, the capacity of its institutions, the teams available to it, and the funding it provides for project development and implementation.

Module 1: Municipal Readiness provides a framework to assess a municipality's readiness to implement PPP. This assessment begins with the municipality's systems for planning and budgeting, which impact the ability to identify and select projects with good PPP potential as well as the municipality's capacity to meet its obligations under a PPP agreement. The municipality needs sufficient internal resources, in terms of qualified staff and available funds, to oversee a PPP project on a day-to-day basis, from selection and development through procurement and implementation (see Section 2.3 on the PPP Project Cycle). This may involve establishing a standing PPP unit within the municipal administration and/or assigning staff to manage individual projects on an ad hoc basis.

The municipality also needs to have a clear understanding of the applicable legal framework to make sure it has the necessary authority to contract with a private partner for delivery of a PPP project and that all relevant legal requirements are fulfilled. Key legal issues include the municipality's mandate for infrastructure service delivery (the municipality cannot give a PSP rights and responsibilities that it does not itself have), capacity to enter into long-term contracts that may extend past the time in office of the current administration, and rules or restrictions on private participation, including those related to charging user fees. It is likely that a municipal PPP will involve various provincial or national government stakeholders and possibly approvals. These will need to be mapped out as part of

project preparation, and in the PPP agreement to ensure that they are managed during project implementation.

Even well-staffed municipalities will likely need to hire outside advisers to complete feasibility studies and other technical, project preparatory work. Accordingly, the municipality needs to consider its ability to procure qualified, project-level advisory services. This may include support from regional or national PPP units or similar institutions, project development facilities, and regional or international development partners, all of which may offer technical assistance or funding for PPPs. These options should be considered in addition to, or for assistance with, the municipality directly hiring outside advisers on its own.

Finally, investors will be concerned to understand the financial stability of the municipality—whether it can deliver on its obligations under the PPP agreement. To this end, the municipality needs to consider the extent to which it can demonstrate its creditworthiness. This is not limited to the municipality's history of timely debt repayment, though a good record in this regard is an asset, but also encompasses the municipality's credibility as a contractual partner. Even where a PPP project does not depend on payments from the municipality, the private partner needs to be confident that the municipality will honor its commitments under the PPP agreement and is prepared to handle any contingent liabilities that might arise, for example, making payments due in the case of early contract termination.

## Tool

- **City Creditworthiness Self-Assessment & Planning Tool**

A World Bank initiative to help local and municipal governments to access financing.

<http://www.citycred.org/?locale=en>

## Remark

### Examples of Constitutional, Legal, and Regulatory Frameworks for Municipalities

- In India, the legal framework for municipalities is defined by the federal constitution of India, which defines the devolution of powers to municipal governments. The constitution mandates each of the state governments to legislate on functions and activities of municipal governments. As a result, every state has its own municipal laws, differing from others in specific areas. PPPs in India are not governed by a single legal framework either at a country or state level. Most states have, however, developed a similar guidance and administrative framework to support municipal PPPs.
- In the Philippines, the legal framework for municipalities is defined both by the 1987 Philippine Constitution and the national law on local governments. The national law on local governments defines the function and activities of local governments (that is, provinces, cities, and municipalities). While the constitution and the national law grant local governments the autonomy to enact their own laws, such local legislation must not contradict existing national laws and regulations. In the case of PPPs, the national BOT Law governs PPPs implemented at the national and local level, although local governments are allowed to issue implementing rules to complement the national law.
- The municipal PPP framework in South Africa is equally robust, based on the 1994 constitution's three independent 'spheres' of government: national, provincial, and local. Local governments are free to borrow funds on their own and to enter into long-term PPP contracts, without guarantees of these new local liabilities by the National Treasury. The Constitution and the Public Financial Management Act are complemented by PPP Guidance Notes developed by South Africa's National PPP Unit. As such, while municipalities are empowered to undertake PPP projects, such activities must comply with the standards and requirements of national-level laws and policies.

## 2.2 Private Context

When a PSP considers a municipal PPP, it will perform due diligence and test whether the risks and investment potential merit investment of time and money for due diligence. The following sets out a few of these questions to help the municipality understand the kind of issues that are important for the PSP and the due diligence it will perform. The feasibility study and the PPP agreement should

address these issues. Municipalities should review their projects from the perspective of the PSP to understand better the PSP perspective and priorities in advance of the bidding process, and to prepare for the kind of questions/concerns that the PSP will raise. These issues are discussed in more detail in Module 19: Private Sector Context.

- *Is this project important?* PSPs know that projects that are important to the municipality and to the people have a better chance of succeeding. Projects that are only important to a particular municipal official or political party are probably less likely to succeed. Investors will want to see an economic assessment, such as a cost-benefit analysis, to evidence the importance of the project (and therefore the likelihood of its resilience to change).
- *How much preparation has been done?* If the municipality has prepared the project well (with appropriate studies), the investor will be reassured that the project is more likely to be viable and is a priority for the municipality.
- *Is demand real, or just hopeful?* There is a tendency for a municipality to suffer from optimism bias and assume a much higher level of demand for a project than is realistic. Studies of traffic forecasts and similar demand forecasts show a consistent overestimation of demand. Potential investors will discount demand forecast by the municipality (even if provided by an expert) to protect themselves from the impact of this bias.
- *Are revenues real or just hopeful?* Just as demand forecasts are often optimistic, so too are revenue forecasts. The potential investor will assess carefully revenue forecasts, question all assumptions, and discount forecasts provided by the municipality.
- *What can cause costs to go up or revenues to go down? How likely are those things? How much impact would they have?* Once costs, revenues, and demand are forecast, the potential investor will assess what might happen to cause costs to go up, revenues to go down or otherwise undermine financial viability. The investors will assess the likelihood of such events and potential impact. They will apply sensitivity analysis to the project financials to assess the impact on the project if the event or series of events occurs. One example might be a national regulator, with the power to set tariffs and impose performance standards. An experienced, independent regulator will understand the financial implications of such decisions.
- *How will foreign exchange risk be managed?* Revenues from municipal services are generally denominated in local currency. Financing available for PPP is more often foreign sourced. In many cases, foreign financing brings longer tenors and lower interest rates. But, if the exchange rate between the local currency and the currency of financing changes, this may limit the ability of the project to repay debt. Local currency debt mitigates the foreign exchange risk, but is generally with shorter tenors, higher interest rates, and lower amounts available.
- *Will municipality fulfill its obligations? Does it usually do so?* The investor will feel vulnerable in the face of a municipality that has so much power over the project and its context. A municipality may not be creditworthy; it may not be sufficiently financially stable to fulfill its financial obligations. A municipality may decide not to comply with its obligations, may change rules or regulations, may impose new permits or licenses, or create other constraints, in particular in the event of a change in government or after an election. The PSP will have little power to resist such changes, even where they are fundamental to the success of the project. Potential investors will review the municipality's history of paying its bills on time, of respecting contracts, of using its power to deprive investors of assets or opportunities, and of the frequency and transparency of the regulatory and permitting authority wielded by the municipality.
- *Can the courts be trusted to be fair? To enforce arbitral or other awards?* Even if the project provides protection to the private investor, those protections are legal and contractual in nature. Local courts may not be perceived as trustworthy. In some countries, the courts are viewed as likely to take the side of the government over the private sector, or of local investors over foreign investors. Arbitration can be perceived as a more independent way to resolve disputes. Once the dispute is resolved, that award must be enforced. Local court decisions or local arbitration will need to be enforced based on local laws. International arbitration in many countries is enforced in accordance with international treaties, and is therefore preferred by most investors.

## 2.3 PPP Project Cycle

The full life cycle of a PPP consists of four phases: (a) selection, (b) development, (c) procurement and award, and (d) implementation. These phases are not necessarily linear, a project may move back and forth between these phases as needed to ensure that it is well prepared.

In the **Selection** phase, the municipality identifies and selects a project for development as a PPP. Projects that are more 'ready' and more attractive candidates for PPP will move on to the next phase. (See Module 2: Project Concept Assessment Tool.)

During the **Development** phase, the municipality undertakes a comprehensive feasibility study to assess the viability of the project: technical, economic, financial, fiscal, environmental, social, legal, risk allocation, and so on. The feasibility study

includes an option analysis and a recommended PPP structure. The municipality then decides whether to proceed to the procurement of the project. (See Module 4: Feasibility Study.)

During the **Procurement and Award** phase, the municipality conducts an open, competitive, procurement process to select a PSP for the realization of the project. (See Module 7: Procurement.)

During the **Implementation** phase, the project is constructed, the PSP begins operations, and services are delivered. The role of the municipality in this phase consists of contract management and the monitoring of the performance of the PSP. (See Module 12: Contract Management.)

## 2.4 Funding PPP

Municipal PPPs need a robust revenue stream to fund capital and operating expenses, including debt service and equity return. There are a few main sources of revenues for municipal projects:

- **User payments.** The PSP directly collects charges from the users of the infrastructure or service. The level of user charges allowed is generally defined in the PPP agreement and/or by the sector regulator. Charges must be affordable to all potential users, and demand for the services must be sufficient to ensure the anticipated revenues. Users may need to be disconnected for failure to pay, which may not be legal or practical for core services. Disconnecting poor users from water, solid waste or sewerage services can be unpopular and even dangerous. The user-pay model is typically used for metered water supply, local transit services, electricity distribution, parking facilities, primary collection of municipal solid waste, and similar services.
- **Land value.** The development of assets will often result in an increase in land values adjacent to the project site, for example, the construction of a new public market will result in an increase in the value of the land around the market significantly. The municipality has a number of methods available to capture part of this land value increase to help fund its investment. (See Module 16 for further discussion of land value capture.)



### Note

Land value capture is primarily an issue for the municipality. The PSP is unlikely to be involved or to bear any risk of land value capture implementation.

- Commercial revenues.** The project generates commercial revenues from part of, or in some way related to, the public infrastructure or service it delivers. The municipality can use the public assets or rights that it provides to the PSP as part of the project—for example, concession rights, land and access rights—to specifically enable the PSP to leverage more additional commercial revenues from commercial activities such as advertising, parking, office space, residential space, and retail facilities. For example, a PPP for provision of a municipal bus terminal could allow the PSP to build and rent out shops as part of the project, charge for advertising, charge for parking, and so on in addition to providing the well-organized bus terminal for the municipality.
- Municipal payments.** The PSP is paid a fee (an ‘availability payment’) by the municipality (or some other public source) to make specified infrastructure or services available for use. This approach is used where the municipality itself is the main user (for example, paying the private partner for providing a municipal building or facility), where the municipality is itself collecting charges from users (for example, where the municipality collects solid waste charges from households and pays the private partner for services), or where users cannot be charged (for example, where a municipality pays the PSP to provide street lighting). The municipality may prefer to retain responsibility for collecting charges, where placing collection risk on the PSP is not efficient or practical (for example, where people are less likely to pay charges to a private entity, where collection risk is too high for the PSP to manage or where it is illegal for the PSP to collect user charges). Some projects may receive additional support in the form of grants from national government and/or external donors or agencies and in the form of capital grants to reduce initial construction costs. The purpose of such support is usually to plug gaps in the projects’ finances, and/or to reduce the cost of services to users.

## Case Example

### Public Schools in Belo Horizonte (Minas Gerais, Brazil)



In the early 2010s, education became one of the top priorities of the Belo Horizonte Municipality, capital of the State of Minas Gerais. However, due to technical and financial constraints, the municipality had the capacity to provide the infrastructure and services needed to meet only 35 percent of the demand. The municipality decided to award, with the support of the International Finance Corporation, PPP contracts for construction, operation, maintenance, and management of 32 new preschools and 5 primary schools during a 20-year period, benefiting 18,000 children for total costs of US\$95 million.

The PPP was structured on an availability-based model, meaning that the private partner was paid a regular fee for each month that the schools were verified as being ‘available’ for use by the municipality. Importantly, this meant the private partner did not bear the risk or uncertainty of changes in the actual number of students that used each school facility.

The payment mechanism was designed based on a weighted average of 60 performance indicators that measure quality of service, users’ satisfactions, security, and timely delivery.

Source: International Finance Corporation. 2012. Public-Private Partnership Stories – Brazil: Belo Horizonte Schools. Washington, D.C: World Bank Group. Accessed November 27, 2019. [https://www.ifc.org/wps/wcm/connect/a80594c1-e030-4f2a-8d26-4cd03aa2cd29/PPPStories\\_Brazil\\_BeloHorizonteSchools.pdf?MOD=AJPERES&CVID=IH0ysFd](https://www.ifc.org/wps/wcm/connect/a80594c1-e030-4f2a-8d26-4cd03aa2cd29/PPPStories_Brazil_BeloHorizonteSchools.pdf?MOD=AJPERES&CVID=IH0ysFd)

Photo Credit: Photo in public domain published by Prefeitura de Belo Horizonte. <https://www.flickr.com/photos/portalpbh/5249699584/in/album-72157625444894549/>

*See Project Summary No. 90*

A municipal project should maximize sustainable revenues from all potential beneficiaries, and therefore the municipality should use the following hierarchy of revenue sources when designing a project:

*First*, PPP should maximize sustainable revenues from service beneficiaries. Those who receive a service, or a better service, should pay for it. Sustainable means that the project is affordable for users and the municipality and that the users are willing to pay proposed tariffs.

*Second*, PPP should capture part of the land value increase resulting from the infrastructure.<sup>18</sup> This can be achieved through taxation, property development levies, contributions, and a number of other mechanisms. (See Module 16: Harnessing Land Value Capture.)

*Third*, PPP should maximize sustainable commercial revenues. Infrastructure should be used to create additional economic opportunities and improve existing economic activities. When the government funds a new public market, stalls are rented at low cost, but the private land around the public market sees its rental rates soar—existing land owner

benefits are captured above, and the project can include scope to exploit some of these higher value services so that the public market capex can be cross-subsidized by these additional revenues. An affordable housing project can include higher priced residential and mixed-use facilities to attract more revenues (and create more opportunities for the residents of the affordable housing). A public parking structure can include office or residential space above it. (See Module 16: Harnessing Land Value Capture and Module 17: Capturing Commercial Value.)

*Finally*, only then should public money be used as project revenue or public guarantees to enhance project viability, and only where that public support represents VFM for the government, the community, and the economy.

The project will be vulnerable if the PSP makes too little or makes too much. The PPP agreement needs to address payment risk, demand risk, and sharing of superprofits (when the project performs significantly better than forecast at the time of bidding).

<sup>18</sup> Amirtahmasebi et al., 2016.



## Note

The risks associated with the mobilization of revenues, collection, and so on, will be allocated through the PPP agreement. For example, risks associated with land value capture is generally an issue for the municipality to manage.



## Tool

- **Module 16 (Harnessing Land Value Capture)** provides guidance on how a PPP project can leverage additional value from land value capture and Module 17 (Capturing Commercial Value) from additional commercial revenues.
- **City Resilience Program – Track 2: Capital Mobilization**  
This program from the Global Facility for Disaster Reduction and Recovery aims to help cities build capacity on how to raise capital for infrastructure projects and support transaction negotiations. <https://www.gfdrr.org/sites/default/files/publication/CapitalMobilizationToolkit.pdf> and <https://www.gfdrr.org/en/city-resilience-program/capital-mobilization>

 **Case Example****Modern Bus Terminal and Municipal Market in Danlí, Honduras**

The new Danlí-El Paraíso bus terminal and municipal market will include 418 commercial stalls, warehousing, meeting rooms, space for 34 buses, waiting rooms, and ticket stalls—an investment of approximately US\$4 million. The entire project was designed to be energy saving and easily accessible by people with physical limitations. The project resulted from an unsolicited proposal (*iniciativa privada*). The market stall spaces were transferred to the private party for the construction of the upgrades at a price agreed on in the transfer agreement.

The private company will sell the commercial space and bus terminal stalls to SMEs at a price preset by the municipality or rent them to those who are not able to purchase them. The public entity will operate and maintain the common areas.

Source: Coalianza. n.d. "Proyecto "Terminal de buses y plaza comercial municipal, Danlí – El Paraíso"". Accessed November 27, 2019. <http://app.sisocs.org/index.php?r=ciudadano/FichaTecnica&control=Contratacion&id=13>

Photo Credit: Jaetguz (<https://commons.wikimedia.org/wiki/File:AnilloPerifericoTegucigalpa.jpg>), „AnilloPerifericoTegucigalpa“, <https://creativecommons.org/licenses/by-sa/3.0/legalcode>

*See Project Summary No. 5*

 **Caution!**

A PPP contract or model cannot be simply copied 'off the shelf' and applied to a project. Care must be taken through good project preparation to develop a practical PPP structure that fits the needs of the project and its stakeholders.

## 2.5 Success Factors

The following are some of the key factors that are likely to make for a successful PPP. These questions will be answered at different stages of project selection and preparation, based on available data and the gradual development of the project strategy and structure.

- Is the project a good deal for the municipality—does it provide better services, VFM, economic growth, jobs, benefits to the community? Is there broad-based support and consensus among local, provincial, and national authorities for the project?
- Does the public believe that the project is a good deal for the community/users? Is the project information made transparent to the community? Has the community been engaged in project selection and development? Has the community 'bought-in' to the project?
- Is the municipality committed to the success of the project?
- Is PPP approach important for the municipality, for example, was PPP selected as a strategic method for implementation or was it chosen for lack of another way to get financing for the project?
- Has a thorough assessment been done of the project? Does the assessment identify any critical risks or concerns that have not been mitigated or resolved?
- Does the municipality have the capacity to prepare and implement the project? Is the municipality's project team well-staffed? Are the municipal institutions organized in a manner likely to make the project a success? Is the municipality well advised (does it have good advisers in place)?
- Are the project site and necessary rights of way available and free of encumbrances? If not, what is the time frame to do so and the likelihood of success?
- Is the private market interested in the project? Are there enough good, experienced potential bidders showing sufficient interest in the project to suggest that the tender process will be competitive?
- Is the project likely to earn a reasonable profit for the PSP? Are the revenues sufficiently certain, the costs manageable, and demand robust?
- Is the partnership solid—are risks shared in a reasonable manner, and the parties mutually incentivized to make the project a success.
- If the project is too good to be true (for the municipality or the PSP), then it is probably too good to be true.

- Are municipality and PSP liabilities affordable and manageable?
- Has the municipality allocated staff and resources sufficient to deliver a quality project?

There are also a series of common mistakes that the municipality or the PSP might make.

- The project might be selected based on political priorities, rather than economic or commercial. It might be a project that could not be financed in any other way and was allocated to PPP as a last resort. A poor selection process is likely to lead to failure.
- The municipality may succumb to time pressures that do not allow for careful selection, good preparation, or thorough market engagement. By trying to be too quick to take the project to market, the municipality will often undermine the entire project and ensure its failure.
- PPP is expensive to prepare. If the municipality does not set aside sufficient budget to prepare the project well, it is more likely to fail.
- PSPs tend to become overly competitive. A well-run tender process can be used to get the best possible bid and the best deal for the municipality. But an overly competitive process can result in an unrealistic bid and a project vulnerable to changing circumstances. More generally, private bidders make mistakes and may submit unrealistic bids. While the risk of an overly optimistic bid is generally borne by the PSP, a failed project will cause significant challenges and possibly costs for the municipality. The municipality should do its own analysis on reasonable bids (these are sometimes called shadow bids) to understand better the kind of bids it is likely to receive and also to identify any overly aggressive bids. The municipality may want to exclude any such overly optimistic bids.

*See Module 1: Municipal Readiness and Module 20: Summary Practical Advice for Decision Makers..*

## 2.6 Implementing Small Projects

Whether a project is considered small will depend on the size and wealth of the municipality, the capacity of the PPP team, and the size of other investment projects in the country, but generally 'small' is project costs of less than US\$5 million equivalent. Small projects have the following challenges:

- Expensive to prepare, despite their size, because small PPP projects require disproportionate levels of due diligence and specialist support for the contracting authority and for investors compared to larger projects.
- Less attractive to experienced investors; in particular, investors coming from other countries generally prefer larger projects to absorb risk and bid costs.
- Small PPP may be financed most efficiently in local currency. Local bankers and financiers may not be familiar with PPP and may need help to understand PPP projects, their dynamics, the opportunities they provide, and how to address the challenges they raise.
- More difficult to get approved, where approval processes are designed for larger projects and where approval power lies at levels of government that may not be familiar with or interested in small projects.

A growing practice in small PPP has led to the development of mechanisms to mitigate some of these challenges. These mechanisms may need to be implemented at the national level, by the municipality or by the PPP team as they develop projects.

- Small PPP projects may merit a simplified approval process, sufficient to ensure quality and compliance, without the complexity and high-level participation of large-scale processes. Simplification may include fewer approvals and/or approvals at a more familiar (and more accessible) level of bureaucracy, less documentation (for example, less extensive studies, reports, consultations or fewer of them), and fewer procedural steps (for example, no approval at pre-feasibility is required).
- A team of PPP specialists can be formed centrally, with a mandate to provide advice and support to small PPP. This team may be part of the central PPP unit, or may be a separate unit.
- Small projects can be made simpler to understand, implement, and manage for contracting authorities and investors alike. Standard processes and documents can make the project easier and cheaper to develop, easier for investors and lenders to understand, and in the end easier to fund. A procurement 'framework' can use a single process for multiple projects.<sup>19</sup>

<sup>19</sup> Procurement frameworks are widely used in Europe, see the OECD's work on Framework Agreements - Brief 19 Public Procurement (2011) <https://www.oecd-ilibrary.org/docserver/5js4vmnmnhf7-en.pdf?expires=1557218412&id=id&accname=guest&checksum=369FF38EAF7F11B01072E9026FADFDBC>. For instance, England's NHS Shared Business Services (joint venture between the Department of Health and Sopra Steria) reported that in 2017 procurement frameworks save £16 million for the public sector. <https://www.sbs.nhs.uk/transforming-success-stories-procurement-framework>



### Caution!

#### Small Projects, Small Liabilities?

Consideration should be given to the fiscal liabilities created by a project. Even where a PPP is small in project value, it may create significant fiscal liabilities (for example, where project activities may cause environmental or social impact for which the municipality is liable), in which case the more comprehensive approval process should be used. This is not an easy formulation.

Any project creates some form of liability. Quantifying those liabilities (actual and contingent) in an objective manner is difficult. Another approach is to limit the types of government support that a small PPP might receive and still be considered 'small'. For example, a small PPP might be one that does not receive:

- An indemnity or guarantee from the public sector for lost revenues, lost profit, loan repayment (other than as a basis for calculating termination compensation), or other indirect damages; or
- Any grant, loan, investment, or other direct financial support from the public sector (possibly above a specified cap).

- Under a large PPP, a consortium of advisers provides transaction advice for a single project. The size of the project and complexity often demands one consortium to ensure focus and sufficiency of staffing. Small projects may be aggregated, pooled (or bundled) into one single project or portfolio of projects, making the investment larger and more attractive for larger, more experienced investors and lenders. The cost of advisory services is reduced by combining multiple processes into one and using one set of advisers to develop feasibility studies and/or provide transaction advice for more than one project. The cost of funding for one large project should be lower than the cost of several smaller projects, including by making the process simpler and less burdensome for due diligence and documentation of the project. Economies of scale reduce total cost and may speed development, cross-fertilize lessons learned more effectively, and ensure continuity of commercial terms and therefore make it easier and cheaper for bidders.
- Small projects often do not need limited recourse financing. Allowing investors to finance the project on-balance sheet will simplify the procurement process and keep costs down.



## Case Example

### 14. Bundled Bridge Replacement, Pennsylvania, USA



The State of Pennsylvania needed to replace a series of small bridges spread throughout the state. The Pennsylvania Department of Transportation (PennDOT) selected bridges based on the need for replacement and a series of deliverability considerations, including minimizing disruption to the public, minimizing changes to existing alignment, maintaining existing profiles. Through this process, more than 2,000 bridges were screened and 558 were selected. PennDOT then aggregated the repair and maintenance of these bridges into a single PPP project under its old bridges' rehabilitation program.

While the average investment cost for each individual bridge was estimated to be as low as US\$2 million, the aggregated project was large enough to attract serious investors and significant competition, which would probably not have been the case with multiple small projects.

Source: GIH. 2017. "Pennsylvania Rapid Bridge Replacement Project." GiHub. [https://gihub-webtools.s3.amazonaws.com/local-umbraco/media/1455/gih\\_showcaseprojects\\_penn-bridges\\_art\\_web.pdf](https://gihub-webtools.s3.amazonaws.com/local-umbraco/media/1455/gih_showcaseprojects_penn-bridges_art_web.pdf);

Photo Credit: Photo in public domain published by Nyttend [https://commons.wikimedia.org/wiki/File:Arroyo\\_Bridge\\_replacement.jpg](https://commons.wikimedia.org/wiki/File:Arroyo_Bridge_replacement.jpg)

*See Project Summary No. 15*





# Selection

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Project Screening

Prioritization

Preparation Funding

# 3.0

## Phase I: Selection

This section describes the process of developing concept notes, applying a screening framework, and prioritizing proposed projects.

A key risk factor for municipal PPP is the readiness of the municipality.

### 3.1 Project Screening

Planning processes identify new investments, including improvement or expansion of existing services. Municipalities are sometimes confronted with new project demands on a more ad hoc basis, for example, responding to natural disasters, unanticipated demand, and USPs. The municipality should identify and select which of these projects would be better delivered through PPP.

Planning needs to reflect economic justification benefit to the government, through cost-benefit or VFM assessments. Such assessments tend to involve incentives for those performing them to emphasize benefits and de-emphasize costs, whether consciously or not. For example, where there is competition for resources between government authorities, there may be an incentive to overstate the benefits of the project in order to access budget resources. The assessment function therefore needs to adjust for incentives to achieve a more objective assessment is possible.



#### Note

There tends to be a bias toward new build rather than refurbishing what exists and maintaining it properly. Maintaining an asset properly is more than three times less expensive than maintaining it poorly and rebuilding later. But the socio-political incentive is to build something big and new that can carry the name or be identified with a politician or political party. The U.S. national highway system has failed to maintain roads properly due in part to the tendency for federal monies to be allocated to new build projects rather than maintenance or refurbishment.<sup>20</sup>

Examples of institutional mechanisms designed to manage such biases include the Private Infrastructure Investment Management Center in Republic of Korea, which routinely rejects 46 percent of proposed projects (compared with 3 percent before its creation) at a savings of 35 percent to the government on poorly planned or selected projects. Similarly, Chile's national Public Investment System rejects 25–35 percent of projects proposed.

Source: McKinsey Global Institute. 2013. "Infrastructure productivity: How to Save \$1 Trillion a Year."; Delmon. 2016. "Private Sector Investment in Infrastructure: Project Finance, PPP Projects, and PPP Programs."

Common planning processes focus on the efficient allocation of public funding, and therefore the most feasible projects are generally allocated for public funding and financing. Those remaining projects that are not allocated public funding, generally more risky or complicated projects, tend to be relegated to private development, including PPP. However, private financing is risk based—private financing for more risky projects attracts a higher financing cost, less risky projects can be financed at a lower interest rate. Therefore, the usual allocation dynamic should be reversed—the least risky, most feasible projects should be developed with PPP. For example, there are countries where

for every project that asks for public funding, the project team must elaborate why the project cannot be implemented through a PPP structure to ensure that scarce public funding is used only to the extent necessary.

As part of the analysis of proposed new investments, the municipality should prepare a concept note to capture key summary information (that is project description, project rationale, identified sources of revenue/financing). The concept note can also be used for the scoring exercise, discussed below.<sup>21</sup>

## Tool

- **Module 3:** Sample Project Concept Note provides a template that serves as a guide in preparing project concept notes.
- **Public-Private-Partnership Legal Resource Center – Toolkits for PPPs**  
This web site provides sample material for the development of PPP projects, in particular this section focuses on checklists, guidelines and resources for different project sectors.  
<https://ppp.worldbank.org/public-private-partnership/overview/practical-tools>

There are certain fundamental characteristics that a good project should exhibit. These include the following:

- **Strong rationale.** The project is a priority for the municipality from an economic and developmental perspective, backed by a clear vision of the intended benefits and outputs of the projects.
- **Institutional readiness.** The legal and institutional framework of the sector to which the project belongs is supportive of PPPs and the municipality is equipped to deliver a PPP. This includes looking at the existing PPP laws or policies (if any) as well as sector laws and institutions to determine whether the project is a public infrastructure or service within the municipality's legal mandate and is eligible for delivery as a PPP. It also includes municipal readiness, as discussed in more detail in Section 2.1 on Municipal Context, as it concerns the municipality's capacity (for example, experience and expertise), preparedness (for example,

institutional arrangements, level of internal consultation, approvals), and resources (for example, manpower, advisers, and funding) to implement the project. This criterion also takes into consideration the municipality's access to external experts (national/state-level PPP unit, advisers/transaction advisers) and funding sources.

- **Project readiness.** The project appears feasible in terms of its economic, technical, commercial, financial, and environmental/social aspects, based on adequate preparatory work, the data available and its quality, and confirmation that a PPP would be a more effective solution than a public solution.
- **PPP suitability.** There is private (both domestic and foreign) market appetite for the country, the sector and the project, access to finance, public partner creditworthiness, potential for private sector innovation or efficiency gains, and suitable risk sharing.

<sup>20</sup> Khan, Matthew E., and David M. Levinson. 2011. "Fix It First, Expand It Second, Reward It Third: A New Strategy for America's Highways," The Hamilton Project's Project Discussion Paper 2011-2013. Brookings. [https://www.brookings.edu/wp-content/uploads/2016/07/02\\_highway\\_infrastructure\\_kahn\\_levinson\\_paper.pdf](https://www.brookings.edu/wp-content/uploads/2016/07/02_highway_infrastructure_kahn_levinson_paper.pdf).

<sup>21</sup> If prior studies have been undertaken on the project, such study may be attached to the project concept note.

## Tool

**Module 2:** Project Concept Assessment Tool provides guidance on how to conduct the initial project concept screening process.

This same set of criteria applies to the project throughout its life. At the selection phase, the level and quality of data is likely to be very poor. Definitive decisions should not be taken based on such preliminary data but rather indicative to help guide the municipality and identify additional data required and further analysis to be done.

## Remark

### Project Inception Support

Municipalities usually need the assistance of external experts during PPP project appraisal to provide guidance in (a) assigning criteria weights and scoring, (b) applying threshold parameters and scoring criteria, and (c) preparing project concept notes, among others.

If available, external experts may come from national-/state-level PPP units that can provide hands-on support to the municipality or advisers hired by such PPP units or by the municipality directly from various funding sources (for example, technical assistance from development partners or special funds created for such purpose at the national or state level).

In countries such as Republic of Korea, South Africa, the United Kingdom, and the Philippines, national-level PPP units/centers provide technical support in policy guidance, review of proposed PPP projects, feasibility studies, VFM tests, and project tender. These entities may provide assistance free of charge, or may charge a fee.

In India, Australia, Canada, Brazil, and Mexico, state-level PPP units provide policy guidance and project-specific technical assistance to various municipalities within the state's jurisdiction.

## 3.2 Prioritization

The private finance and investment markets can only absorb so much project risk for PPP. This market demand shifts over time based on market realities (for example, as market risk perception changes, other projects succeed or fail), the position of individual firms (for example, where firms have more or less money to invest in the sector or in the municipality), and market shifts in other countries or municipalities (for example, where a competing market becomes more attractive, the relative attractiveness of the project may diminish).

The debt, equity, and sponsor markets are likely to be different and may see variant changes in market appetite. The level of appetite will indicate the amount of private investment that can be mobilized in a given period of time and how many projects can be implemented (based on the capacity of investors, for example, size of teams, number of investors). The municipality should consider the market appetite, how that appetite is likely to evolve over the short to medium term, and therefore how many and which projects should be prepared as

a priority to fit with the market appetite and avoid exceeding market appetite, which results in few bidders, higher cost of private finance, and possibly lack of bidders, despite a well-prepared project. Market appetite may be difficult for the municipality

to assess on its own. It may need the support of expert advisers to do so.



## Caution!

Given the limited availability of project data at this point, the municipal managers should bear in mind that selection and prioritization is necessarily accompanied by a fair amount of subjectivity and therefore advice from experts may be essential at this stage. As such, the assessment should be updated and repeated as appropriate where new data is accessible. This process is not definitive and should be interpreted accordingly.

Prioritization should also reflect resource constraints of the municipality, for example, where the municipal PPP team is small, they should only take on a limited number of projects at a time. Stretching the capacity of the PPP team across more projects that they are able undermines project preparation and likely success. Municipal budgets for project preparation may be limited, and therefore

only provided to the most viable projects. Where the municipality is providing availability payments, guarantees, or other forms of support, it may have limits on the amount of such support it can provide over a given period, and therefore projects that fit the profile of the available funding should be prioritized.



## Tool

- **Prioritizing Infrastructure Investment – A Framework for Government Decision Making**

A World Bank multi-criteria decision support tool that considers project outcomes along two dimensions, social-environmental and financial-economic. When large sets of small- to medium-sized projects are proposed, resources are limited, and basic project appraisal data (but not full social cost-benefit analysis) are available, the Infrastructure Prioritization Framework can inform project selection by combining selection criteria.

[https://library.pppknowledgelab.org/attached\\_files/doc\\_formats/1101/original/InfraPrioritizationFramework\\_Summary.pdf?1480714297](https://library.pppknowledgelab.org/attached_files/doc_formats/1101/original/InfraPrioritizationFramework_Summary.pdf?1480714297)

- **PPP Qualitative Value-for-Money Toolkit**

The United Nations Economic and Social Commission for Asia and the Pacific toolkit to help governments in early stage of identification and selection of projects suitable to be delivered as PPPs. The tool contains a set of criteria to assess whether a project is likely to achieve Value-for-Money if delivered as a PPP and is based on international best practice and experiences. The toolkit is designed for screening PPP projects across developing countries in Asia and the Pacific.

<https://ppp.unescap.org/>

### 3.3 Preparation Funding

The decision to select and prioritize a potential municipal PPP should include a decision to provide funding for project preparation. The concept note should include an assessment of the scope and cost of the project feasibility study and to bring the project to tender and award. The cost of project preparation can vary significantly based on the size and complexity of the project, and the capacity of the municipality. The municipality might access support from national or international bodies, for example many countries provide access to PPP expertise through PPP units and extra-budgetary funding for PPP project preparation (see Remark, below). National development banks or investment funds may be available to provide finance for municipal or private entities on more attractive terms or pricing to implement the project. Such support may also be available from bilateral or multi-lateral entities (for example the World Bank or the IFC).



#### Remark

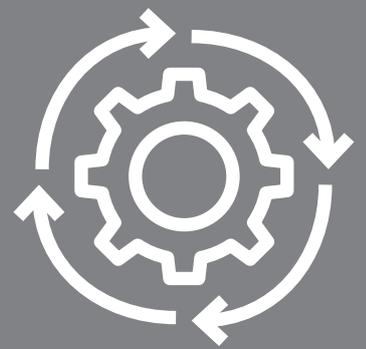
##### Project Development Fund (PDF)

Municipalities access funds for project preparation from municipal budgets, national/state government grants, or support from development agencies.<sup>22</sup> In some countries, a project development fund (PDF) is established as an alternative means of financing the development of PPPs. A PDF can provide greater flexibility, for example, where the fund allocation needs to bridge government budget years and would otherwise require a separate budget allocation approval process. A PDF can also provide for some revolving, for example, where a fee is collected from successful projects to reimburse the PDF and fund future projects. PDFs are often established at the national/state level, and sometimes supplemented by loans/grants from multilateral development agencies and/or other sources allowable by applicable laws.

<sup>22</sup> A number of facilities and trust funds have been created by development partners and donors, for example, the World Bank managed Private Participation in Infrastructure Advisory Facility ([www.ppiarf.org](http://www.ppiarf.org)), the Global Infrastructure Facility ([www.gif.org](http://www.gif.org)), and the Private Infrastructure Development Group Technical Assistance Facility ([www.pidg.org](http://www.pidg.org)).







# Development and Approval

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Appointing a Project Manager  
Feasibility Study  
Hiring an Adviser

Market Consultation  
Approval for Tender

# 4.0

## Phase II: Development and Approval

Once a project is selected for preparation as a PPP, the engagement of the municipality accelerates with the development of a feasibility study.

### 4.1 Appointing a Project Manager

To ensure smooth and efficient development of the PPP project, the municipality must appoint a project manager at least as soon as the project is selected for development as a PPP. The municipality may want to appoint the project manager earlier to help develop the concept note.

The project manager will supervise and manage the PPP project on a daily basis. The project manager carries out, or causes to be carried out, every practical task that is required for the development and procurement of the PPP project, including:

- Acting as the key point of contact for the project;
- Engaging consultants to undertake the feasibility study and assist in the procurement of the PPP project;
- Managing and supervising the work of the consultants;
- Conducting the procurement procedure, with assistance of the consultants;
- Reporting about the progress of the project development to municipal executive and decision-making bodies;
- Briefing and advising municipal decision makers on project decisions to be taken; and
- Any other task that must be performed to enable the project to succeed.

It is essential for the successful development of the project that the project manager receives a clear mandate and full management authority from the municipal government to exercise his or her duties. The project manager must be recognized by all stakeholders as the key point of contact for all matters related to the project. The project manager must be authorized to take all decisions within his or her scope of duties or to elevate decisions to a higher level when needed.

The project manager must have good project management skills and a good knowledge of the sector. Knowledge and expertise in PPP are obviously a strong plus, but in practice often not available. The required in-depth PPP expertise will in any case be supplied by the adviser. In countries having a PPP unit or a PPP knowledge center, these can also support the project manager with PPP-specific, technical matters.

In most cases, the project manager is selected from the staff of the municipal administration. She or he may, for instance, come from the public works department or the procurement department. Sometimes the municipality appoints an external expert as project manager, if it cannot find a suitable person within its own staff. No matter the source of the project manager, they should be appointed for a minimum of three to five years to ensure continuity.

For larger projects, and if the resources of the municipality permit this, the project manager is assisted by several other municipal staff members, jointly constituting a project management team. For instance, the project management team may consist of one or more technical experts (one of them usually acting as project manager), a procurement/legal expert, and a budget/financial expert. Depending on the size of the project and the scope of their duties the members of the project management team are assigned full time or part time to the project.

## 4.2 Feasibility Study

The feasibility study provides a full, multidisciplinary assessment of the project's viability and recommends a PPP structure (please refer to Module 4: Feasibility Study).

This study:

- Investigates the feasibility (in all aspects, including, technical, financial, economic, legal, environmental and social) and desirability of undertaking the project as a PPP;
- Determines the best technical option for implementing the project, resulting in the definition of project output specifications;
- Determines the most suitable PPP arrangement for implementing the project, resulting in the heads of terms of the PPP agreement;
- Provides a forecast of likely project costs and a range of probable bid prices, to help the municipality identify the likely bids and set a reserve bid price, if any;<sup>23</sup> and
- Provides an implementation plan, describing the tasks to be undertaken, in particular by the municipality, to realize the project.

In brief, in the feasibility study the project is not only analyzed and assessed but also further developed and elaborated in view of the subsequent selection of a PSP for its implementation.

The feasibility study findings constitute the basis for the decision by the municipality to proceed or not with the procurement and implementation of the project. The feasibility study report informs the decision-making body in the municipality about the feasibility and desirability of undertaking the project as a PPP, and about the readiness of the project to proceed to procurement.

The feasibility study should cover the following areas of analysis.

- Demand study
- Technical study
- Legal, environmental, and social due diligence
- Economic analysis
- Financial analysis
- PPP structuring options
- Procurement and implementation plan

<sup>23</sup> The reserve price helps the municipality identify excessively unattractive bids, which if they are to be contemplated should require additional verification and approval by the municipality. This way the pressure of a procurement process does not result in the acceptance of an excessively unattractive bid. However, reserve bid prices can be dangerous, for example, where the Municipality is overoptimistic about the value of the project and the level of bids they expect to receive.

## Tool

- **Module 4: Feasibility Study** provides more detailed discussion of the contents of the feasibility study.

- **World Bank PPP Screening Tool**

Tool for screening of projects to determine their potential suitability for PPP procurement, against qualitative and quantitative variables; based on data available from feasibility studies, site checks, fiscal and budget evaluations, political and economic evaluations, initial market checks, preliminary risk analysis, qualitative value-for-money check, etc.

<https://library.pppknowledgelab.org/documents/5421/download/pdf?1480714297>

- **PPP Project Preparation Status Tool**

Created by the European PPP Expertise Centre, this tool helps assess the preparation status of a given PPP project by reference to a typical good-practice PPP project development process up to the point of determining if the project is ready for launch of the public procurement process. It serves as a self-check to help the Authority spot potential areas of weaknesses in the preparation of the project and develop a structured approach to managing the PPP project preparation process.

<https://www.eib.org/epec/EPEC-PPPprep-EN.xlsm>

- **City Resilience Program – Track 1: Resilience Enhancement**

Created by the Global Facility for Disaster Reduction and Recovery, it aims to provide technical expertise to help cities design resilient projects.

<https://www.gfdrr.org/en/city-resilience-program/technical-assistance>

An important part of the feasibility study involves asking the right questions and getting the right information. The team delivering the feasibility study needs to be rigorous, careful, and strict while also being creative and open-minded. A series of project summaries are provided as part of this Guidance Note to help inspire municipalities with approaches taken by other projects. In an effort to encourage some creative thinking, the following are some examples from the project summaries:

- Consider the users of the facility, what services might they want in addition to the project services? For example, users of a public park might want public parking space or retail services (see Project Summary No. 45 and 78).
- Consider the local community, what services might they want? For example, a bus station located in a poor neighborhood might provide public toilets and washing facilities or other retail facilities (see Project Summary No. 5 and 38).
- Is there space in and around the facility that might be used to provide commercial services, without impeding the project services? (see Project Summary No. 73, 76, and 98)
- Is there space above the project that can be developed and where revenues merit the cost of building up? (see Project Summary No. 73, 74, and 75)

- Is there opportunity to develop underground space, for example for parking, where the revenues that can be earned merit the cost of building below ground level? (see Project Summary 46)

Environmental and social considerations will form an important part of the feasibility study. Commercial lenders, in particular those with a global business (see below box on Equator Principles), will be concerned to manage environmental and social issues well. International financial institutions, such as IFC, apply a strict set of standards (the IFC Environmental and Social Performance Standards).<sup>24</sup> The municipality will be best served by applying these standards to the project and in the feasibility study to ensure that such financing might be available to the extent eventually needed, even possibly for refinancing.

In a similar vein, the feasibility study should assess opportunities for the project to satisfy green financing criteria. This can give the municipality access to additional pools of green financing dedicated to green projects, including green bonds.<sup>25</sup>



## Note

### Equator Principles

The Equator Principles<sup>26</sup> constitute a voluntary code of conduct originally developed by IFC and a core group of commercial banks, but now recognized by most of the international commercial banks active in project finance. These banks have agreed not to lend to projects that do not comply with the Equator Principles, which follow the IFC system of categorizing projects, identifying those that are more sensitive to environmental or social impact and requiring specialist assessment where appropriate. During project implementation, the borrower must prepare and comply with an environmental management plan (EMP).

Issues must be explored relevant to all stakeholders, government entities, businesses, the local community, the poor, women, and disenfranchised groups. (See Module 18: Community Engagement.) The better and more complete the feasibility study, the more sustainable the project will be; it will be tempting to cut corners, to save money on this analysis, when time is scarce and when expectations are unrealistic.

Projects must be affordable to users and to the municipality. It can be easy to focus so much on closing the deal that the municipality commits to liabilities that are beyond its ability to afford. Equally, where the project involves transfer of an existing

asset to the PSP, it may deprive the municipality of the revenues previously earned from that asset.

Undertaking a feasibility study requires substantial efforts and a broad range of expertise. Municipalities, even large ones, in general do not have the required human resources to carry out a full feasibility study by themselves. Therefore, feasibility studies are prepared by an external adviser or firm hired by the municipality.

The role of the municipality in the feasibility study is:

- Drafting and issuing the terms of reference for the preparation of the feasibility study;
- Selection and appointment of the consultants;

<sup>24</sup> For more information, please see [www.ifc.org/performancestandards](http://www.ifc.org/performancestandards).

<sup>25</sup> For more information about green financing, see the Global Environment Facility's Introduction to Green Finance <https://www.thegef.org/sites/default/files/events/Intro%20to%20Green%20Finance.pdf>; and Asian Development Bank's Why Green Finance is Important? (2019) <https://www.adb.org/publications/why-green-finance-important>.

<sup>26</sup> [www.equator-principles.com](http://www.equator-principles.com)

- Management and supervision of the consultants during the preparation of the feasibility study;
- Helping to make data available, and providing access to various stakeholders,
- Deciding on, based on the findings of the feasibility study, which model of PPP to use and whether the project should proceed to the procurement phase.

It must be emphasized that the outsourcing of the feasibility study to an adviser does not imply that the municipality is not actively involved in the feasibility study. On the contrary, as the initiator and developer of the PPP project the municipality throughout the feasibility study determines the direction of the study through interaction with the consultants.

## Tool

- **Module 4: Feasibility Study** contains detailed discussion of the contents of the feasibility study, and the criteria used to review the work of the consultants.
- **SOURCE**  
A digital project preparation tool that helps governments to improve their preparation, procurement and implementation practices in infrastructure projects.  
<https://public.sif-source.org/source/>

### 4.3 Hiring a Transaction Adviser

The adviser hired to develop the feasibility study may be a multidisciplinary consulting firm or, more often, a consortium consisting of several specialized firms each contributing its own expertise (for example technical, legal, economic, environmental, financial, PPP transactions).

## Tool

- **Module 6 contains the Sample Terms of References for Procurement of Advisers.** It should be noted that these terms are generic and will need to be customized according to the specific characteristics of the project and specific requirements of applicable local procurement rules.
- **Public-Private Partnership Legal Resource Center - Sample Terms of Reference for PPP Advisors**  
This web site contains sample material in diverse aspects of PPP projects and their project cycle. This section provides sample terms of reference for PPP advisors for different sectors, as well as checklists and other resources that offer guidance on seeking assistance from external advisors  
<https://ppp.worldbank.org/public-private-partnership/overview/practical-tools/terms-of-reference-ppp-advisors>

The municipality manages and supervises the adviser, including:

- Managing and following up the work of the adviser (including holding regular progress and discussion meetings);
- Providing assistance to the adviser within its ability (such as providing available data and using its authority and contacts to facilitate consultation with other government entities and stakeholders);
- Reviewing draft and final versions of the feasibility study report to verify that it meets the requirements set out in the terms of reference; and

- Discussing interim findings of the study with the adviser to take decisions on the technical and contractual structuring of the PPP project;
- Approving deliverables and, if approved, arranging the payment of the contractually arranged fee of the adviser.

Module 5: Managing Consultants provides guidance on the management of advisers; this is not a simple process (see box below). PPP advisers can be sophisticated and are subject to a complex set of incentives.



## Remark

### Bundling of Feasibility Study and Transaction Advice

Generally, best practice is to assign the feasibility study to one adviser, and to use entirely different advisers for transaction advice, who will assist the municipality in the procurement of the PPP project after the completion of the feasibility study. Using two different sets of advisers allows the transaction advisers to review the feasibility study and test its recommendations.

In some cases, the assignment of the feasibility study is bundled with that of the transaction adviser. The bundling of both assignments allows the municipality to save procurement costs and shorten the project preparation process. However, bundling the mandates of the feasibility study adviser and transaction adviser also has drawbacks, such as the possibility of a conflict of interest. The single feasibility study adviser/transaction adviser will be incentivized to find the project to be viable and appropriate for approval to enable the consultant to advance to the more lucrative transaction phase. To avoid the drawbacks of bundling indicated earlier, the municipality must check the work of the adviser and challenge its recommendations.



## Tool

**Module 5: Managing Consultants** contains advice on how municipalities should oversee, review, and manage external consultants hired to help prepare and implement PPP projects.

## 4.4 Market Consultation

The municipality will want to consult the market to understand project structures that meet market requirements and market appetite for certain projects, sectors, and municipalities. Market consultations should be performed at various times during project selection and preparation. The larger and more complex the project, the more extensive the market consultation needs to be to attract the

right investors. The market consultation may need to be held in foreign locations to facilitate engagement with potential foreign investors. Consultations with potential lenders would also be useful to gain an understanding of issues related to financing. The advisers will help with market consultations, based on a thorough analysis of potential investors.

## 4.5 Approval for Tender

The findings of the feasibility study are submitted to the body within the municipality that is authorized to decide whether the project proceeds to procurement. The detail of the submission and review process is provided in Module 7: Procurement.

For this decision, the municipality considers the same criteria used to select PPP projects, as set out in Section 2.1 and Module 4: Feasibility Study.

If the project fails to satisfy those criteria, the municipality should take appropriate measures or reconsider the implementation of the project as a PPP.

If the project requires financial support by the municipality, the amount of this support must also be approved by the body authorized to create municipal liabilities and/or commit funding from the municipal budget. (*Note:* The actual support required may well be determined by the financial bid of the winning bidder.) Provincial or national government may have approval rights over the project at various stages, in particular before tender and at approval. The approval stages should be mapped out to manage appropriately.



### Caution!

The decision to launch a procurement process for the project involves a strong commitment by the municipality (and possibly the national government). While it is still possible to stop the project, the reputation of the municipality will be damaged if a project is aborted once the procurement process has started and the bid documents have been issued. This may hurt the credibility of the municipality in future procurement procedures. It is better to halt the project as early as possible in the process. This highlights the importance of due diligence during project preparation and of open, competitive assessment.





# Procurement and Award

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Preparing the Tender Documents

Procurement Options

Approval of Award and Financial Close

Unsolicited Proposals and Direct Negotiations

# 5.0

## Phase III : Procurement and Award

Once the project is approved, the municipality will proceed with the tender of the project in line with its procurement regulations. Specifically, the municipality will:

1. Review and approve tender documents before issuance;
2. Finalize timelines of the entire procurement process;
3. Conduct investors' conference and respond to queries submitted by bidders;
4. Establish a data room;
5. Provide any site visit or access to the site for bidders to conduct engineering and demand assessments;
6. Facilitate the opening of submissions;
7. Conduct detailed evaluation of the submissions; and
8. Decide
  - a. The short-list of qualified bidders;
  - b. Scoring of technical and financial proposals; and
  - c. Award of the project to the preferred bidder.

### 5.1 Preparing the Tender Documents

The following comprise the documents that need to be prepared by the adviser before tender:

1. Request for Qualification (RFQ). The municipality may want to select a short list of potential bidders

to limit the field to only those bidders most likely to be able to implement the project. The RFQ contains instructions to interested bidders to submit qualification documents showcasing technical and financial capacity.

#### Tool

**Module 8 contains the Sample Request for Qualification Document**, which provides a template for qualifying bidders in case of a two-stage bidding process. This model may need to be adjusted to conform to a municipality's applicable procurement regulations.

2. Request for Proposal (RFP). The municipality will communicate to all potential bidders the instructions on the submission of technical and financial proposals. In the case of a single-

stage bidding process (where there is no RFQ shortlist), the RFP will also include instructions for the submission of qualification documents showcasing technical and financial capacity.

#### Tool

**Module 9: Sample Request for Proposal for Single-Stage Bid Process and Module 10: Sample Request for Proposal for Two-Stage Bid Process** provide RFP templates depending on the selected procurement mode and may need to be adjusted depending on the municipality's applicable procurement regulations.

3. PPP agreement. This is the document to be executed between the municipality and the PSP, which specifies the roles, responsibilities, and liabilities of all parties to the PPP project. It also specifies the timelines, deliverables, output/performance-based specifications (including key performance indicators), and payment mechanism for the project, among others.

Key terms of the PPP agreement include<sup>27</sup> the following:

- **Duration.** The contract length should be sufficient to enable the PSP to recover its costs and earn a reasonable return.
- **Performance criteria and penalties.** Clear, measurable criteria establish the PSP's delivery requirements. A monitoring regime is essential and a penalty regime to ensure that performance failures are addressed as soon as possible.
- **Establish revenue sources.** Identify the kind of activities that the PSP is allowed to pursue and any assurances by the government linked to such activities.

- **Pricing of services.** Establish the tariffs that the PSP can charge for project services to ensure affordability and adjust for inflation.
- **Government support.** Where the municipality will provide capital grants, operating payments, or guarantees, this support needs to be part of the bid package to ensure that bids consider the government support in their pricing. The nature and terms of the government support (if any) will be set out in the PPP agreement.
- **Termination.** If one of the parties fails to deliver on their promises, the other party will want the right to terminate the PPP agreement, with an agreed regime for termination compensation.
- **Dispute management and resolution.** Like any partnership, conflict and disputes are likely. Conflicts should be managed proactively and quickly to avoid becoming disputes. Mechanisms in the PPP agreement will help open communications and identify conflicts as early as possible.

<sup>27</sup> World Bank 2017c; World Bank, n.d.; Delmon 2017; Delmon 2016.

## Tool

- **Module 11: Sample Municipal Public-Private Partnership Agreement** provides guidance on key provisions that need to be included in a PPP contract. The draft document will have to be adjusted to take into consideration applicable legal and regulatory provisions in the country and the municipality, and the requirements of the specific project.
- **Allocating Risks in Public-Private Partnership Contracts**  
Tool created by the Global Infrastructure Hub to help PPP practitioners understand risks in PPP agreements and to best allocate them among the parties in different sectors, such as transport, energy, and water and waste, and by risk types.  
<https://ppp-risk.gihub.org/>
- **Guidance on Standard PPP Contractual Provisions**  
A set of contractual provisions for PPP projects that can be used across different sectors, regions and types of project. It helps contracting authorities understand common, boilerplate contractual clauses and the rationale behind them.  
<https://ppp.worldbank.org/public-private-partnership/library/guidance-ppp-contractual-provisions>

## 5.2 Procurement Options

The PPP procurement process will generally involve three submissions: qualifications, technical proposal, and financial proposal.

In terms of procurement mode, the municipality may opt to adopt either a single-stage or a two-stage bidding process.



## Note

There are various innovations in procurement methods, including framework procurement. Procurement frameworks are widely used in Europe, see the OECD's work on Framework Agreements.<sup>28</sup> For example, England's NHS Shared Business Services (joint venture between the Department of Health and Sopra Steria) reported that in 2017 procurement frameworks saved £16 million for the public sector.<sup>29</sup>

Under a single-stage process, bidders will submit three envelopes, including the required bid security usually in the form of a bid bond:

- Envelope 1: Qualifications
- Envelope 2: Technical Proposal
- Envelope 3: Financial Proposal.

The municipality will open and evaluate the qualification documents (that is, first envelope), and determine which among the bidders fulfill the minimum qualification requirements. Those who satisfy the requirements will advance to the opening and evaluation of technical proposals (that is, second envelope).

Only those who pass will proceed to the opening and evaluation of the financial proposal (that is, third envelope).

Under a two-stage process, the qualification stage involves the shortlisting of interested consortia through submission of an application. The second stage involves the opening and evaluation of technical proposals and financial proposals, sequentially.

<sup>28</sup> OECD 2011.

<sup>29</sup> NHS, n.d.



## Remark

### Which Procurement Mode to Adopt?

The decision on which procurement mode to follow largely depends on the nature of the project and applicable laws/regulations.

Single-stage bidding would be more appropriate for less complex projects, with easily definable qualification requirements, where the cost of bidding is low for bidders. In a single stage, every bidder must prepare a full bid. In two-stage bidding only the pre-qualified bidders need to prepare full bids.

Two-stage bidding is preferable for complicated projects (that is, with a complex profile for determining, quantifying, mitigating, and sharing project risks), where only a small number of bidders should be asked to prepare full bids for the sake of efficiency and to attract more bidders.

At defined times during the bidding process, clarificatory conferences may be held to allow bidders (whether in the first or second stage of bidding) to seek clarifications and provide suggestions for consideration by the municipality. The municipality will provide clarifications and such further information as it may, in its discretion, consider appropriate for facilitating a fair, transparent, and competitive qualification process. Clarifications should be provided to all bidders, though the identity of the bidder seeking clarification is often not shared.

The municipality should also set up a (virtual) data room to provide access to project data in a format that is easy to manage and access. The virtual data room can also be used to facilitate the posting of questions/clarifications from bidders, as well as its responses thereto (including amendments to any of the bidding documents, if any). The municipality may also consider holding one-on-one discussions with bidders. Questions lodged by, and answers obtained from, the bidders as well as any relevant responses from the municipality pursuant to these discussions should be made available to all bidders.

to ensure transparency and equality. However, the identity of the party who submitted the question should be anonymous.

In addition, the municipality should provide access to the project site as well as facilitate bidders to undertake any technical or other investigations, at bidders own time and cost, if requested.

Technical and financial proposals will be evaluated against criteria outlined for parameters indicated in the RFP. (See Module 9: Model Request for Proposal for Single-Stage Bid Process and Module 10: Model Request for Proposal for Two-Stage Bid Process.)



## Note

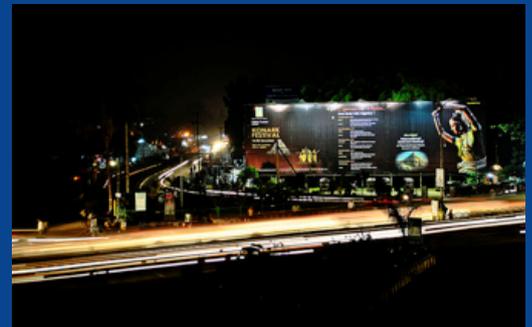
For some projects, the technical proposal may simply involve the acceptance of the technical solution set out in the RFP. For example, for some rooftop solar projects, where the PSP cannot reasonably propose technical innovations.



## Case Example

### Bhubaneswar Street Lighting (Odisha, India)

Bhubaneswar's street lighting fell far below national standards, leading to constant complaints from the public. Also, owing to poor quality equipment, energy consumption for street lighting was extremely high, straining the city's finances. The ESCO Shared Savings model recommended by IFC provided efficient street lighting upgrades, paid for and maintained by an ESCO, which in turn would receive payment through energy savings realized by the municipality.



The bid variable for the project was the energy savings achieved by ESCO, subject to a 30 percent minimum. The winning ESCO would undertake a joint survey to establish the baseline energy consumption. A total of 16 companies expressed interest in the project, of which 4 submitted bids. The ESCO contract was signed on October 5, 2013.

Source: World Bank Group. 2013. "Public-Private Partnership Stories, India: Bhubaneswar Street Lighting." PPP World Bank.

Photo Credit: Sabyasachi Baldev (<https://commons.wikimedia.org/wiki/File:Bhubaneswar.jpg>), "Bhubaneswar", <https://creativecommons.org/licenses/by-sa/2.0/legalcode>

*See Project Summary No. 68*

After the evaluation of technical proposals, the municipality will announce the bidders whose financial proposals will be opened, as well as notify the other bidders who failed to meet the minimum technical criteria.

The opening of financial proposals should be scheduled as soon as possible after the announcement of qualified technical proposals. The preferred bidder will be issued a letter of award and will thereafter be required to comply with

post-award requirements before signing the PPP agreement, which may include the following:

1. Submission of the performance guarantee or conversion of the bid bond into a performance bond, and incorporating a special-purpose vehicle (SPV) solely for undertaking the project; and
2. Payment of a bid development fee (to reimburse project development and tender expenses incurred by the municipality).

The use of an SPV is not common in normal public procurement practices, and therefore can be surprising for municipal procurement teams. This is done to allow investors to keep project debt off of their parent company balance sheet, to sell down part or all of the project as and when permitted, and to move the project to another set of investors in the event of failure (and therefore also means that the municipality will not benefit from joint and several liability among the SPV shareholders). Using an SPV also protects the project, as the SPV will remain separate from the parent company's other liabilities, and allows the municipality to require specific governance arrangements in the SPV that could not be required within the parent company (for example, assigning the project to another set of investors if the initial investors do not deliver). However, an SPV may not be practical for small projects given associated costs and complexity.

The municipality will need to address some of the disadvantages of SPVs, in particular access to information about what is happening in the SPV, changes in shareholding and control, liabilities created, and so on. This can be done through municipal consents required under the PPP agreement and as part of the municipality's due diligence process. In some cases, the SPV must obtain a credit rating to help the parties assess its financial position. In others, the SPV is managed on an open book basis. These mechanisms help the parties review and agree the financial position of the SPV and any changes thereto, for example, where compensation needs to be calculated for refinancing or risk events.

The municipality will enter into final negotiations with the preferred bidder only for finalizing the PPP agreement in accordance with changes proposed in the latter's bid. Any change in the draft PPP agreement sought by the preferred bidder can have significant impact on the value of the project to the municipality and therefore must have been explained specifically in its bid and scored accordingly. Allowing bidders to propose changes in the PPP agreement can also have legal consequences, for example, where disgruntled bidders argue that the arrangements in the winning bid were different than the tender documents and therefore provided an unfair advantage to the winning bidder. General advice is that bidders should not be allowed to propose material changes to the PPP agreement in their bid.

Once finalized, the PSP executes the PPP agreement with the municipality. The date of signing of the PPP agreement is called 'commercial close'. 'Financial close' is the moment when the lending agreements become binding on the lenders and the PSP may make a first draw-down of funds. Commercial close and financial close may happen at the same time, where all the lenders' preconditions are already satisfied. In some cases, in particular where limited recourse financing is used, the lenders perform additional due diligence after project award and before financial close. In such cases, either the PPP agreement is signed first but is subject to preconditions to effectiveness (a set of conditions must be satisfied before the PPP agreement is binding on the parties) or the PPP agreement is signed at financial close (so that the municipality and the PSP are not bound by the PPP agreement until the lenders' preconditions are satisfied). The municipality as part of the bid process will need to be clear to what extent it is willing to reopen negotiations as part of financial closure, and should specifically exclude any material changes. This can be a difficult situation to manage, and the municipality will need the advice and support from the adviser to address these issues. The municipality will want to pay the final payment of the adviser's fee only after financial close to ensure it has advisory support throughout the process.

### 5.3 Approval of Award and Financial Close

The findings of the tender evaluation committee will be submitted to the municipal authority that will decide whether to implement the recommended award. The municipality will need to confirm that the preferred bid will provide VFM. If the preferred bid involves financial support from the municipality,

the amount of this support must also be approved by the body authorized to commit funding from the municipal budget.

Provincial or national government may have approval rights over the project at various stages,

in particular where government financial support is to be provided. The approval stages should be mapped out to manage appropriately.

## 5.4 Unsolicited Proposals and Direct Negotiations

A USP is submitted by a private party to the municipality to undertake a PPP project at the private firm's initiative rather than as a response to a request from the government. There are different approaches to USPs, as discussed below.

Generally speaking, USPs are difficult for municipalities to manage and are best avoided. An open, competitive process with no particular advantage to any bidder is the best way to implement a successful PPP. Global experience shows that if the proponent is given some advantage in the tender process (for example, bonus points or the right to match the winning bid), the tender process will attract few if any competing bids, putting the municipality in a difficult negotiating position.<sup>30</sup>

The municipality may ask the proponent of a USP to provide project information, to save money, for example, in delivering the feasibility study. However, this creates a significant information asymmetry between the USP proponent and the municipality—the proponent knows the detail of the project but the municipality does not. The project may therefore be designed in a manner that disadvantages the municipality and/or any competitors to the proponent.

Many countries do not allow USPs at all. Where USPs are not allowed, private companies may still suggest innovative infrastructure projects, but the project must go through the normal PPP process. It is advisable for municipalities to exclude USPs entirely, until they have a significant depth of experience in PPPs.

Where USPs are to be allowed, the following should be required:

- USPs should only be allowed for new ideas, innovative ideas, projects that are not on the municipality's plans and have a technology or process requirement that is uniquely available to the proposing PSP.
- The municipality should deliver the feasibility study for the proposed project and should otherwise drive the due diligence process designed to structure the project and verify that it represents VFM for the municipality.
- The USP proponent's sole advantage from the process should be compensation in an amount that reflects the actual benefit provided to the municipality, calculated by an independent assessor, to avoid conflicts of interest and any perception of corruption.
- If the municipality offers to compensate the proponent for its costs in developing a USP, then the municipality creates an incentive for USPs with limited value (in effect, subsidizing the proponent's bidding costs). Any compensation should reflect the actual benefit received by the municipality and nothing more.

Direct negotiations are sometime permitted for limited purposes, for example, in a national state of emergency or for small changes to existing projects (where there is no real prospect of competition). Legislation will generally regulate direct negotiations. Municipalities should obtain expert advice when approaching such negotiations, which can be complex.

<sup>30</sup> For a more detailed discussion of USPs and different approaches taken, see PPIAF, 2017. Unsolicited Proposals – An Exception to Public Initiation of Infrastructure PPPs: An Analysis of Global Trends and Lessons Learned. <https://ppp.worldbank.org/public-private-partnership/library/ppiaf-unsolicited-proposals-%E2%80%93-exception-public-initiation-infrastructure-ppps-analysis-global-trends-and-lessons-learned>

### Tool

#### Policy Guidelines for Managing Unsolicited Proposals

These guidelines provide key policy recommendations to public authorities to manage appropriately and effectively the challenges that unsolicited proposals represent.

<https://ppp.worldbank.org/public-private-partnership/library/policy-guidelines-managing-unsolicited-proposals-infrastructure-projects>





# Implementation

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PPP Contract Manager  
Contract Management Plan  
Contract Management

# 6.0

## Phase IV: Implementation

In general, the municipality's role during the implementation phase<sup>31</sup> has four subphases:

1. **Pre-construction:** land acquisition, design review, and application for permits.
2. **Construction:** review of progress reports, verification of equipment/materials delivered, completion tests, performance tests, commissioning, payment of any capital grants or other construction period subsidies.
3. **Operations:** performance standards, periodic reporting, spot checks, tariff reviews, payment of availability payments (if any), renegotiations, refinancing, conflict management, and dispute resolution.
4. **Handback:** test condition of assets, maintenance and refurbishment plan, select SPV assets to purchase and agree price, handover of the

project assets to the municipality at the end of the PPP agreement.

Managing a PPP agreement requires a different approach from managing a conventional public procurement contract. A conventional public procurement contract is short term (usually at most two or three years) and pertains to the execution of precisely defined activities. A PPP agreement, on the other hand, is long term and output based. The key success factor of effective contract management is a good relationship between the municipality and the PSP. The essence of PPP is that both parties proactively work together to manage conflict, avoid defaults, and deliver public services.

<sup>31</sup> See also [www.managingPPP.github.org](http://www.managingPPP.github.org)

### Remark

#### Hiring an Independent Engineer

Depending on the size and complexity of the PPP project, an independent engineer may be engaged to assist both the municipality and the PSP with contract management tasks. The independent engineer is jointly appointed by both parties after signing the PPP agreement, and may intervene at various stages during project implementation to verify its conformity with the PPP agreement:

- a. During construction stage
  - Review the detailed engineering design;
  - Inspect and monitor construction works;
  - Review modification requests and claims for compensation;
  - Conduct commissioning tests; and
  - Issue the construction completion certificate.
- b. During operations stage
  - Monitor the compliance with maintenance and performance standards and submit periodic reports; and
  - Review modification requests and claims for compensation.
- c. During handback
  - Conduct handback tests; and
  - Issue the handback certificate.

The costs of the independent engineer are generally shared equally between the municipality and the PSP. This cost sharing arrangement is defined in the PPP agreement.

## 6.1 PPP Contract Manager

During project development, the municipality is represented by a project manager. During implementation, the project manager is replaced by a contract manager to act as the primary point of contact of the municipality with the PSP, focused on:

- Monitoring the performance of the PSP and checking it against the contract requirements;
- Budgeting and settlement of payments due under the PPP contract to the PSP (if any);
- Handling of contract events according to the provisions of the PPP contract (for instance, tariff adjustments, non-compliance of PSP with performance requirements, changes in law, contract amendments, force majeure, refinancing, disputes, and early termination); and
- Reporting on the performance of the PPP contract to the municipal government and to stakeholders.

Depending on the complexity of the project and the resources of the municipality, the contract manager may be assisted by a contract management unit that combines the various disciplines that are needed to monitor the performance of the PSP and manage the PPP contract. A typical contract management unit may be composed of (on a part-time or full-time basis depending on needs):

- A technical (engineering) expert, specialized in the services that are provided in the PPP project;
- An administrative/legal expert with expertise in public administration and public procurement contracts; and
- An accountant/budgeting expert.

## 6.2 Contract Management Plan

The contract management plan (CMP) describes

- The composition and responsibilities of the contract management unit;
- Procedures for dealing with contractual events in the various stages of the implementation of the PPP project;
- The performance criteria, monitoring system, and other deliverables/liabilities under the PPP agreement; and

- Procedures for reporting and disclosure of PPP performance to the municipal government and stakeholders.

The CMP is prepared (usually by the transaction adviser) even before the award and signing of the PPP agreement, and is updated after the signing of the PPP agreement.

## 6.3 Contract Management

This section sets out some of the key issues to be addressed by the contract manager.<sup>32</sup>

### 6.3.1 Performance Monitoring

Performance monitoring is the most important daily task of the contract management unit. The contract management unit receives and reviews periodic (monthly or quarterly) performance reports submitted by the PSP and the independent engineer. In addition, it conducts scheduled and random inspections to identify performance shortfalls. The contract management unit could also seek feedback from end users, as a part of its monitoring responsibility.

These changes may also be needed to address errors in project development, where preparation fell short.

The contract will provide for mechanisms to address such needed changes, in particular a variations procedure (also known as a change procedure) for minor changes to be made and agreed by the parties.

Changes that do not fall within the variations procedure or which require more fundamental changes to the contract will require renegotiation, which will also often have a special regime specified in the PPP agreement. The contract manager assesses the variation or renegotiation proposal and undertakes the required steps to obtain approval.

### 6.3.2 Changes, Variations and Amendments

Due to the long duration of PPP agreements, changes may be needed to address a change in circumstances, for example, new technologies may emerge that justify changes of service specifications or data on which the project is designed may prove inaccurate.

Renegotiations, in particular, need to be managed in a strategic and transparent manner to prevent abuses and ensure buy-in from key stakeholders and avoid disputes.

<sup>32</sup>For further information on contract management, see United Nations Public Private Partnership Contract Management Manual (2019).

### 6.3.3 Payment Adjustments

The PPP agreement will establish a regime for availability payment or tariff increases over time, and may provide for some compensation or other remedy where the tariffs do not meet expectations. The contract manager will secure internal approvals for time-based availability payment or tariff increases and assess requests for adjustments or compensation.

### 6.3.4 Compensation and Relief Events

PPP agreements will often provide for a regime to protect the PSP from the impact or risks borne by the municipality, for example, where the municipality is late in providing land to the PSP. The event, compensation, extension of time and procedure for handling requests are defined in the PPP agreement. Relief requests are assessed by the contract manager.

### 6.3.5 Refinancing

The debt financing of a municipal PPP project is priced against the risk borne by the PSP, which includes construction of the facility and the mobilization of operations. Once the construction is complete and operations are successfully launched, the project risk is significantly lower. The PSP may want to refinance the project to take advantage of the lower debt costs, and therefore improve equity return. The municipality should share the refinancing gain and therefore provide for a mechanism in the PPP agreement.

In other cases, the original project financing is based on short-term debt (usually where long-term financing is not available). The project will need to go back to the financial markets at the end of the term of the original project debt, to refinance project debt. Someone will need to take the risk that this refinancing will be costlier or might not be available at all.

### 6.3.6 Conflict Management and Dispute Resolution

Because PPPs are complex, it is natural to expect that at some point during the contract there will be disagreements about performance levels and about payment amounts, payment deductions, or other important issues. As there are usually several stakeholders involved in any of these disagreements (investors, banks, municipal departments, municipal finance offices, and so on), all parties to a PPP need a clear, fair, and cost-effective way of resolving any disagreement so that the project can continue to operate and the partnership continue to benefit all partners and the users continue to get uninterrupted services.

Conflict management and resolution should be implemented as soon as possible after a conflict arises, before it becomes a dispute or impedes the project. Conflict management often involves formal review processes, elevation of issues to different levels of management, and most importantly—communication. The contract manager will play a central role in conflict management and will be responsible for keeping open lines of communication and proactively addressing conflicts where they arise.

If conflict management fails, disputes are submitted in the first instance to mediation and/or some form of expert resolution (for example, under the independent engineer if one is appointed), to provide additional data to the parties and provide a more structured platform of communication. If this fails, the matter is generally escalated to senior executive level (for instance, the head of the municipal administration and the managing director of the SPV). Where this too fails, the dispute is submitted to final adjudication, usually through domestic or international arbitration.

## Tool

- **Module 12: Contract Management** provides more detailed guidance on contract management procedures.

- **PPP Contract Management Tool**

This tool is a G20 initiative that aims to help governments to manage PPP contracts, from financial close through contract implementation, with a range of practical advice and case studies.

[https://content.github.org/live/media/1495/gih\\_managingppp\\_summary.pdf](https://content.github.org/live/media/1495/gih_managingppp_summary.pdf)

### 6.3.7 Expiry of PPP Agreement and Handback of Assets

A defined period before the end date of the PPP agreement (generally three to five years), the contract management unit starts to prepare the handover of the project's residual assets from the PSP to the municipality. The handover regime is generally set out in the PPP agreement. Well before the end date of the PPP agreement, the municipality must decide on how the project services will be provided after the termination of the PPP agreement. This decision must be taken sufficiently before the end date of the PPP agreement so that there is enough time to prepare and conduct the procurement procedures for the appointment of new contractors or train its own staff on the project operations and maintenance.

The contractual regime will identify which assets transfer to the municipality and the conditions those assets must be in at transfer. The parties will review together the condition of those assets some 12-18 months before handback. Based on this coordinated review, the parties will agree the remediation effort required before the assets can be transferred back.

## Case Example

### Yongin Everline Light Rail Transit (Seoul, Republic of Korea)

Yongin City has granted a 30-year concession to a private company, Yongin Rapid Transit Co. Ltd, with the aim to address the increase of travel demands of the city.

In 2001, when the project was structured and approved, the estimated daily passenger demand was expected to be 140,000. However, by the time construction was completed in 2009, the updated estimate of passenger volume was only 32,000 passengers per day. The municipality delayed opening of the line as it would have had to pay substantial compensation as part of the minimum revenue guarantee it had provided to the concessionaire. The concessionaire initiated an arbitration process to receive compensation, and eventually the arbitration court ruled that the concessionaire is eligible for a compensation for loss of business due to delays in opening.



Source: Park, Jin Young, and Jinsu Mun. Korea's Railway PPP (Public-Private Partnership) Projects. Gyeonggi-do: The Korean Transport Institute, 2014; Shin, Tom. 2007. "Light Rail Transit Projects in Korea: Case Study of Two International Projects." World Services Group. Accessed February 17, 2019. <https://m.worldservicesgroup.com/article.aspx?id=2097>; Sang-soo, Kwon. 2013. "Yongin Everline: New Train, Few Passengers." Korea Joongang Daily, June 1, 2013. Accessed February 17, 2019. <http://koreajoongangdaily.joins.com/news/article/article.aspx?aid=2972459>.

Photo Credit: Minseong Kim ([https://commons.wikimedia.org/wiki/File:Yongin\\_Everline\\_Livery\\_Animal\\_1.jpg](https://commons.wikimedia.org/wiki/File:Yongin_Everline_Livery_Animal_1.jpg)), <https://creativecommons.org/licenses/by-sa/4.0/legalcode>

*See Project Summary No. 3*

# 7.0

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# Glossary

**Adviser** means the expert/experts that will be procured by the municipality to provide technical assistance in the development of the feasibility study and/or the competitive tender of the proposed PPP project.

**Application** means the qualification documents submitted by the private bidder in response to the issuance of an RFQ (see Section 5.1).

**Bid** means the technical proposal and financial proposal submitted by the bidder in response to the issuance of a RFP. In the case of single-stage bidding, the bid also contains the bidder's qualification documents (see Section 5.2).

**Bidder** means a private sector entity or consortium who has participated or intends to participate in the tender of the PPP project.

**Capital planning** means an entity's budgeting process carried out to ensure it has the resources to commit to long-term investments and whether those investments are sustainable and accord to the entity's long-term plans.

**CBO** means community-based organization

**CMP** means the contract management plan (see Section 6.2).

**CMU** means contract management unit (see Section 6.1)

**Commercial closure** occurs when the PPP agreement is signed. This occurs after a typically short period of contract negotiations between the municipality and the PSP. However, after commercial closure, if the PSP mobilizes external financing, it must reach financial closure before the PPP project's implementation (see Section 5.2).

**Consultancy agreement** means the contract entered between the municipality and the adviser for the provision of technical assistance to the municipality in the development of the feasibility study and/or the competitive tender of the proposed PPP project (see Section 4.3).

**Contract manager** is the primary point of contact of the municipality with the PSP during the implementation of the PPP project (see Section 6.1).

**Data room** makes reference to either a virtual records archive (that is, a virtual data room) or a physical storage room where relevant project background records, plans, and tender documents are made available to bidders during the tender process (see Section 5.2).

**Due diligence** means the analysis of a project to assess the viability of the project.

**EIRR** means the economic internal rate of return of the project.

**Feasibility study** is the document that provides the basis of whether or not a project is feasible and suitable to be structured as a PPP (see Section 4.2).

**Financial closure** occurs when the PSP secures all its required financing from its equity investors and lenders. This typically requires detailed analysis and 'due diligence' by lenders, reviewing PPP agreements and analyzing project risks in detail to ensure the project is 'bankable' and financially sustainable in the face of all commonly expected risk events (see Section 5.2 and 5.3).

**Financial proposal** means the documents submitted by a private bidder to the municipality containing its bid value and other supporting requirements as required by the RFP (see Section 5.2).

**FIRR** means the financial internal rate of return of the project.

**Independent engineer** means the person or entity jointly engaged by the municipality and the PSP to assist reviewing technical and engineering-related contract management tasks (see Remark under Section 6.1).

**Municipality** means the municipal government or local government authority.

**NGO** means non-governmental organization.

**O&M** means operations and maintenance.

**PDF** means project development fund  
(see Section 3.3).

**PMU** means project management unit  
(see Section 4.1).

**PPP** means public-private partnership  
(see Section 1.1).

**PPP agreement** is the contract signed between the municipality and the PSP to implement the PPP project (see Section 5.1 and 5.2).

**Preferred bidder** means the bidder identified as providing the most advantageous bid, but before commercial close and/or financial close (see Section 5.2).

**Project** means the subject PPP/potential PPP project.

**Project company** means the incorporated entity of the PSP for the PPP project. Often this is also referred to as the special-purpose vehicle or 'SPV'.

**Project manager** means the person appointed by the municipality for the daily management of the PPP project.

**PSP** means the private sector partner.

**Public investment management** means an approach to managing government expenditures for public infrastructure strategically and efficiently.

**RFP** means request for proposal (see Section 5.1).

**RFQ** means request for qualification  
(see Section 5.1).

**Special purpose vehicle (SPV)** means a corporate vehicle (also known as a project company) created to implement the project, whose sole purpose is the project, and therefore does not undertake obligations or liabilities outside of the project.

**Sponsor** means the strategic investor, with technical and commercial skills needed to deliver the project, which often also provides some combination of equity and debt investment.

**Success fee** means the payment made to a PPP transaction adviser once the PPP has reach either, or both, commercial closure and financial closure. A success fee motivates PPP transaction advisers to complete the project as quickly as possible.

**Technical proposal** means the documents submitted by a private bidder to the municipality to satisfy the technical requirements of the project as indicated in the RFP (see Section 5.1 and 5.2).

**USP** means unsolicited proposal (see Section 5.4).

**VFM** means value for money (see Section 1.2 and 1.3).

