What PPP is Not: Other Types of Private Involvement

Full Description

Besides defining the essence and the main features of PPPs, it is also helpful to clarify what they are *not*. This is useful to help us understand why the various features of the PPP model all contribute to generating efficient, affordable, and sustainable projects, and why deviation from the standard PPP model can cause project failure. This does not mean that projects and contracts developed as variants of the PPP model are not useful. On the contrary, they may be very useful in certain circumstances; however, often, when projects and contracts that are structured as a PPP fail, the cause(s) can be tracked to deviations from the defining characteristics of a PPP. This can be seen in the **UK Audit Office's report on the failure of a PPP to upgrade London's underground transportation infrastructure** (NAO 2009a).

Other types of contract for providing public assets and services

Governments enter into a wide range of contracts with private companies. Some of these contract types share some of the typical PPP characteristics—such as being long-term, output based, or performance-related—but they are not PPPs as defined above. For example, these include:

- ***Management contracts*** do not share the long-term characteristic of PPPs, the significant private capital investment, and the high level of responsibility for long-term performance brought by investment in infrastructure assets. However, they typically include similar performance indicators and requirements to PPPs. Performance incentives are created primarily through payment and penalties schemes. Being performance-based, they have a role to play where the private sector is not willing to invest, or where government is not willing to make a long-term commitment. The **World Bank's explanatory notes on water regulation** (Groom et al. 2006, 36–42), for example, describe how management contracts are used in the water sector. Operations and Maintenance (O&M) and performance-based maintenance contracts may also fall outside the definition of PPP where they are of short duration and lack substantial investment by the private operator.
- ***Affermage contracts*** are contracts under which a government delegates management of a public service to a private company in return for a specified fee. For example, in an affermage contract in the water sector, the remuneration of the operator is a fixed amount per cubic meter of water sold, although this amount can be adjusted over the years based on inflation and the operator's performance. Affermage contracts also have no infrastructure investment by the private operator—again, they have been the solution when appetite for investment is low, or when government is able to invest and does not wish to transfer so much management responsibility to a private party.
- ***Design-build***, or ***turnkey contracts*** include similar output-based specifications; however, as shorter-term contracts that do not include maintenance or operation, they do not create the same long-term performance incentives as PPPs. For complex infrastructure, these contractual requirements in a design-build contract may not result in optimal design, allowing contractors to cut corners, leading to additional maintenance and operational costs. Design-build contracts are short-term contracts, with no long-term responsibilities allocated to the private party. They are commonly used for simple projects, or for projects where the performance is credibly expected to keep at the same level with proper maintenance, and therefore corner-cutting is not relevant.
- ***Financial lease contracts*** are long-term contracts for providing public assets. However, these contracts transfer significantly less risk to the private party than PPPs because government maintains a larger proportion of risk than it normally would in a PPP. Financial lease contracts do not transfer significant responsibility for management and performance to the private party. They are not expected to produce significant improvements in service performance, or to reach efficiency savings.

While the material in this *Reference Guide* focuses on PPP arrangements, the references provided in this *Guide* may also be useful for governments considering these related contractual arrangements; conversely, some references concerning these contract types may provide applicable lessons for PPPs. However, practitioners should bear in mind that differences in risk allocation will likely trigger differences in bidding and operational behavior from the private party.

Other concepts of 'public-private partnerships'

The expression *public-private partnership* is commonly used for several other types of arrangements between public and private entities—all of which differ significantly from the contracts we discuss in this *Reference Guide.*

A few examples of arrangements not covered in this *Guide*:

- Public-private partnerships for innovation—the U.S. Food and Drug Administration (FDA) and the University of Rochester initiated a so-called public-private partnership to improve pain treatment called Analgesic Clinical Trial Innovations, Opportunities, and Networks (ACTION) in 2011—this multiyear initiative aims to promote and accelerate the development of novel analgesics by identifying faults in the design of clinical trials.
- Public-private partnerships for environment protection—the petroleum industry has a long history of so-called public-private partnerships aimed at finding cooperative solutions to environmental, educational, and community issues—these partnerships are voluntary activities aimed at ensuring that oil and natural gas companies are perceived as an integral and contributing part of society and the communities in which the industry operates.
- Public-private partnerships for public health or against neglected diseases—in 2010, COTCO, the oil firm that operates the Chad-Cameroon pipeline in Cameroonian territory, initiated a so-called public-private partnership project to control malaria (a major public health problem in the area) along the pipeline corridor.
- Public-private partnerships for terrorism insurance—in the aftermath of the 9/11 attack, the Terrorism Risk Insurance Act, also known as TRIA, was approved, creating a so-called public-private partnership with the purpose of stabilizing the insurance market, ensuring that private terrorism coverage would be widely available and providing for an orderly recovery in the event of future catastrophic losses. Under the program, insurers would have to absorb significant losses—approximately $30 billion in industry-wide deductibles—before the government would step in to provide additional coverage.
- Public-private partnerships against health care fraud—a voluntary, collaborative partnership between U.S. federal and state governments, private health insurance organizations, and health care anti-fraud groups designed to share information and best practices to improve fraud detection, prevent payment of fraudulent health care billings, and find and stop scams.
- Public-private partnership against terrorism—the United Nations Global Counter-Terrorism Strategy encourages "public-private partnerships"; the G8 launched a Global Forum for Partnerships between States and Businesses to Counter Terrorism (Moscow 2006) which resulted in the G8 Strategy for Partnerships between States and Businesses to Counter Terrorism.

This *Reference Guide* does not address these types of contracts. Their characteristics and properties are too different from the PPPs referred to in the *Guide*. In particular, they do not exhibit the link between high capital investment and strong performance commitments that we witness in the PPPs we are addressing—some of those agreements do not have significant capital investment, others do not have any kind of credible commitment on performance, but simply a commitment to apply an entity's best efforts towards a certain goal.

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