Institutional Responsibilities: Review and Approval

Full Description

A PPP project is a specific type of public investment. Most governments have systems and standard procedures for reviewing and approving capital investment projects: to ensure all projects are effective at meeting strategic objectives; provide value for money; and in line with fiscal priorities. Because PPPs do not necessarily require capital investment by the government, they may not automatically be subject to these approval rules. Many governments therefore define similar review and approval requirements for PPPs. See Example PPP Approval Requirements for some examples.

Often, several decision points are created, allowing weak projects to be stopped before they consume too many resources, or develop a momentum of their own. This is illustrated in Typical PPP Process. These iterative reviews are sometimes called *gateway processes*. **Monteiro's article in IMF's book on PPPs** (Schwartz et al. 2008) describes a typical gateway process, and how this process works in Portugal. At a minimum, formal approval is typically needed to enter into a PPP transaction. Because the final cost of a project is not known until procurement is concluded, final approval may be needed before the contract is signed. The South African Gateway Process for PPPs describes this gateway process in South Africa (ZA 2004a, Module 1).

Finance ministries typically have a leading role in this process, given their responsibilities for managing government resources, and (often) economic and fiscal policy. The IMF emphasizes the importance of the role of the finance ministry in its **book on Public Investment and PPPs** (Schwartz et al. 2008, 10). In France and many Francophone countries this role is split between the Ministries of Finance, Development and Planning. In a few other countries, another entity altogether has overall responsibility for overseeing the public investment program, and hence may play the same role for PPPs—such as the National Economic Development Agency (NEDA) in the **Philippines**. Many finance ministries have established special PPP units through which to carry out their filtering and monitoring functions, as described further below.

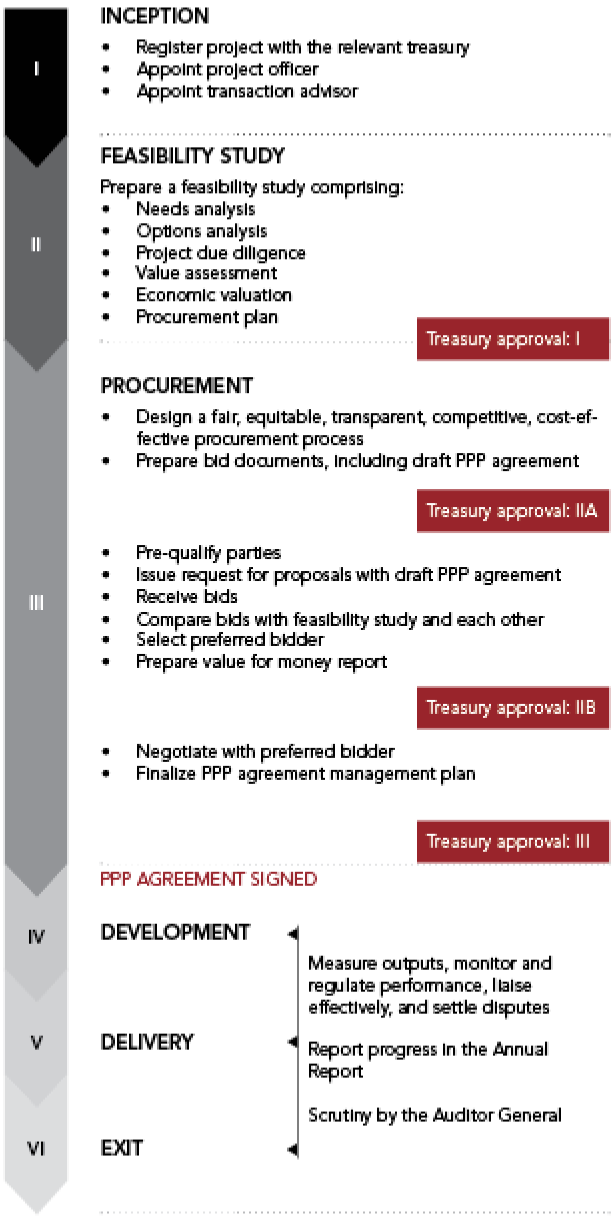
Other oversight agencies can also have a role in reviewing and feeding into PPP project approvals, mirroring their roles in any major capital investment project. These can include:

- **Planning agencies**: Some governments separate responsibility for planning and project appraisal from fiscal oversight, with the former housed in a dedicated planning agency. For example, in **Chile,** the National Planning Authority must review and approve the economic analysis of proposed PPPs, as is the case for all public investment projects.
- **Attorney generals** may be required to approve major government contracts, including PPPs, as part of their role as the government's legal advisor. For example, The **PPP law of Tanzania** (TZ 2010, 15–16) requires that the implementing agency submit the final draft PPP contract for approval by the Attorney General before the contract is executed.
- **Supreme audit entities:** Many Latin American countries also require approvals from audit entities that are independent of the executive branch of government, as described further in Broader PPP Program Governance. For example, in **Brazil**, the Court of Audits (Tribunal de Contas da União, or TCU, at the federal level, and state Courts at the subnational level) is required to review each PPP project and its legal documents before it can go to market.

These additional reviews can be important checks on the quality and legality of the project appraisal and development process. However, they can also introduce delays at crucial points. Mechanisms for coordination can help. Capacity building may also be needed to ensure these institutions are able to fulfill their roles as they relate to PPPs.

Ultimately approval may be by Cabinet and/or Parliament. Jurisdictions vary as to which entity can approve a PPP. A few countries require legislative approval of large projects. More often, approval may come from Cabinet or a Cabinet-level committee, the finance ministry, or a combination. As described in **Irwin's paper on controlling spending commitments in PPPs** (Irwin 2007, 113–114), approval power may depend on the size of the project, as is typically the case for other capital investments.

The South African Gateway Process for PPPs



Coordination

Decision-making for public investment projects is typically articulated around the annual budget process. However, because PPPs often do not have immediate budget implications, specific coordination mechanisms are needed to ensure the projects are integrated into the Mid-Term Expenditure Framework (MTEF) and reviews and approvals proceed smoothly and do not hold up the project development process. In some cases, PPP units are assigned with a coordinating role, as described further in Dedicated PPP Units. Some governments also form interdepartmental committees to oversee each PPP transaction, to ensure the perspectives of oversight agencies are taken into consideration throughout the project development process rather than just at review points.

Example PPP Approval Requirements

COUNTRY	REFERENCE	APPROVAL REQUIREMENTS
State of Victoria, Australia	National PPP Guidelines- Partnership Victoria Requirements (VIC 2016, 5)	All high-value or high-risk projects—including PPPs—go through a gateway approval process, established by the Department of Treasury and Finance. A panel of experts that are not directly involved in the project carries out reviews at key stages in developing and implementing the project, called *gates*. For PPPs, there are five gates: strategic assessment, business case (before issuing the requests for expressions of interest), readiness for market (before issuing project briefs and contract), readiness for service (before the contract is executed), and benefits evaluation.
Chile	Concessions Law (CL 2010b, Law 20410, Articles 7, 20, and 28)	Final approval of a PPP—through signing the decree that formalizes the concession—rests with the President and the Ministry of Finance together. Contracts cannot be bid out unless the Ministry of Finance has approved the bidding documents. The Ministry of Finance must also approve any changes to economic aspects of the bidding documents, as well as certain changes during implementation.
Colombia	PPP implementation rules (CO 2014, Section 3.2.3) Also set out in the National PPP Law (CO 2012c, Law 1508, Article 26)	PPPs must be approved by: • **CONFIS**—the National Fiscal Council, which leads the national fiscal policy and coordinates the budgetary system, approves the future appropriations (vigencias futuras) for PPP projects. CONFIS is made up of the Ministry of Finance, the Director of the Administrative Department of the National Planning Agency, the Chief Economic Advisors of the Presidency, the Vice-minister of Finance, and the directors of the National Treasury, Public Credit, and Tax and Customs Authority**.** Before reaching the CONFIS the project must have the approval of the sector ministry, and the National Planning Department. • **CONPES**—the National Council for Economic and Social Policy, which is the highest planning authority in Colombia and advises the government in all aspects related to the economic and social development of the country, certifies the strategic importance of the project. Such certification is required for the project to be eligible to receive future appropriations. In addition, this sets the limits on how many future appropriations can be approved by CONFIS in any given year. CONPES comprises the President, Vice President, the Cabinet, the director of the administrative department of the presidency, the director of the national planning department, and the director of Colciencias.

Philippines	The Philippines BOT Law (PH 2006, Rule 2, 16–19)	All national projects and projects over PHP200 million ($4.6 million) require approval from the Investment Coordination Committee (ICC) under the National Economic and Development Authority (NEDA) Board. The members of the NEDA Board are cabinet members responsible for the major infrastructure, economic and finance departments. PPP projects also require approval from both the NEDA Board and the President, upon recommendation by the ICC. The ICC's recommendation is in turn informed by a review by NEDA's technical staff, to check the project submission is complete, and adequately demonstrates the project complies with requirements for financial, economic, social, and environmental impacts.
South Africa	Public Finance Management Act and Treasury Regulation 16 (ZA 2004a, 8–10)	PPP approvals are made by the Treasury, through its PPP Unit. Projects are submitted for approval at four points, after: (1) the feasibility study has been completed, (2) the bid documents have been prepared, (3) bids have been received and evaluated, and (4) negotiations have concluded and the PPP contract is in its final form.

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