

Public Private Partnerships (PPP)

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What is a PPP?

“PPP involves a contract between a public sector authority and a private party in which the private party provides and/or produces a public service, or a project, and may assume a substantial financial, technical, or operational risks”

Definition



“PPP refers to an arrangement between the public and private sectors with clear agreement on shared objectives for the delivery of public goods (e.g. infrastructure) and/or public services (e.g. ambulance services)”

Definition cont....

Its an approach that public authorities adopt to increase private sector involvement in the delivery of public services to:

- ✓ Increase total investment in public goods and services
- ✓ Reduce costs
- ✓ Access expertise



Good candidates for PPP

A project is a good candidate for PPP if it meets the following minimums as a criteria:

- ✓ Technically viable
- ✓ Legal & regulatory viability
- ✓ Commercial/financial & economic viability
- ✓ Institutional and capacity viability
- ✓ Environmental viability
- ✓ Any other criteria that may be specified

Elements of PPP

- ✓ **Design & build** –usually integrated with at least one of the other elements
- ✓ **Operation & maintenance** –in some projects, these elements are kept separate from each other.
- For each PPP, the public sector entity must decide whether the private sector company should have responsibility for both operation & maintenance of the asset or service, or whether it would be preferable to be operated by the public sector and maintained by the private

- ✓ **Finance** –PPP makes use of a combination of public & private sector funds.
- Private sector raises capital funding for a project through equity or debt finance, to be recovered from the members of the public through user charges, or from the sale of the service to the public sector, or from a combination of the two where the public sector subsidizes the service to make it affordable to the end user

- ✓ **Ownership** –when entering into a PPP, the public authority must decide whether the government or the private company should own the facility that is developed.
- In some arrangements, the land and facility will be owned by the private sector, whereas in others the asset will revert to public ownership after construction

Forms of PPP

- ✓ Design –Build (DB)
- ✓ Build –Transfer (BT)
- ✓ Build –Transfer –Operate (BTO)
- ✓ Design –Build –Operate (DBO)
- ✓ Build –Operate –Transfer (BOT)
- ✓ Build –Own –Operate –Transfer (BOOT)
- ✓ Wrap Around Additions (WAA)
- ✓ Lease –Develop –Operate (LDO)
- ✓ Buy –Develop –Operate (BDO)

Execution of PPP's in Kenya

The PPP Act (2013), revised in 2015 establishes the following organs to support implementation of PPP projects in Kenya:

- ✓ The PPP Committee (Sec 4(1)) –includes PS's for Finance (chair), Planning, Lands, County governments, Transport, Infrastructure, Energy, AG (or his nominee), 4 members (non public officers) and a director (acts as secretary)
- ✓ A director – appointed under sec 12 (5 year term, renewable once)
- ✓ The PPP Unit (sec 11 - 15) –headed by the director and acts as secretariat as well as provides technical support to the committee and contracting agencies

Execution cont...

- ✓ The PPP Nodes (Sec 16 & 17) – headed by the accounting officer and shall constitute of financial, procurement, technical and legal expertise. This simply the PPP committee at the contracting authority.

Common Reason for PPP failures

- ✓ Poorly drafted contracts
- ✓ Contract managers assigned insufficient resources
- ✓ Lack of experience for either public sector or provider teams
- ✓ A failure to adopt a partnership attitude
- ✓ Personality clashes between project team personnel
- ✓ Lack of understanding of complexity, context, and dependencies on contract

Reasons cont...

- ✓ Unclear identification of authority & responsibility in relation to commercial decisions
- ✓ Lack of measurement of performance
- ✓ Focus on existing arrangements rather than emphasis on potential improvements
- ✓ Inadequate monitoring & management of statutory, political and commercial risks

Addressing corruption in PPP projects

This is for open plenary and discussion in class