

COVID-19 AND PUBLIC-PRIVATE PARTNERSHIPS PRACTICE NOTE

Assessing Operational PPP Portfolios



The full version of this Practice Note is available [here](#). This note reflects the work of various staff throughout the Infrastructure Finance, PPPs & Guarantees Global Practice (IPG) alongside colleagues in other World Bank departments and IFC. The note was written by Jane Jamieson, Jenny Chao and Jemima Sy with inputs from Mahomed Bashir, Patrick Dougherty, Christina Paul, Dentons LLC and DLA Piper UK LLP under the guidance of Imad Fakhoury (Global Director – IPG) and Fatouma Toure Ibrahima (Practice Manager- PPP Group). Peer reviewers were: Aijaz Ahmed, Lourdes Baclagon, Sungjung Kim, and Vickram Cuttaree. Many more were involved as task team members of the various country assistances. The core team in PPIAF included: Lorena Meco, Philippe Neves, and Merita Salihu.

Executive Summary

The COVID-19 pandemic will continue to impact infrastructure projects around the globe in all sectors as supply chains are disrupted, customer demand falls, and health regulations force a change in the way business is conducted. Infrastructure projects delivered through public-private partnerships (PPPs) make them more challenging to deal with because of long-term contractual commitments made between counterparties, including third-party lenders and investors.

This note discusses key operational considerations when trying to maintain services during the COVID-19 crisis and recalibrating the PPP project in the short term. It builds on early lessons from the pandemic response and provides general guidance that could assist governments when assessing their policy and legal options for addressing COVID-19 impacts on PPP projects that are already underway¹.

This note focuses only on a process for assessing individual PPP projects that are in the operational stage. Similar practice notes are being developed to provide insights into the impact of COVID-19 on other aspects of PPPs².

¹ This note is informed by expert knowledge, international practice, and early lessons from the support being provided by the Infrastructure Financing, PPPs & Guarantees (IPG) Global Practice, through PPIAF, to country clients who have sought assistance under a COVID-19 Rapid Response Facility.

² Other notes being developed alongside this one cover other issues linked to COVID-19 impacts on PPPs: PPPs under preparation, fiscal implications of COVID-19 to PPP programs, and developments in the infrastructure financial markets.

Governments and authorities managing infrastructure PPPs should get ahead of anticipated developments through a rapid assessment of their PPP portfolios in order to identify risks, estimate the cost of such risks, and inform decisions on options and actions. The process diagram below sets out steps for assessing COVID-19 impacts on PPP projects that are under operation or construction. The practice note describes the details of assessing each step, discusses issues to consider, and provides early examples of government action to manage the impact of COVID-19 on their PPP programs.

There is a wide range of aspects to be assessed, and specific sector, policy, and legal considerations will drive a government's decision making process. Ultimately, governments have an obligation to ensure the continuity of essential infrastructure and access to such services – whether through public or private means. Governments, therefore, need to decide whether providing relief to concession holders under the existing PPPs or facing potential liabilities under contract, such as the costs of termination and taking over the service, meets its policy objectives—ultimately, a government is evaluating a new value-for-money equilibrium.

The principles for approaching the review of COVID-19's impact on PPP projects should be:

- Based on early identification of stress points through the prompt examination of information, stress testing, and assessment of contract rights and obligations to help identify the appropriate level of action from governments.
- To find an agreed-upon approach of maintaining services that is built on mutual trust and transparent rationale with a degree of pain/gain sharing between the parties.
- Proactive – rather than wait for the private partner to make claims and potentially end up in dispute, engage early to determine the private partner's assessment of the risk of COVID-19 to the projects and its plans for addressing such risk.
- To involve all relevant parties in the discussions. This includes the Project Company's authorized representatives, the government contracting authority, supervisory agent, Ministry of Finance, regulator, and PPP Unit. Project lenders may also need to be brought in, particularly where a government is guaranteeing the financing.
- Considered on a project-by-project basis whether to negotiate and implement a COVID-19 response plan for the project in which the government and Project Company agree to actions that each party should be taking now to address COVID-19, actions that each party will take in the future and the triggers for such actions.
- Consistent with government policies—such as maintenance of and access to services, job protection and economic stimulus—assessing how government actions impact the specific PPP project.
- Time-bound or temporary in nature, based only on COVID-19 impacts and not broader issues relating to the project.
- To not take unilateral action that may undermine the government's position in negotiating with PPP counterparties, or worse, place the government in breach of its obligations under those contracts.
- To ensure support, if necessary, is not a 'windfall' to private operators and to ensure the public does not perceive it as such, in order to avoid a backlash against PPPs.
- Benchmarked against similar projects and global experience.

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Process for Assessing and Resolving COVID-19 Impacts on PPPs

