

Managing PPP Contracts

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Managing PPP contracts involves monitoring and enforcing the PPP contract requirements; and managing the relationship between the public and private partners. The contract management stage spans the lifetime of the PPP agreement from the effective date of the contract to the end of the contract period.

Contract Management Stage of PPP Process

PPP Contracts type unknown

Managing PPP contracts differs from managing traditional government contracts. PPPs are long term and complex, and contracts are necessarily incomplete—that is, the requirements and rules in all scenarios cannot be specified in the contract. Therefore, the management of PPP contracts must be flexible in both available resources and skills to meet the whole-life expectations of the contract. The aims of contract management for PPPs are to ensure

- Services are delivered continuously and to a high standard, in accordance with the contract, and payments or penalties are made accordingly;
- Contractual responsibilities and risk allocations are maintained in practice, and the government's responsibilities and risks managed efficiently;
- Changes in the external environment—both risks and opportunities—are spotted and acted on effectively; and
- The efficiency expectations of the contract are achieved and the handback provision in the contract are met.

These aims of contract management are elaborated in the **4ps Guide to Contract Management for PFI and PPP Contracts in the United Kingdom** ([4ps 2007](#), 5). The **South Africa PPP Manual section on PPP Agreement Management** ([ZA 2004a](#), Module 6, 11–12) describes what is needed and what is meant by successful management of a PPP contract, as well as what can go wrong, and why. **EPEC's 2014 Guidance for Managing PPPs** ([EPEC 2014b](#)) condenses European experiences on the topic. The **Caribbean PPP Toolkit** ([Caribbean 2017](#), Module 6) presents Caribbean examples and discusses contract management best practices.

The foundations for effective contract management are laid early in the PPP implementation process. Many aspects of contract management—such as procedures for dealing with change, and dispute resolution mechanisms—are set out in the PPP agreements, as described in [Designing PPP Contracts](#).

This section describes four key aspects of putting contract management into practice for PPP projects:

- **Establishing contract management institutions**—defining and establishing the key responsibilities and communication mechanisms that will enable a proactive, effective relationship between the public and private partners to the contract.
- **Monitoring PPP delivery and risk**—monitoring and enforcing contract compliance and service performance by the private party, ensuring the government delivers on its responsibilities under the contract efficiently, and monitoring and mitigating risk by the implementation of frequent and robust reporting mechanisms during the whole-life of the contract.

- **Dealing with change**—putting into practice the mechanisms described in [Designing PPP Contracts](#) to deal with contract adjustments, dispute resolution, and contract termination, as well as deciding whether, when and how to renegotiate.
- **Managing contract expiry and asset handover**—managing the transition of assets and operations early enough to ensure that the handback criteria or contracted handback condition of the asset is met at the end of the contract term.

The **United Kingdom Treasury's Operational Taskforce**, part of the PPP Unit, has produced comprehensive guidance notes covering several topics on contract management for PPPs ([UK 2006a](#)).

Key References

Managing PPP Contracts

- [4ps. 2007. *A Guide to Contract Management for PFI and PPP Projects*. London: Public-Private Partnerships Programme.](#) Provides guidance intended for local authorities in the United Kingdom responsible for monitoring PPP contracts: from setting up the contract management approach, to managing service performance, relationships, and contract administration. Includes checklists and a troubleshooting guide as appendices.
- [ZA. 2004a. *Public Private Partnership Manual*. Pretoria: South African Government, National Treasury.](#) A comprehensive guide to PPP agreement management in South Africa, from setting up the institutional framework, to managing over the project lifetime, dealing with change, through to the end of the contract. Describes two key tools: the PPP Agreement Management Plan, and the PPP Agreement Management Manual.
- [UK. 2012d. "Operational Taskforce website." Infrastructure. HM Treasury Website Archives. URL.](#) Provides detailed guidance for PPP implementing agencies on four elements of PPP contract management: benchmarking and market testing; project transition, which covers setting up a contract management framework; managing contract variations; and managing contract expiry.
- [Farquharson, Edward, Clemencia Torres de Mästle, E. R. Yescombe, and Javier Encinas. 2011. *How to Engage with the Private Sector in Public-Private Partnerships in Emerging Markets*. Washington, DC: World Bank.](#) Chapter 10 provides an overview of what is needed for successful contract management after signing, with an emphasis on experience in emerging markets. Includes tips on managing contracts and a case study on contract management for a water concession in Sofia, Bulgaria.
- [PPIAF. 2006. *Approaches to Private Sector Participation in Water Services: A Toolkit*. Washington, DC: Public-Private Infrastructure Advisory Facility.](#) Section 7 provides guidance on developing institutional arrangements to manage the PPP contract relationship. It includes guidance on how to decide which government institution should be allocated which role, on relationship management, and tools to deal with change.
- [Fortea, Carlos Sorni, Emilio Gardeta Torrodellas, Sergio Herrán Vitoria, Juan Pablo Matute Tejerina, and Jorge Vitutia San Millán. 2011. "Proyecto Fin de Master: Seguimiento de una concesión." Universidad Politécnica de Madrid. URL.](#) Describes the Spanish methodology for the monitoring of PPP projects.
- [VIC. 2003. *Partnerships Victoria Guidance Material: Contract Management Guide*. Melbourne, Australia: State of Victoria, Partnerships Victoria.](#) Describes key elements of effective relationship and contract management and provides detailed guidance, templates and tools on all stages of contract management.
- [IN. 2012. *Institutional Mechanism for Monitoring of PPP Projects: Guidelines*. New Delhi: Government of India, Planning Commission.](#) Describes institutional frameworks for monitoring PPPs and includes annexes with sample monitoring reports.

- [NAO. 2001. *Managing the Relationship, to Secure Successful Partnership in PFI Projects*. Report by the Comptroller and Auditor General HC 375. London: National Audit Office.](#) This report was based on a survey of contractors and government officials on what makes for successful PFI contract management. It emphasizes the need for public authorities to address the question of contract management early in the project preparation; appropriate skills in the public authority; and an open and cooperative...
- [Quick, Roger. 2003. "Long-Term Ties: Managing PPP contracts." *Public Infrastructure Bulletin* 1 \(2\).](#) Briefly describes key features of successful contract management arrangements, drawing on Australian experience.
- [UNESCAP. 2011. *A Guidebook on Public-Private Partnership in Infrastructure*. Bangkok: United Nations Economic and Social Commission for Asia and the Pacific.](#) Chapter 6 provides guidance on contract management intended for developing country governments, focusing on institutional arrangements and dispute resolution.
- [Groom, Eric, Jonathan Halpern, and David Ehrhardt. 2006. "Explanatory Notes on Key Topics in the Regulation of Water and Sanitation Services." *Water Supply and Sanitation Sector Board Discussion Paper 6*. Washington, DC: World Bank.](#) Note 4 describes the relationship between sector regulation and PPP contracts.
- [EPEC. 2011b. *The Guide to Guidance: How to Prepare, Procure, and Deliver PPP Projects*. Luxembourg: European Investment Bank, European PPP Expertise Centre.](#) Chapter 4: Project Implementation, Section 4.1: Contract Management describes and provides links to references on some key issues in contract management, including attributing management responsibilities, managing project delivery, managing change, dispute resolution, and termination.
- [PURC. 2012. "Body of Knowledge on Infrastructure Regulation." University of Florida, Public Utility Research Center. URL.](#) Section IV: Price Level Regulation describes key issues in tariff regulation, and guides readers in accessing a wide range of references.
- [UK. 2006b. *Benchmarking and Market Testing in NHS PFI projects: Code of Best Practice*. London: National Health Service.](#) Provides guidance intended for contract managers on how to use market testing exercises to review the cost of soft services in health sector PPPs.
- [Guasch, José Luis. 2004. *Granting and Renegotiating Infrastructure Concessions: Doing it right*. Washington, DC: World Bank.](#) Reviews the occurrence and drivers of re-negotiation in PPP contracts in Latin America, and provides some policy lessons for reducing the prevalence of early renegotiations.
- [Ehrhardt, David, and Timothy C. Irwin. 2004. "Avoiding Customer and Taxpayer Bailouts in Private Infrastructure Projects: Policy toward Leverage, Risk allocation, and Bankruptcy." *World Bank Policy Research Working Paper 3274*. Washington, DC: World Bank.](#) Describes the experience of default and re-negotiation in several PPP contracts including the Melbourne Tram and Train Concession, and the United Kingdom National Air Traffic Services PPP.
- [Johnston, Judy, and Siegfried P. Gudergan. 2007. "Governance of Public-Private Partnerships: Lessons learnt from an Australian case?" *International Review of Administrative Sciences* 73.](#) Reviews the experience of the Sydney Cross-City Tunnel PPP contract, drawing lessons for PPP contract management.
- [Triantafylou, Epaminontas E. 2009. "No Remedy for an Investor's own Mismanagement: The Award in the ICSID Case *Biwater Gauff v. Tanzania*." *White & Case International Disputes Quarterly* Winter 2009, 6-9.](#) Reviews the international arbitration settlement of a water service PPP in Tanzania.
- [Overly, Megan Shepston. 2010. "When Private Stakeholders Fail: Adapting Expropriation Challenges in Transnational Tribunals to New Governance Theories." *Ohio State University Law Journal* 71 \(2\).](#) Describes challenges in international arbitration mechanisms, with case studies of arbitrations.
- [WB. 2009a. "Toolkit for Public-Private Partnerships in Roads and Highways." World Bank. URL.](#) Module 5: Implementation and Monitoring includes a section on hand back of facilities at contract end, which describes some key considerations at this stage.

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