

Understand the Stakeholders and the Contracts in Asset Recycling

Full Description

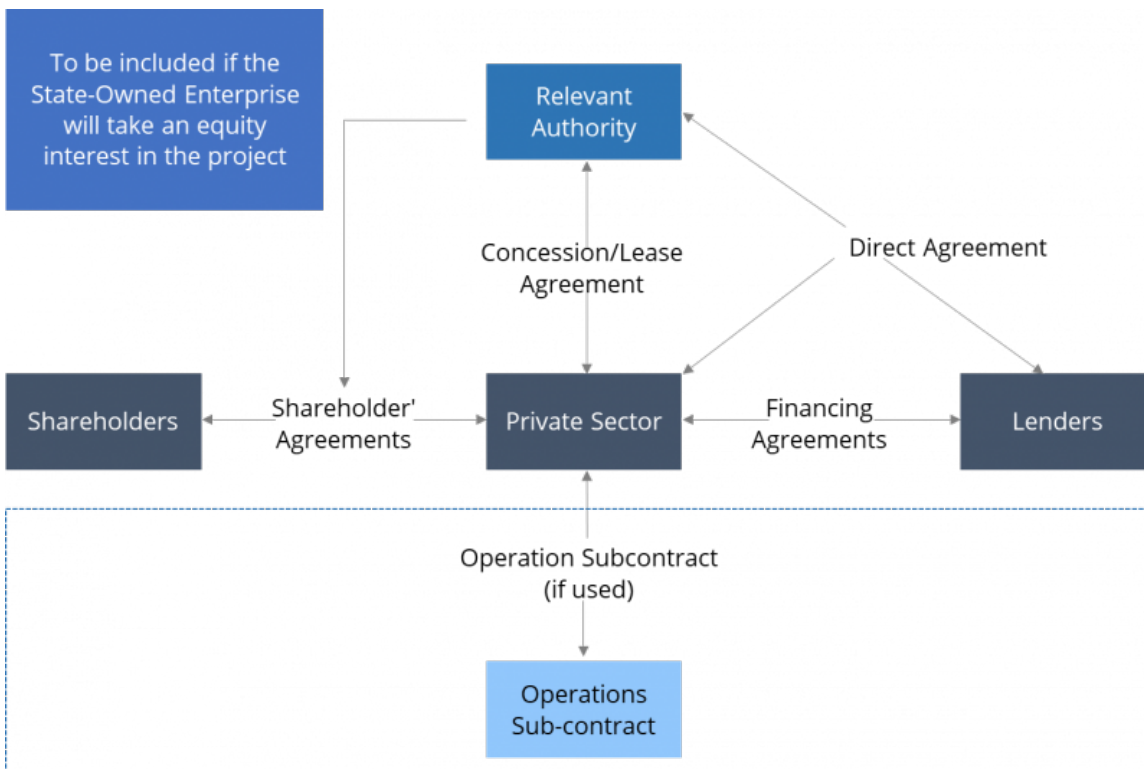
Prior to the contract management strategy being developed, the Relevant Authority should confirm an overall understanding of:

- The various stakeholders in the project agreements: the stakeholders include direct parties to the agreements as well as other parties (such as other government bodies and the local community) that have an interest in the project and the parties' performance of their respective duties and obligations.
- The express terms of the project agreements: the terms outline the powers, obligations and responsibilities of the parties to the contract. The understanding of the relationships between all parties is vital as each party may have conflicting goals that may not necessarily align to achieving the project objectives.

While the Relevant Authority must adopt an approach that is in line with applicable regulations and guidelines; there is no generic 'one size fits all' approach. Rather, the contract management approach must be developed for each specific project, in a manner consistent with project's specific characteristics and requirements.

For reference, the typical parties to a concession or lease agreement are shown in the diagram below.

Figure 7: Stakeholders in a Concession / Lease Agreement



The Private Sector may enter into an operations sub-contract under which it subcontracts its obligation to operate and maintain the asset to an operator. The operator either performs the maintenance activities itself, if it has the capability to do so, or it subcontracts these activities to the rolling stock and systems supplier.

The Direct Agreement is a tripartite agreement between the Relevant Authority, the private sector participant, and the lenders. It provides the lenders with some right to take over the project where the private sector participant has failed to fulfil its obligations under the concession or lease agreement. This can include in circumstances of insolvency as well as other serious breaches. It allows the lenders to ‘step-in’ and assume the role of the private sector participant to give it the opportunity to rectify the breaches to avoid termination of concession or lease.

As detailed under legal and commercial structuring options, there are potential variations from the basic structure illustrated above. These may include:

- Inclusion of ancillary agreements with subsidiaries and affiliates of the Relevant Authority.
- Use of a shareholders/ joint venture agreement as the primary agreement between the Relevant Authority and the private sector in case the transaction is structured as a joint venture.

Related Content

[Guidelines for Implementing Asset Recycling Transactions \(Download PDF version\) - Now Available!](#)

Additional Resources

[Stakeholder Communication and Engagement](#)

[Guidance on PPP Contractual Provisions \(2019\)](#)

[PPP Reference Guide - PPP Cycle](#)

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The Guidelines have not been prepared with any specific transaction in mind and are meant to serve only as general guidance. It is therefore critical that the Guidelines be reviewed and adapted for specific transactions To find more, visit the Guidelines to Implementing Asset Recycling Transactions [Section Overview](#) and [Content Outline](#), or [Download the Full Report](#).

