

March 2016

Policy Paper on Infrastructure

Implementing Facilities Management services through PPPs



European Bank
for Reconstruction and Development

Information class: Standard

This report has been prepared solely for use by the party which commissioned it (the 'Client') in connection with the captioned project. It should not be used for any other purpose. No person other than the Client or any party who has expressly agreed terms of reliance with us (the 'Recipient(s)') may rely on the content, information or any views expressed in the report. We accept no duty of care, responsibility or liability to any other recipient of this document. This report is confidential and contains proprietary intellectual property.

No representation, warranty or undertaking, express or implied, is made and no responsibility or liability is accepted by us to any party other than the Client or any Recipient(s), as to the accuracy or completeness of the information contained in this report. For the avoidance of doubt this report does not in any way purport to include any legal, insurance or financial advice or opinion.

We disclaim all and any liability whether arising in tort or contract or otherwise which it might otherwise have to any party other than the Client or the Recipient(s), in respect of this report, or any information attributed to it.

We accept no responsibility for any error or omission in the report which is due to an error or omission in data, information or statements supplied to us by other parties including the client ('Data'). We have not independently verified such Data and have assumed it to be accurate, complete, reliable and current as of the date of such information.

Forecasts presented in this document were prepared using Data and the report is dependent or based on Data. Inevitably, some of the assumptions used to develop the forecasts will not be realised and unanticipated events and circumstances may occur. Consequently Mott MacDonald does not guarantee or warrant the conclusions contained in the report as there are likely to be differences between the forecasts and the actual results and those differences may be material. While we consider that the information and opinions given in this report are sound all parties must rely on their own skill and judgement when making use of it.

Under no circumstances may this report or any extract or summary thereof be used in connection with any public or private securities offering including any related memorandum or prospectus for any securities offering or stock exchange listing or announcement.

Contents

Foreword	i
1. Introduction	1
2. Facilities Management	2
2.1 Definition of FM	2
2.2 The importance of FM service provision	3
2.3 FM and the role of the private sector	3
3. Specific challenges for countries in transition to market economies	8
3.1 Strengthening of PPP policy framework	9
3.2 Alignment of the legal and regulatory framework	10
3.3 PPP implementation guidelines and procedures framework	13
3.4 Identification of suitable projects	14
3.5 Assessment of projects	15
3.6 Selecting the Most Economically Advantageous Tender (MEAT)	16
3.7 Public-sector capacity and capability	18
3.8 Private-sector capacity and capability	20
3.9 Public acceptance of FM through PPP as a means for the delivery of public services	21
4. FM through PPP - project implementation challenges	23
4.1 Value for Money assessment	23
4.2 Developing FM Output Specifications	25
4.3 Interface of public/private sector responsibility	29
4.4 Payment Mechanism design	30
4.5 Value testing	33
4.6 Effective and efficient contract management	35
5. Summary of recommendations	39
Appendix A Glossary	42
Appendix B Further reading and information resources	43
Appendix C Specific FM PPP project suitability considerations	46
Appendix D Abbreviations	48

Foreword

Facilities Management Public-Private Partnerships represent a growing percentage of all PPPs being delivered today worldwide and in Europe. In the sectors of health and education, which are the focus of this policy guidelines paper, the Facilities Management PPP approach has proven viable, with some one-third of all new PPPs being prepared worldwide. And with good reason: both types of 'social infrastructure' require dedicated management of the buildings themselves to be treated as assets that must be operated and maintained diligently to ensure their full usable life is attained.

As this policy paper explains, the FM PPP approach, when prepared correctly, incentivises the private sector 'facility manager' to deliver on-time and on-budget and then maintain and preserve the new asset to pre-determined operational standards in order to earn full 'availability payments'. Preparing PPPs that respect key structuring principles and international lessons learned is a sound course of action: there is no need to 'reinvent the wheel' in this area.

Whilst clearly attractive to governments, the FM PPPs only create 'value for money' (VfM) versus the traditional public sector alternative when the PPP contractor indeed delivers as required under the PPP contract. If not prepared in accordance with key principles and with solid monitoring by the public sector during the construction and operational periods, the much-desired VfM can fail to materialise and even led to costly restructuring at a later date. Given that availability payment-backed PPPs require long-term public sector funding support, careful analysis of the affordability of such PPPs is critical before embarking on any FM PPP. The private sector bidders (and indeed their equity investors and lenders) will certainly want to feel very confident that the government will be able and willing to make payment commitments for the next 20+ years of the PPP's contractual life.

These in essence are the reasons that the EBRD, through its Infrastructure Project Preparation Facility (IPPF), has co-funded this policy paper with the active engagement of a number of EBRD's client countries who are interested in FM PPPs. The EBRD's IPPF critical mission is disseminating good practice and knowledge in addition to preparing PPPs for client countries.

We would like to thank the active and engaged contributions from the countries of Croatia, Morocco, Poland, Slovakia and Turkey; EBRD colleague Alex Chirmiciu, as well as Nikos Pantechis from Mott MacDonald who acted as external consultant in the preparation of the paper. Their collective inputs and feedback during the seminars and the preparation of the policy paper itself have greatly improved the final product. Gratitude is also due to the government of Taipei China which kindly agreed to co-finance the development of this paper.

As one of a series of IPPF-funded policy papers on the infrastructure sector prepared over the course of 2016 and 2017, the EBRD looks forward to further dialogue with all its client countries on the preparation of PPPs and other complex infrastructure investments that are based on tried and tested structures backed by legal, institutional and contractual frameworks that allow for bankable projects.

Matthew Jordan-Tank
(EBRD, Head of Infrastructure Policy and IPPF)

Marcos Martinez Garcia
(EBRD, Principal PPP Specialist, IPPF)

1. Introduction

Issue and revision record

The use of Public Private Partnerships (PPPs) has become recognised globally as an effective option for implementing public infrastructure and providing services. As emerging PPP markets evolve, it is vital to utilise the knowledge and experience from mature PPP markets to benefit from lessons learned and embed 'best practice'. Experience shows that effective implementation of PPP structures for infrastructure developments, particularly in developing countries, is difficult without the realisation of appropriate transition and reforms. These should support the development of a robust implementation framework and strong policies for PPP projects that encourage private sector participation.

The fact that the majority of public sector entities have traditionally procured construction services from the private sector means that a significant amount of transferable knowledge and expertise can be adapted and utilised for the procurement of hard infrastructure through PPPs. Whereas the procurement of Facilities Management (FM) services through PPPs can prove more challenging due to the common practice on traditional/public projects for FM services being retained 'in-house' by the public sector. There is wider knowledge and experience as well as legal, regulatory and institutional gaps to breach relative to traditional approaches in the FM component of PPPs.

Procurement of FM through PPPs necessitates consideration of a range of issues that do not typically feature in traditional procurement. This document provides suggestions on how to address typical challenges faced in the implementation of FM through PPPs with a focus on emerging countries with limited experience of the PPP model.

Objectives of this document

This document is intended to provide interested governments with information and guidance on the required policy, regulatory and institutional framework in place to facilitate private sector participation in the delivery of FM service through PPPs.

It identifies challenges that the development of the FM PPP model faces and explains the rationale behind them. The Paper also proposes a range of possible solutions based on best-practice, market-driven approaches and other commercialised alternatives to address challenges currently faced in the implementation of FM through PPPs, in particular in the EBRD's countries of operations.

2. Facilities Management

2.1 Definition of FM

FM is an integrated approach to operating, maintaining and improving the buildings and infrastructure of an organisation, in order to create an environment that allows an organisation to concentrate on its core business activities.

FM is often associated with the upkeep, maintenance and operation of buildings such as office buildings, hospitals, schools, prisons, sporting complexes, convention centres, shopping complexes, hotels, etc. However, it is worth noting that FM is relevant and applicable across the full spectrum of infrastructure sectors including industry, transport, defence, water and environment.

The role of FM is to:

- Create an optimal, safe and cost effective environment.
- Deliver effective and responsive services.
- Enable changes in the use of space and anticipating future asset needs.
- Ensure the facility is compliant with all relevant codes and regulations.
- Create competitive advantages for the organisations core business.
- Enhance the organisation's culture and image.

FM services are generally divided into three categories:

'Hard FM'

'Hard' FM includes services which are directly connected to the asset and its availability. This typically includes:

- Building maintenance.
- Grounds maintenance.
- Energy/Environmental management.
- Equipment management.

'Soft FM'

'Soft' FM generally relates to the day-to-day supporting services required in the operation of an asset. 'Soft' services are not directly connected to the availability of the asset. This typically includes:

- Cleaning.
- Catering and hospitality.
- Portering/janitors.
- Security.
- Laundry/linen.
- Helpdesk.
- Waste management.
- Reception.
- Pest control.

Other support services

Other support services that often fall within the scope of FM include:

- Fleet management.
- Mailroom management and Postal services.
- Reprographics.
- Switchboard.
- Stores and logistics.

2.2 The importance of FM service provision

FM has evolved into a comprehensive set of business functions that focus on optimising productivity and deriving the maximum value from an asset. On a day-to-day level, effective FM provides a safe and efficient working environment. At a corporate level, it contributes to the delivery of strategic and operational objectives.

The increasingly rising expectations for high-quality public service delivery coupled with the need to drive down costs and improve productivity has encouraged many public organisations to seek out more innovative, sustainable and cost-effective approaches to delivering FM services. Over time this has led to the need for modernising the way in which public infrastructure and services are delivered. One approach is outsourcing FM service delivery to the private sector.

Outsourcing FM service allows the public entity to focus on the provision of the public service while the FM provider focuses on providing the best working environment for that goal to be met.

2.3 FM and the role of the private sector

Traditionally, FM services for public infrastructure have been procured, managed and financed upfront by the relevant public authority. While advantages of this approach often include flexibility and responsiveness to demand changes and maintaining full control and ownership of operations, it is also often criticised for being fragmented due to separation of design, construction and operational activities. This separation has sometimes resulted in poorly performing infrastructure as the design and construction of the infrastructure has not prioritised the whole life of the asset. It is also often argued that relative to the private sector, the public sector can be inefficient and disproportionately bureaucratic in performing ancillary (non-core) public services.

The role of the private sector – Public Private Partnerships

Today, private sector expertise, innovation, skills and investment play an increasingly significant role in public infrastructure and services delivery in many countries.

Public Private Partnerships (PPPs) is a procurement form of private sector participation in the provision of public infrastructure. PPPs were introduced with the aim of delivering high-quality and well-maintained assets that provide Value for Money (VfM) by engaging the private sector in the design, build, finance and operation (whole life/integrated approach) of public assets.

Since their introduction, PPPs have been a growing and an increasingly important part of public sector investment in infrastructure and services. They are being used across a wide spectrum of sectors including education, health, transport, law and order, defence, public utilities, waste management, housing, telecommunications, etc.

Implementing FM through Public Private Partnerships – the scope of Hard and Soft FM

The spectrum of FM services delivered through a PPP contract can vary depending on the requirements of the public sector and the long-term implications on VfM, affordability and flexibility requirements.

Hard FM services are always an integral part of PPP projects and are carried out by the private sector. Hard FM is inherent in a PPP contract due to the contractual commitments to maintain the asset to an agreed level of quality and functional performance throughout the Contract Period. On the other hand, the provision of Soft FM services is less intrinsically embedded in PPP contracts and, therefore, they can either be retained by the public sector or transferred to the private sector.

Hard FM services and, in particular, the performance outputs associated with Hard FM service provision can be defined at the outset of a PPP contract with a high level of confidence that they will be not subject to substantial changes during the Contract Period. On the contrary, Soft FM services are generally more susceptible to changes. Changes in Soft FM services during the Contract Period are typically associated with:

- Changes to quality / level of service requirements.
- Changes in regulations that dictate how services are delivered.
- Changes in use of certain spaces within the facility.
- Changes in service demand volume.

Due to the increased susceptibility of Soft FM services to change, it is necessary to assess each Soft FM service based on its ability to yield VfM for the public sector in the short, medium and long term. This is in essence an assessment of whether variation mechanisms and value testing provisions included in PPP contracts can facilitate appropriate adjustments to safeguard on an ongoing basis VfM. These, along with other considerations, are discussed in more detail later in this document.

Soft FM services are often separated from the PPP contract and implemented as short-term outsourced contracts that are reviewed at regular time intervals on an ongoing basis. Short-term outsourcing of services can contribute towards the achievement of efficiencies and offer more flexibility. However, outsourcing outside the PPP contract context has to be weighed against the loss of the benefits associated with the integration of asset design and operation, the need for increased administration of multiple contracts and importantly, the risk associated with the introduction of additional interfaces and dependencies between different service providers and the Contracting Authority.

In addition to the integration of asset design and operation, further benefits associated with including Soft FM services within PPP contracts include:

- Giving the Contracting Authority a 'one-stop' point of contact for all services.
- Reducing the interface risk (that is, eliminating problems to allocate responsibility in cases of non-availability of the infrastructure among different soft FM providers that could result in issues associated with Availability Payments).
- Eliminating barriers or minimising constraints that may restrain private sector's design freedom and innovation.

FM services in the Turkish Health Transformation PPP programme

With the support of the World Bank, the Turkish Ministry of Health is implementing a 50,000-bed Health Transformation PPP Programme to renovate healthcare infrastructure throughout Turkey, in order to meet increasing healthcare demands.

The PPP projects implemented through this programme include a wide range of clinical support services including laboratory services, rehabilitation, sterilisation and disinfection services.

In some countries the scope of FM services in PPP is extended to such a degree that it also includes elements of services that are traditionally considered as public sector 'core services'. This is particularly prevalent in the healthcare environment and includes services such as imaging, laboratories, rehabilitation, sterilisation and disinfection services.

VfM is important because it enforces a rigorous process of evaluation on the net benefit of procurement under a PPP compared to traditional public sector procurement. However, achievement of VfM through PPP procurement and indeed the delivery of FM services in the PPP context (and in particular which types of services are more suitable for inclusion in PPP contracts) has been a divisive subject that continues to be debated in public and industry. The debate is primarily fuelled by the lack of conclusive and universally applicable and accepted evidence that points towards a particular point of view. For example, in countries such as the UK and Canada, there is currently a shift from the inclusion of a wide range of Soft and Hard FM services in PPP contracts to the 'by-default' inclusion of only Hard FM services, with Soft FM services being considered for inclusion in PPP contracts in individual cases by exception where increased value and flexibility can be demonstrated. This shift is primarily driven by the desire of these governments not to commit into long-term contracts that can impose significant limitations on how service delivery approach and methodology can be adapted to respond to evolving operational requirements and service demand. However, it is also worth noting that this shift in policies in the UK and Canada has coincided with changes in government and were preceded by high-profile public debates and media claims regarding the cost of PPPs and the cost associated with implementing changes in PPP contracts.

The shift of the UK education PPP programme from BSF to PSBP and the exclusion of Soft FM

In July 2010, the new UK conservative Education Secretary axed the national school rebuilding programme for England, 'Building Schools for the Future (BSF)', established by the Labour government, saying it was wasteful and bureaucratic.

BSF was the biggest school building programme since Victorian times and was Labour's £55 billion grand plan to rebuild every secondary school in England. PPP (PFI) projects under BSF typically included the provision of a wide range of Soft FM services from cleaning and catering to managed IT services and back-office support.

Amongst the biggest criticisms of BSF was the lack of flexibility of the contracts that were too expensive to change, set against a backdrop of a difficult-to-predict, fast evolving learning environment.

The new schools building programme proposed by the Conservative government, the Priority Schools Building Programme (PSBP), includes a number of PPP (PF2) projects. Under PF2, Soft FM services are typically retained by the public sector.

The benefits and key considerations of implementing FM through Public Private Partnerships

It is important to highlight that while PPPs are not the right solution in every case, they can provide many benefits if applied appropriately to the right projects. Benefits of FM PPP relative to traditional procurement methods include:

- **Whole life cost consideration:** Implementation of FM services through PPP facilitates ‘whole life cost’ approach that takes account not only of the cost of constructing and maintaining the building but also the optimisation of operational efficiency.
- **Access to private sector expertise:** PPPs allow the public sector to benefit from the introduction of private sector technology and innovation thus providing services to the public through improved FM processes.
- **Budgetary discipline:** Under PPP, repairs, maintenance of facilities as well as other facility operational costs can be estimated with increased certainty at the outset of projects, thus allowing the public sector to have a longer term visibility of spending commitments and ensuring that this infrastructure and related services are properly maintained over the entire life cycle of the contract period.
- **Commercial approach to public service delivery:** PPPs are helping the public sector develop a more disciplined and commercial approach to infrastructure development and operation, whilst allowing the public sector to retain strategic control of the overall project and service.
- **Structured and comprehensive risk management approach:** The PPP process requires a detailed analysis of project risks at the outset. Examination of risks by both the public and private sectors means that cost estimates are robust and investment decisions are based on better information. In addition, with appropriate and effective risk transfer mechanisms, PPP can foster an environment where both public and private sectors are incentivised to improve performance and achieve efficiencies.
- **Innovation:** Specifying outputs, rather than prescribing inputs, provides a wider opportunity for private sector innovation. Competitive procurement incentivises bidders to develop innovative solutions for delivering the required outputs effectively and efficiently.
- **Focus on service delivery:** Allows a procuring authority to enter into a long-term contract for services to be delivered as and when required. PPP Contractor Management is then focused on the service to be delivered without having to consider other objectives or constraints that are typical in the public sector context.
- **Access to private sector funding:** The use of PPP enables the public to deliver services and infrastructure without the need for the initial capital investment that would be needed under traditional procurement. It therefore facilitates the delivery of public infrastructure and services that otherwise could be beyond the public sector’s immediate affordability.
- **Accountability:** Contracting Authority payments are conditional on the PPP Contractor providing the specified outputs at the agreed quality, quantity, and timeframe. If performance requirements are not met, service payments to the private sector party may be reduced.
- **Better Value for Money:** suitably structured PPP projects have the potential to deliver better VfM compared with that of equivalent services procured conventionally.

Whilst delivery of FM through PPP can offer benefits, it can also present challenges and constraints for the public sector. Key issues that must be considered carefully in defining the FM scope of PPP projects include:

- **Complexity:** Procurement and management of FM through PPP is typically more complicated than conventional procurement contracts. This is principally because of the need to anticipate all possible contingencies that could arise in such long-term contractual relationships.
- **Increased procurement costs:** The Procuring Authority and parties bidding for a project spend considerable resources in designing and evaluating a project. In addition, there are typically very significant legal costs in contract negotiation. It is worth noting that the cost of both successful and unsuccessful bids is, in effect, built into the total project costs.
- **Private sector interest:** Insufficient interest from the private sector in taking on the responsibility for delivering services (and the associated risk) often leaves the public sector with a limited choice in relation to which procurement route is most appropriate.
- **Flexibility constraints:** The commitment of the public under a PPP contract may extend for many years (20 to 30 years is typical). Given the length of the PPP contracts, it is impossible to anticipate all eventualities, such as changes in service demand, changes in technology, changes in service standards, etc. Whilst provisions are typically included in the PPP contract that define how variations are to be implemented and priced, it is almost inevitable that circumstances will arise which cannot be foreseen at the outset. It is therefore not unusual for aspects of the contracts to be renegotiated at some stage. Contract renegotiations can be costly if there is inadequate competitive tension to incentivise the private sector to deliver VfM.
- **Challenging performance monitoring and enforcement:** One of the difficulties with Output Specifications in the area of FM service delivery is that performance requirements sometimes have criteria which are hard to formulate in a way that is objectively quantifiable in terms of performance measurement. Whilst to an extent the use and enforcement of recognised industry guidance practices (for example, guidance for decontamination including cleaning, disinfection and sterilisation of hospitals) may go some way in addressing this issue, there are areas of FM performance that are more challenging to monitor, measure or enforce (for example, the requirement to maintain good relations with customers and users).
- **Public opposition:** Public opposition is not uncommon in both countries that are now introducing PPP and in mature PPP markets. PPP projects with FM elements may be more politically or socially challenging to introduce and implement than others. This is due to the fact that outsourcing of FM services is often perceived by the public as privatisation and commonly associated with the introduction of tariffs (or tariff increases). There may also be vested interests at play, such as union interests, which can impose constraints on the ability to effectively implement FM contracts.
- **Constrain the public sector borrowing capacity in the long term:** Depending on national accounting rules, PPPs might not appear as public-sector borrowing, nor will their capital cost appear as expenditure in the public budget. In the case of FM PPPs, the Unitary Charge is a future annual cost, and thus has an impact on the public-sector budget in the same way as borrowing. However, the national accounting treatment of PPPs might overcome budget deficit and public debt limitations under certain circumstances. There might be an incentive for some governments that are close to those limits to go down the PPP route and avoid reaching the cap. It is a particular threat where countries enter into large PPP programmes which include significant scope for FM services. This was the case of Portugal or Greece where payments for major PPP programmes have had a significant effect on the public budget.

3. Specific challenges for countries in transition to market economies

The fact that the majority of public sector entities have traditionally procured construction services from the private sector means that a significant amount of transferable knowledge and expertise can be adapted and utilised for the procurement of hard infrastructure, such as buildings, through PPP. Similarly, wider public policies, laws and regulations are largely aligned with the principle of a private entity providing construction services and therefore require little adjustment, if any, to facilitate infrastructure procurement through PPP.

On the other hand, due to the common practice of FM services being retained 'in-house' by the public sector, or FM services being procured through traditional procurement, the procurement of FM services through PPP can prove more challenging as there is a wider gap to breach when compared with the traditional approach to FM service delivery. Therefore, the development of an enabling environment for the implementation of FM services through PPP necessitates the public sector to transform itself and develop certain capabilities and capacities in a wide range of areas in order to address this gap. This is particularly important in emerging markets as well as EBRD's countries of operations which are transitioning and undergoing reforms to market economies. The areas to develop capabilities include:

- **Policy:** Policy that facilitates and encourages the consideration of FM services through PPP as an option for the delivery of FM.
- **Law and regulation:** A legal and regulatory framework that is aligned with PPP principles and does not present undue limitations in the delivery of public services by the private sector.
- **Standard guidelines and procedures:** Guidelines and procedures in line with recognised international best practice that promote standardisation, the achievement of efficiencies and ultimately, facilitate the achievement of VFM.
- **Public sector capability and capacity:** The promotion of wider public sector awareness of FM through PPP and the enhancement knowledge and experience of public sector staff directly involved in infrastructure procurement of PPP.

International experience shows that there is no unique formula for developing sound and successful PPP projects that include FM Services. However, PPP frameworks that can facilitate effective implementation of FM are characterised by clear policies, a strong legal framework, project implementation procedures aligned to best international practices, competent and enabled public sector teams, private sector inclusion and well-informed public opinion.

The following sections examine the areas identified during the preparation of this Paper that are deemed to be critical in scaling up the implementation of FM through PPP. They also discuss some of the actions that could be taken to alleviate some of the related challenges.

3.1 Strengthening the PPP policy framework

Whilst most governments have had PPP policies, new policy initiatives may be useful in scaling up and broadening the inclusion of FM through PPPs. Through policy, governments can clarify what, why and how FM services through PPP is being pursued and what benefits are being sought.

It is important that policies stress that the inclusion of FM services in PPP projects is being pursued to provide improved service delivery, the latest best practice techniques and modern service equipment. This could be addressed to a significant extent by a clear policy statement which would define the rationale and also the limits of private sector participation in the delivery of public services through PPPs. This would help to give the PPP programme a clearer mandate in relation to the inclusion of FM services in PPPs.

The policy framework would also enable governments to signal more clearly to private sector stakeholders a long-term commitment to public sector demand for FM services. A clear policy commitment for private sector participation in the delivery of FM could leverage private sector investment for developing capacity and capability.

Through policy, governments could also identify and attend to other areas of the wider PPP framework that impede or prevent effective implementation of FM services through PPP. This could include legal and regulatory framework issues and institutional reform or strengthening.

The role of the Canadian P3 Office during the early days of PPP in Canada

At federal level, the P3 Office, located in Industry Canada (a federal government department that promotes Canadian industry), has played the role of promoter.

One of the main purposes of the P3 Office during its early stages was to actively promote the idea of PPPs among politicians and officials in the provinces and to provide information – and counter misinformation – about PPPs.

In Canada during the early 2000s, the main obstacle for the implementation of PPP was a lack of political will and the need for a new policy direction in some of the provinces, and this is where the P3 Office played a useful role.

In addition, they found that there was a demand for information about PPPs from the Canadian engineering industry, which wanted to prepare themselves well to compete in this market both in Canada and internationally.

Another important role of the P3 Office was to educate federal officials about PPPs. In Canada, the main responsibility for implementation of PPPs lies with the provinces, but federal policies were often hindering PPP programmes at the provincial level. Therefore, the P3 Office supported creating a conducive environment for the effective implementation of PPPs.

Today many provinces and cities in Canada have their own Policy Framework.

While wider PPP policy adjustments may offer a significant step towards the development of a PPP FM enabling environment, it is necessary to translate this into FM specific policy or distinctive action plans. These could provide more precise orientation to encourage Procuring Authorities, such as ministries, public agencies and local authorities, to consistently consider FM PPPs in all new capital investment prospects higher than a certain threshold amount.

In addition, policy could also provide clarity on other aspects, such as the approach towards feasibility assessment, the evaluation of VfM for FM services and risk transfer. Setting policy could also encourage the discussion of key issues among different stakeholders, furthering an increased understanding of the key attributes of FM under PPP, advantages, and drawbacks.

Moreover, PPPs require a consistent policy over the long term given the tenure of PPP contracts. This is of particular importance when working in countries that are in transition.

PPIAF recommendations on PPP Policy content

The Public Private Infrastructure Advisory Facility (PPIAF), in its 2012 note on developing a comprehensive policy for PPP programmes, provides an outline of a PPP policy which includes the following objectives in relation to its content:

- Describes the rationale for the policy.
- Defines PPPs and the scope of the PPP policy.
- Sets the sectors in which the government intends to use PPPs.
- Outlines the government's objectives in pursuing PPPs and in creating a PPP framework.
- Defines the principles by which PPP contracts will be structured, procured and managed.
- Defines the principles of procedures for procuring and managing PPPs.
- Defines the principles by which PPP project risks will be allocated.
- Introduces the PPP Unit and outlines its authority, reporting structure and mandate.
- Defines the procedures for identifying, developing, procuring and monitoring PPPs.
- Defines procedures for developing unsolicited proposals from private proponents.
- Defines the responsibilities for carrying out VfM audits of the PPP programme, and sets the timetable for such audits.

3.2 Alignment of the legal and regulatory framework

The design of laws and regulations for the implementation of FM in PPP vary across countries depending on legal tradition and existing/legacy laws. Many countries have adopted laws that make it possible to facilitate private participation in the provision of infrastructure and services through PPP. However, the enactment of PPP law does not always fully enable the implementation of FM in PPPs as there may be other legal and regulatory aspects that could have an impact on the feasibility or effectiveness of implementation of projects with FM scope.

Past experience has shown that while relevant provisions may be included in PPP legislation, the effective implementation of FM services through PPPs can be obstructed by other and/or secondary legislation or regulations that were enacted without PPPs in mind.

In the context of defining the scope of FM services that are to be included in a PPP project, examples of limitations that may be imposed by the legal and regulatory environment include:

- **limitations on the power to delegate public services** - a Procuring Authority may be prevented by law from delegating certain powers or public services to the private sector. This is particularly common where services are delegated from central government to local government or to specific public entities, where the delegation of authority may contain limitations on sub-delegation.
- **limitations on activities in public land/assets** - the law may impose limitations to the activities that a PPP Contractor may carry out (for example, commercial activities) in public land or assets that may or may not be transferred under the PPP law. It is worth noting that the ability of the private sector to raise commercial revenues can be a key determinant of the affordability of a project.

- **unilateral early terminations of services** - in many jurisdictions Contracting Authorities have the right by law to unilaterally terminate service contracts. For PPP FM service operators this is of particular concern for services that require significant initial capital investment (for example, health diagnostic and laboratory services). PPP Contractors would require that appropriate mechanisms are in place for protection against unilateral service termination and where appropriate, compensation.
- **limitations on making payments** - it is not infrequent in emerging markets that there are legal constraints to long-term contracts making payments adjusted to inflation and/or considering indexation based on forex currency. These provisions are very important for the bankability of projects.

A Procuring Authority wishing to implement a PPP project will need to consider at the initial project development stage whether there are any aspects of the existing legal environment that would limit the scope of the project or have a detrimental impact on its effective operation. It is important to highlight that consideration is required for all sources of law that make up the legal and regulatory environment within which the project is to be implemented.

Kazakhstan legal framework limitations

The Law On Concessions adopted on 7 July 2006 is the cornerstone of Kazakhstan's PPP legislation. However, Kazakh commercial laws fell short in certain respects of standards that are generally acceptable internationally and the law has been largely adapted since then with the assistance of international institutions. In particular, in 2008 the Law on Concessions and other legislative acts have been amended and the Government set up the Kazakhstan Public-Private Partnership Center (KPPPC). Jointly with the Ministry of National Economy and Budget Planning, KPPPC developed a draft of "Development of public-private partnership in Kazakhstan Concept 2009-2015". The law has been amended several times over the last three-four years and the latest changes have been enacted in the 2014 version of the law, but the international community had certain comments on the PPP law update and a new draft version was developed to address the shortcomings identified. The draft PPP law has passed first hearings at the lower chamber of Kazakhstan's Parliament ("Majlis") and it is subject to further discussions with high expectations for approval. . Some of the limitations of Kazakhstan's PPP legal framework include:

- Creditor security restrictions.
- Uncertainty tariff approvals and whether long-term inflation are possible to envisage in FM PPPs.
- Absence of protection in the case of force majeure and the change of law.
- Limitation on custom duties' exemptions to "priority investment projects".
- Land allocation restrictions.
- Limitations on settlement of disputes through international arbitration.
- Despite this, the Kazakh authorities are working on a programme of Hospital PPPs and wish to start with a pilot project in 2017 after PPPs in other sectors are successfully signed.

Some of the challenges that evolve from the legal and regulatory environment may necessitate reforms to existing laws and regulations and, in some cases, the introduction of new ones. Such reforms would typically be initiated by the wider PPP policy. It would therefore be valuable if awareness of the need for legal reforms is promoted with key decision makers whose contributions can influence policy.

On the other hand, in many cases challenges associated with the legal and regulatory environment can be addressed through the development of appropriate PPP contract terms. The majority of such issues are found in many legal systems and best practice approaches have been developed. Consideration should therefore be given to modifying as necessary and adopting proven international practices. The added benefit of this would be that the private sector would be familiar with the proposed contract terms and therefore more likely to accept them.

Addressing the legal framework challenges in the Turkish Health PPP programme

The Build-Lease-Transfer Model has been used in the healthcare projects initiated by the Ministry of Health (MoH) for the first time. With no other FM PPP model precedent, there were some shortcomings in the beginning, which have been overcome to a great extent through eventual legislative and executive acts.

Despite the fact that the Build Operate Transfer (BOT) Law was used for transportation projects, the Hospital programme was tendered based on a single provision introduced to the Basic Healthcare Law in July 2005 – Additional Article 7. Therefore, there were two main limitations; lack of a sufficient legal framework and bankability issues.

The regulation devoted to the Build Lease Transfer (BLT) healthcare projects followed in July 2006, but still important points were required to be addressed under the BLT Regulation related to the rules of Turkish legislative hierarchy, or no consideration to the lenders' rights.

A New BLT Law was enacted in March 2013, specifically devoted to the healthcare BLT projects, and a further BLT Regulation was issued in May 2014 setting the detailed terms with respect to implementing the provisions of the New BLT Law. The new legislation addressed the majority of the legal hurdles and uncertainties faced between the initial launch of the healthcare BLT projects (the first tender was launched in 2009) and the Financial Close of the first project in late 2014. The BLT Model mainly consists of (i) building a healthcare campus by the private entities (build); (ii) leasing of such a campus by the MoH from the private entities (lease) and; (iii) a transfer handover of the campus to the MoH, free of charge, at the end of a contract term by the private entity (transfer).

During the operation term, the primary healthcare services are still provided by the MoH at the healthcare campus, whereas the private entities assume certain operational obligations including clinical support services.

3.3 PPP implementation guidelines and procedures framework

Many governments, typically through specialist PPP units, develop guidelines and procedures in relation to the implementation of the FM PPP projects. Guidelines and procedures are often developed to cover the whole project lifecycle from inception through to structuring, procurement, implementation and contract management.

The need for standard guidelines, procedures and proforma tender documents has become recognised as fundamental for PPP projects to support an efficient procurement process, reduce transaction costs and improve contractual performance. This is particularly relevant for FM implementation due to the complexity of the integration of services with public sector operations.

Guidelines and procedures can facilitate standardisation for project development and also promote a common understanding of typical project challenges, how projects are identified, evaluated and structured and, importantly, the treatment of political, legal, technical, operational and commercial risks associated with PPPs. The development of FM specific guidelines is not common at national PPP programme-wide level. However, in countries with substantial sector specific experience, there are numerous examples where FM specific guidelines and processes exist. Examples of this include the UK's Local Improvement Finance Trust (LIFT) programme for health infrastructure and Priority Schools Building Programme.

UK's LIFT Programme

The (LIFT) Programme was conceived in 2000 and since then has resulted in the most concentrated investment in new locally run primary health and social care facilities since the advent of the National Health Service (NHS). The NHS has published a business case approval guidance for Commissioners, as well as standard form templates of key project documents and legal documents such as standard lease forms, shareholder agreements and strategic partnering agreements.

It is not uncommon for countries to adopt existing guidelines from other countries. However, for governments that are just embarking on their PPP programmes it is essential for any guidelines or processes adopted to take account of local customs and regulations.

3.4 Identification of suitable projects

When major new public infrastructure or services' projects are being planned, it should be considered whether PPP would produce better results than traditional procurement. In essence, the benefits of PPP must outweigh its drawbacks and risks.

In addition, PPP projects must require a certain level of investment and private sector risks must be acceptable to the market.

Whilst the same principles of assessment would be applicable for the provision of FM services through PPP, there may be certain aspects of FM that require a more specific consideration of the nature of the scope of the services, and possible impact (positive or negative) to the likelihood of a project being feasible or yielding VfM for the public. The table included in Appendix C summarises some considerations that are also discussed in other sections of this paper in more detail.

Further consideration should also be given to potential local or international market interest for the overall project as well as the range of FM services that are likely to be included. Early formal and informal market sounding can not only prove valuable in assessing market interest and receiving feedback but also in providing advance notice in relation to potential business prospects.

UK's criteria for assessing PPP suitability

The UK Treasury has defined criteria for assessing the suitability and unsuitability of projects for PPP.

"Suitability" criteria include the long-term, predictable need for the service; the ability to allocate risk effectively - including through performance-related payments and ensuring sufficient private capital at risk; the likely ability of the private sector party to manage risk and take responsibility for delivery; the presence of stable and adequate policy and institutions; and a competitive bidding market.

"Unsuitability" criteria include projects that are either too small or too complicated; sectors where needs are likely to change or there is a risk of obsolescence (for example, PPP projects are no longer used in the ICT sector); or where the contracting authority is inadequately skilled to manage PPP.

3.5 Assessment of projects

Project assessment is typically carried out at various project stages ranging from prior to the inclusion of projects in the PPP pipeline to prior to signing of a PPP contract. The level of detail and scope of assessment varies at each stage from country to country. Some countries have clearly-defined and concise procedures and criteria whilst others only provide a loose definition of the evaluation process and factors under consideration. Project assessment points typically act as project gateways and therefore the way assessments are scoped, structured and implemented have a significant impact on the type and range of projects submitted for consideration, the level of effort and cost associated with project preparation, as well as importantly the level of preparedness of projects.

The decision flowchart below illustrates an adapted version of the project evaluation stages that are implemented by the city of Calgary. It is worth noting that PPP projects are evaluated throughout their life cycle from project inception through to operation.

The levels of assessment that may be applied to determine if a project should be approved for PPP delivery are described as follows:

Screening Assessment: A high-level comparison of project characteristics against criteria to assist in determining the potential suitability of a project for PPP delivery.

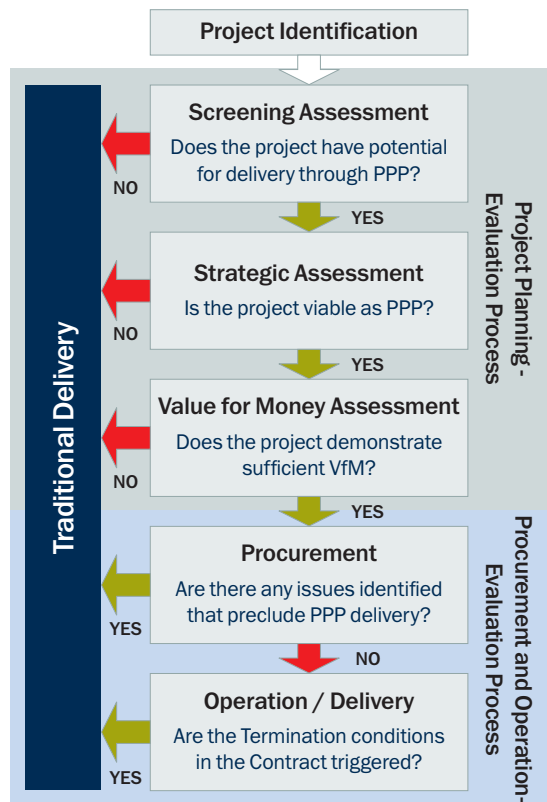
Strategic Assessment: A more detailed examination of the risks, costs, market of service providers, and objectives and constraints to identify, at the strategic level, if a project should be procured as a PPP, which PPP delivery model(s) is most suitable, and whether or not further assessment is justified.

Value for Money (VfM) Assessment: An extension of the Strategic Assessment, including quantification of project risks and a preliminary comparison of the relative cost of traditional procurement and P3 procurement through cashflow modelling.

Procurement Assessment: Evaluation of the suitability of the Project for PPP under the light of further project development and validation of assumptions. The Procurement Assessment carried out just prior to contract signature is often referred to as the 'Final Business Case'.

Operation and Delivery: Throughout the contract service period, the PPP contractor performance is monitored. The Contracting Authority may exercise its rights of termination, as stipulated in the PPP contract as a result of prolonged periods of poor performance at any point during that period which may include the return of service to the public

Figure 3.1: Levels of PPP Project Assessment



Source: Adapted from the City of Calgary Council Policy Framework

Greece's approach to project assessment prior to commencement of procurement

In Greece, an authority intending to develop a PPP must submit its proposal to the PPP Secretariat which evaluates the feasibility of the specific project and its inclusion, or otherwise, in the 'List of Proposed Partnerships'. The project proposal must include:

- The socio-economic characteristics that justify the need for the proposed project.
- A detailed description of the project / service that will be provided as a PPP.
- Technical, legal, economic and financial specifications of the proposed PPP.
- All financial elements, including the proposed payment structure, present value of availability payments, level of anticipated capital contributions and other financial support mechanisms provided through public resources.
- A project delivery timetable.

When evaluating a proposal, the PPP Secretariat takes into consideration:

- Socio-economic criteria, including needs analysis and the level of stakeholder support, particularly for projects expecting to receive EU grants.
- The quality of the project feasibility studies and the status of any necessary government approvals.
- The expected impact of the project on delivery of improved quality of service to end-users.
- The affordability and bankability of the project.
- The competence of the authority's project team to implement the project.

3.6 Selecting the Most Economically Advantageous Tender (MEAT)

The use of the Most Economically Advantageous Tender (MEAT) principles can enable contracting authorities to take account of criteria that reflect qualitative, technical and sustainable aspects of the tender submission, as well as price when reaching an award decision.

It is worth noting that EU procurement regulations updated in 2015 include new provisions for the evaluation of cost effectiveness through Life-Cycle Costing (LCC), which is key for the procurement of FM in PPPs. Regulations provide some high-level guidelines as well as a definition of LCC, but the methodology is largely left undefined and therefore at the discretion of member states. However, the principles include the following:

- Criteria shall be considered to be linked to the subject matter of the contract.
- Relative weighting of each criterion (and any associated sub-criteria) used to assess the submissions must be made available to tenderers.
- Once stated, the criteria must be applied as stated and cannot be changed at a later date, particularly not after the tender return deadline.

For the procurement of FM through PPP, it is important that appropriate provisions are made to facilitate the evaluation of both the technical and financial aspects of FM tender elements. In addition to cost effectiveness, these are further areas evaluated that are traditionally included:

- Track record and experience of the FM contractor(s).
- Service method statements and approach.
- Resourcing approach and capacity.
- Quality management systems.
- Management structure.
- Key personnel experience.

MEAT evaluation criteria stipulated by EU regulation

- Price or cost using a cost-effectiveness approach.
- Quality.
- Technical merit.
- Aesthetic and functional characteristics.
- Accessibility.
- Social characteristics.
- Environmental characteristics.
- Innovative characteristics.
- After-sales service and technical assistance.
- Delivery conditions such as date, process and period.

The weight of Technical (quality) Vs Financial Tender Assessment

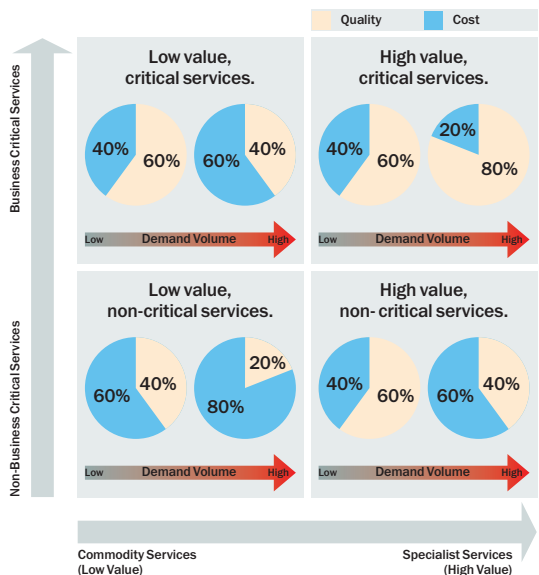
The general guiding principle is that the MEAT will be awarded the contract based on it providing the best VfM solution.

The effectiveness of any evaluation methodology is a function of the quality of the specification itself. The ideal output specification would state standards that are fit for purpose with a straightforward pass/fail decision being the quality evaluation criterion and those passing this test would then simply be ranked according to financial criteria. However, in reality the majority of PPP projects, and in particular projects with FM scope, require a degree of scoring for the technical quality of the services being offered. Some potential criteria were discussed in the previous section.

Fundamental to any tender evaluation is the Quality versus Cost ratio used. The weighting given should be a function of the business criticality/risk and the value of the goods/services being procured.

Figure 3.2 provides useful information in relation to the relationship between criticality of service, volume of service demand and complexity/value of services. It shows that for 'business critical' services there is typically a bias towards apportioning more evaluation weight to quality. Similarly, bias towards higher weighting to quality is also typically considered more appropriate for specialist/high-value services. It is worth noting that the additional factors commonly taken into account in defining the weighing ratio between quality and cost are the level of completion in the market (number of potential suppliers and their interest in being commissioned) and the scope for innovation.

Figure 3.2: Proposal Evaluation – Quality and Cost weightings



Source: Mott MacDonald ©

Alberta Schools Alternative Procurement (ASAP)

The Province of Alberta has gone through three rounds of the so-called Alberta Schools Alternative Procurement (ASAP). The model consists of designing, building, partially financing, and maintaining a bundle of schools over a 32-year period (2 years of design and construction; 30 years of maintenance).

In total, three different contractors have provided 50 new schools throughout the province under procurement based on pass/fail principle. The processes were deemed as transparent and fair in the three procurements, as stated by the independent Fairness Auditor who reviewed all three procurement processes.

Some jurisdictions in Canada and Australia do not score numerically the technical evaluation, but just evaluate on a pass/fail basis. During procurement, bidders share their technical solution with an evaluation committee who assess if the solution meets the specifications. After a round of technical submissions, those bidders who submitted proposals that meet all technical requirements are invited to submit financial proposals. The contract is awarded to the most economical solution. This approach is most suitable when there is not much scope for innovation in the design.

3.7 Public-sector capacity and capability

Creating an enabling environment through enacting laws and developing guidelines is critical for the success of any national PPP programme. However, public sector staff, in ministries, line departments, government agencies and local authorities require a broad range of management skills and PPP expertise in order to perform their allocated functions. This need is accentuated for the implementation of FM services through PPP: this is because the public sector knowledge gap is generally greater as typically the outsourcing of FM services has been traditionally limited to the outsourcing of construction services.

The improvement of the wider public sector capacity and capability is often included in the assignment of specialist PPP units that are assembled to oversee and support the implementation of national PPP programmes. It is therefore necessary that PPP units are appropriately resourced with individuals that have experience in PPP and FM, or are supported by experienced external advisers.

The role of the South African PPP unit in public sector capacity-building

South Africa set up a PPP Unit to serve as the focal point for coordinating and managing the PPP programme. The PPP Unit in South Africa is an example of a central organisation with a wide range of tasks, both advisory and mandatory, relating to PPPs. Some of its key functions include:

- Formal approval at three different stages of project preparation to ensure compliance with Treasury regulations
- In-depth technical assistance to departments throughout the PPP project cycle
- Assistance to departments in appointing transaction advisers
- Development of guidelines, and instructions, including the PPP Manual and the Standardized PPP Provisions (contract terms)
- Training courses and workshops, based around the PPP Manual and its application.

To implement more and better PPPs, many countries have carried out institutional and administrative reforms aimed at strengthening their capacity to deliver and manage PPP projects. The establishment of specialist PPP units has in many cases been a key factor in this reform process.

For countries that are embarking on their PPP programmes, it is essential that appropriate capacity and capability is built within their PPP units to enable them to deliver their mission effectively. Measures that could facilitate PPP unit capacity and capability building include:

- Commissioning experienced specialist advisers to support PPP unit staff.
- Formal and informal training courses.
- Participation in specialist international knowledge sharing fora.
- Setting up cooperation agreements with other national PPP units.
- Partnering with International Finance Institutions.

In addition to PPP units, a further area of focus for capability and capacity building is key staff within public sector agencies, ministries and local authorities or other entities that act as Procuring Authorities. The level of knowledge and expertise required for these staff would be determined by the role and extent of involvement of their organisations in PPP procurement. For example, in jurisdictions where PPP procurement is run centrally by a single entity, project success is less dependent on the capacity and capability of the wider public sector staff.

In addition to increasing specialist FM PPP capability and capacity in PPP units and other public sector entities, it is also important to highlight that increased awareness of FM through PPP with the wider public sector can be a significant enabling factor. Various measures could be considered for raising wider public sector awareness including:

- The implementation of publicity campaigns.
- Organisation of seminars and events.
- Dissemination of awareness material.

The Chilean Ministry of Public Works Concessions Unit

Chile's experience with its Concession Unit is perhaps unique, where more than 250 highly qualified professionals work exclusively on public works concessions throughout the project development phase, construction and operation stages, and on to contract supervision.

An interesting characteristic of the Concession Unit is that it must have professionals whose remuneration is the same as that of their private counterparts. This is of course important since any true partnership must be a business relationship between parties of more or less equal capacity.

The Concession Unit operates as a type of public investment bank with a strong public interest in mind, but one which seeks efficient investments for Chilean society. Experience has shown that the project development stage is complex, requiring a mix of different interests and disciplines to perform at a high technical level in the design of financing instruments and in anticipation of negotiations and future renegotiations

3.8 Private-sector capacity and capability

The inclusion of FM services in PPP projects can have a significant impact on the private sector in new and developing PPP markets. Under PPP, services that were traditionally (and sometimes exclusively) provided by the public are often required to be provided by the private sector. With limited access to opportunities to provide such a range of services in the past, private sector competency and capacity to deliver may be limited.

It is important to highlight that whilst the function of managing facilities and providing services has always existed; in the past, individual service providers' specialisation was limited to one or two types of services (for example, cleaning and laundry services or building and grounds maintenance). However, experience in mature PPP markets has shown that there is a need for an integrated approach in FM where private operators provide a wide range of services in a cohesive and seamless manner.

The development of private sector capability and capacity in FM necessitates a proactive public sector attitude that aims towards strengthening dialogue and cooperation between the two parties and importantly focuses on the alignment of their interests. Public sector initiatives for the facilitation of private sector capacity and capability development could include:

- **Promote awareness:** Through publicity campaigns, seminars, events and information material, promote awareness of FM through PPP and the associated business prospects for the private sector.
- **Provide project pipeline visibility:** Provide early notice of projects included in the project pipeline that are selected for implementation and provide details in relation to the FM scope included in projects.
- **Facilitate dialogue:** Engage with organised private sector institutions to strengthen and foster collaborative relationships and to enable each party to effectively advocate business interests and to present and discuss business opportunities.
- **Advisory services:** Provide practical guidelines and advice for existing FM companies and for companies who want to grow their business in the FM area.
- **Networking support:** Provide forums for meetings and networking between local and international companies.

3.9 Public acceptance of FM through PPP as a means for the delivery of public services

As mentioned earlier in this document public opposition is not uncommon in both; countries that are now introducing PPP and in mature PPP markets. PPP projects with FM elements may be more politically or socially challenging to introduce and implement than others. This is due to the fact that the outsourcing of FM services is often perceived by the public as privatisation and commonly associated with the introduction of tariffs (or tariff increases). Addressing some public concerns is a matter of effective communications and public consultation.

Whilst it is recognised that public opposition, scrutiny and allowing the expression of different perspectives are key drivers for improvement and success in diverse democratic societies. It is also important that public debate is based on sound information and misconceptions are replaced with facts.

Public awareness-raising can be an important part of developing community support for the delivery of public services through PPP. It is therefore recommended that the following measures are considered:

- **Promoting public awareness:** Through publicity campaigns, seminars, events and information material, promote awareness of FM services through PPP and the associated advantages and disadvantages.
- **Early public consultation:** Offering the opportunities for public participation in decision-making can help to reach broad public support for the final plan and reduce the public opposition in the execution phase of the project. Giving the public opportunities to influence decisions typically defuses opposition. In contrast, late or inefficient public participation leads to opposition. During early project stages (through project structuring and design, that is project scoping and output specification development) it is possible to make changes in order to address public concerns. In contrast, changes in late project stages are typically more costly and difficult to achieve.
- **Publishing project business cases:** Making project business cases available for public scrutiny is a measure that provides a demonstrable government commitment to transparency and accountability, whilst also offering the public an opportunity to take an informed view based on a good understanding of the relative costs and benefits of a particular project.

The UK 'Freedom of Information Act' and disclosure of project information

Public disclosure of PPPs promotes consumer rights, helps enforcement of obligations, and reduces incentives for corruption and special treatment of certain private providers. A number of countries have taken the initiative to place contracts for public services in the public domain. In some situations, more general policies and legislation on access to information motivate this trend.

In the UK, the Freedom of Information Act allows people to access information on PFI and other PPP contracts, including provisions relating to payment terms, incentive mechanisms, performance standards, dispute resolutions, and other procedures. It is also possible to obtain information on evaluations and compliance reports under PFI projects.

In addition, an area that has been and continues to be a significant cause of public opposition in FM is public sector workforce transfers to the private sector. These concerns have been addressed to some extent in EU countries through the implementation of the Business Transfer Directive. The Directive stipulates that any employee's contract of employment will be transferred automatically on the same terms as before in the event of a transfer. This means that if an employer changes control of the business, the new employer cannot reduce the employees' terms and conditions, unless the specific exception criteria that are stipulated in the Directive are met (that is, there must be a good economic, technical or organisational reason for the change).

Whilst the Business Transfer Directive provides protection to staff employment terms, the transfer of employees from the public to the private sector is often perceived to be giving rise to the gradual erosion of rights and benefits, especially with regard to pension rights. It is therefore not uncommon for public sector staff to resist transfer to the private sector.

The UK's Retention of Employment Model

The application of the Business Transfer Directive (in the UK known as the Transfer of Undertakings – Protection of Employment (TUPE)) in the National Health Service (NHS) PFI/PPP schemes, and particularly the transfer of Soft FM services to the private sector, faced resistance from public sector staff and provoked significant resistance in industrial unrest. There were concerns that such a transfer would create a two-tier workforce where private sector staff would be working alongside public sector staff but with less favourable employment terms and conditions. Importantly, a major concern was that staff transferred to the private sector would lose the benefit of the NHS superannuation scheme that would be difficult to emulate in a private sector employment context.

This has prompted the UK government to develop a new employment model for ancillary (non-clinical) staff: - this is known as the Retention of Employment (RoE) Model. The basic principle of RoE is that staff remains employees of the NHS and are seconded to and managed by the private sector partner on a long-term basis. As such, staff maintain their existing employment terms and conditions.

4. FM through PPP - Project Implementation challenges

The implementation of transition and reform measures, as discussed in the previous section, can be a key step towards the development of an enabling environment for the implementation of FM services through PPP. However, FM services in PPP projects also present technical, financial and commercial challenges in their implementation that necessitate distinctive approaches in how they are managed and addressed. This section summarises some of these challenges, and provides high-level suggestions in relation to key areas for consideration. This section discusses the following:

- **Value for Money Assessment (VfM):** The appropriate application of VfM assessment principles in order to assess the suitability of inclusion of FM services in PPP projects and development of robust business cases for their justification.
- **Technical standards:** The development of FM technical specifications and performance standards that are aligned with local need, local regulations and service standards, whilst also setting best practice approaches for technical risk allocation and demarcation of responsibility and interfaces between public and private entities.
- **Payment Mechanism:** The design of Payment Mechanisms that provide a fair and incentivising framework for the calculation of service performance payments to the PPP contractor.
- **Value testing:** The establishment of standard approaches for the effective implementation of value testing measures that enable appropriate adjustments to service delivery and contract pricing, thus safeguarding the Value for Money in the long-term.
- **Contract management:** The development of appropriate contractual provisions and the subsequent implementation of strong management strategies that facilitate joint working with private sector PPP partners to apply continuous improvement and change management principles that enable the achievement of and sharing of benefits.

4.1 Value for Money assessment

The purpose of VfM assessment is to determine what the most effective procurement model is by considering the risk-adjusted project cost for a specific project in its life cycle. It is used to justify the PPP model compared with the traditionally procured and publicly financed project and to trigger a formal acceptance by the State. VfM assessment is used to support the strategic decision to pursue a specific procurement model. Moreover, several countries check that the estimated VfM is actually achieved or surpassed by the successful bidder, and if not, the contract is not awarded.

A PPP project yields VfM if it results in a net positive gain to society which is greater than that which could be achieved through any alternative procurement route. In some countries like the UK, which have extensive PPP programmes, a PPP project is said to achieve VfM if it costs less than the best realistic public sector project alternative (often a hypothetical version of the project), which would deliver the same (or very similar) services.

The Public Sector Comparator Approach

The Public Sector Comparator (PSC) concept was initially used in the UK and subsequently adopted by other countries but it has had mixed success and initially was not easy to apply. The basic concept is that when a PPP project is proposed, it is compared in financial terms with the cost of the public procurement of the same project.

It is generally assumed that the PPP option will be more efficient in investment, operating and maintenance costs than the PSC. So the key question is usually whether the greater efficiency of the PPP project is likely to outweigh factors that might make the PPP more costly, the main ones being transaction and contract oversight costs (that is, additional bidding, contracting and monitoring costs in a PPP setting) and financing costs (that is, possible added costs due to private sector financing, especially equity financing). The PSC assessment also takes account of the potential non-financial benefits of PPPs such as the accelerated and enhanced delivery of projects.

VfM assessment plays an important role in the majority of PPP programmes. However, even in countries with well-established PPP programmes, the approach and use of VfM assessment is evolving, and is often the subject of controversy and debate. Various countries have attempted to develop a systematic and fully objective approach to VfM with limited success.

Most countries embarking on PPP programmes try to draw lessons from countries that have relatively well-developed approaches and tools for VfM assessment. Nonetheless, even with the adoption of an established VfM assessment model, several challenges remain. The challenges associated with the quantitative VfM assessment of FM services in PPP are accentuated in two primary areas of assumptions, described below.

Cost and revenue assumptions

These are the assumptions made on project costs under traditional procurement and PPP procurement. The challenge lies in establishing the extent to which a PPP can be assumed to achieve lower costs, through private sector efficiency or innovation. Countries with a strong track record in PPP base their assumptions on actual past project cost data that is indexed and adjusted to take account of project specific circumstances.

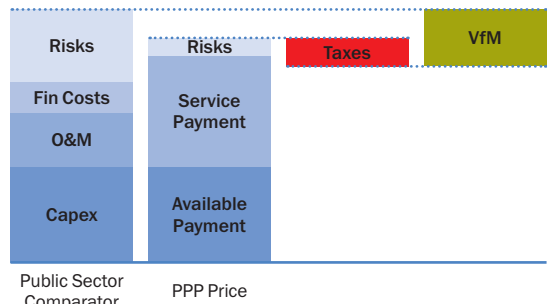
On the other hand, the challenge in establishing cost and revenue assumptions is greater for countries with less PPP experience as historic project cost data can be scarce. The scarcity of PPP project cost data is often more severe when it comes to FM costs. An approach for overcoming this challenge that can be considered is the utilisation of project cost benchmarks from other countries with similar economic characteristics that are in the same geographic area (adjusted by appropriate location factor, current employment cost rates, material cost rates, service levels, etc.).

Existing service outsourcing contracts are another source of information in relation to FM services. Service tariffs from outsourcing contracts can provide valuable indication of the current market position and can further assist in the extrapolation of PPP cost data from other countries.

Risk quantification assumptions

Quantitative VfM analysis typically takes account of risk allocation as it is an important distinction between PPP and traditional models of procurement. Generally, the approach taken is to add back to the analysis the cost of any significant risks that will be transferred under the PPP model. However, this raises methodological challenges as the quantification of the cost of risk is very subjective and quite often the risk costs are the main driver of positive VfM. The graphic below shows the typical outcome of a VfM calculation.

Figure 4.1: Value for Money analysis methodology



Source: EBRD

In various countries with significant PPP experience, standard guidelines and rules have been developed to provide a structured framework for the quantification of risk under PPP. These are primarily based on past project costs and profitability analysis and to an extent, trial-and-error. Many have attempted over the years to develop scientific analysis methods for estimating the cost/benefit of risk transfer under PPP, but with limited demonstrable success.

In developing PPP markets with limited track record in PPP, the most common approach implemented was the adoption and adaptation of guidelines and rules from more experienced countries.

A novel approach that was adopted by some countries was the development of standardised sector specific PPP VfM models (that is, standard assumptions). Once developed on a “test case” project of a given type, the assumptions are applied to several other similar projects and further refined.

India's 'Test Case' VfM Approach

In some cases VfM analysis may not be necessary for multiple, similar projects -and could instead be applied to a “test case” for the first project of a given type. For example, the Road Development agency of the State of Madhya Pradesh undertook VfM analysis when considering new types of road PPP models involving availability payments. Their conclusions were then checked ex-post, by comparing the performance of the new PPPs with other road projects.

In any case, it is clear that emerging countries would benefit from a database with statistical data based on existing FM services delivered through PPP which includes data on service costs, efficiencies of the private sector and risk values in terms of probability and impact. The database should also include data for FM services delivered through traditional projects to enable comparison. This information will be very relevant to assess the inclusion of certain FM services within the scope of PPP.

4.2 Developing FM Output Specifications

A distinctive feature of PPP projects is that their requirements are defined in terms of outputs rather than inputs. Conventional project procurement has traditionally focused on inputs (for example, number of cleaners per hospital ward, number of x-ray machines procured, etc.). Under PPP on the other hand, a clear set of output requirements and service quality standards are defined without being descriptive about the specific inputs necessary to deliver such output (cleanliness performance requirements in a ward or number of patients to be x-rayed per day). In simple terms, an Output Specification comprises of a series of Key Performance Indicators (KPIs) and Performance Standards. In Australia, the Victorian Department of Treasury and Finance carried out research on performance regimes and what makes a good KPI. The summary of their findings includes:

- KPIs should focus on what's important.
- KPIs should be about outputs not methods.
- KPIs should be achievable.
- Performance standards should be measurable.
- The number of KPIs should be manageable.
- KPIs should be clear and straightforward to interpret.

For cleaning services, for example, rather than specifying the method or frequency of cleaning (input specification) the outcome of the service is specified. A typical Output Specification requirement could be “All floor surfaces shall be free from debris and spillages; they must be clean and dry. Floors must be safe and not slippery.” The risk of developing suitable solutions that are able to meet the Output Specification requirements is therefore transferred to the private sector.

Important considerations in the development of Output Specifications are the level of service (Performance Standard) and the frequency or time when a Key Performance Indicator achievement is tested. A simplistic but illustrative example of the importance of this would be a requirement to clean leaves from footpaths and roads, that is “All footpaths and roads shall be free from leaves”. One could argue that irrespective of the amount of effort expended by cleaners it is unlikely that every single leaf will be removed. In a school or a hospital setting for example, the relative benefit of having every single leaf removed would also be small compared to the amount of effort required to achieve this very high Performance Standard. A more reasonable and achievable performance requirement could therefore be “All footpaths and roads shall be reasonably free from leaves”. Whilst the cleaning services provider may clean leaves in footpaths and roads on a daily basis, it is likely that leaves will fall from trees during the day, and thus the service provider will fail to meet the KPI for a big part of the day, unless it is specified that the test will be applied at a specific time, that is “All footpaths and roads shall be reasonably free from leaves every weekday at 8 am”. The latter also demonstrates that the specification should be limited to the services that are actually required as, for example, schools are closed during the weekend.

It is often the case that for various reasons, such as specific operational requirements and the interface of different party operations, the Output Specifications may need to become more input oriented. However, the introduction of input-oriented specifications effectively acts as a means of risk retention by the Contracting Authority and thus should be avoided where possible. In addition, Input Specifications can impose constraints that limit the private sector’s ability to develop resource efficient and innovative approaches for delivering the required outcomes.

The output specification is the Procuring Authority’s main mechanism for defining its requirements. The Procuring Authority’s project team needs a range of skills and knowledge of matters such as strategic policies and planning; facility specific operational issues; design; building and maintenance; legal issues such as land, procurement and contracts; as well as PPP financial issues such as modelling and performance monitoring. It is a considerable challenge to set out all requirements in the Output Specification in a way that is clear and can form the basis for monitoring performance with facility and service standards, which will trigger payment deductions if the service provider fails to meet them.

The way Output Specifications are written and linked to the Payment Mechanism can have a profound impact on the achievement of the desired objectives of a project, how effective risk transfer is between the parties, project affordability, VfM and bankability. It is therefore important that appropriate resource and time allowance is made for their development. For Procuring Authorities with limited past experience in PPP or output specification development, specialist advisers can provide invaluable assistance and support in developing custom-tailored solutions that meet their specific needs.

Standardisation of FM Specifications

In the early years of PPP, FM specifications were mostly custom-developed on a project-by-project basis. However, over the years best practices were identified and merged to develop standard forms of specifications across various sectors including health, education; law and order, etc. The advantages of adopting standard FM specifications include:

- Reduced procurement timescales.
- Dissemination of best practice.
- Quality management and continuous improvement.
- Standard approach to risk allocation.
- Facilitation of like-for-like cost benchmarking across projects.
- Facilitation of stronger market competition and international participation.
- Reduction of private sector bidding costs.
- Improved project bankability.
- Reduction of adviser costs.

Governments embarking in new PPP programmes often adopt standard specifications from other countries with extensive sector-specific PPP programmes. Whilst this approach presents valuable advantages, it is important to highlight that it is also critical that Output Specifications are adapted to align with local practices and service levels, capability and capacity of the private sector, PPP contract, and Payment Mechanism.

The table below provides a summary of the availability of standardised Output Specifications in some of the most advanced PPP markets across different sectors.

Table 4.1: Output Specification standardisation across different countries

Sector	Australia	Canada	France	Holland	UK
Education	✓	✓	✓	✓	✓
Health	✓	✓	✓		✓
Courts			✓		✓
Prisons			✓	✓	✓
Office Accommodation			✓		✓

It is important not to treat PPP as a 'gold standard' solution. The level of quality and performance should be set by considering the long-term affordability implications and importantly the associated social context. Past experience has shown that many countries understandably want to make significant step-changes in the quality of service delivery through PPP. Whilst this approach has led to many success stories, in some cases it has led to inadvertent consequences in terms of affordability and social equality.

It is also important to emphasise that the private sector could provide significant insights and add considerable value in the development of standard Output Specifications. It is therefore recommended that consideration is given to the engagement of the private sector in order to offer opportunities to comment and contribute in the development of specifications prior to their use in procurement.

FM Industry standards and accreditations

In countries with a strong track record in FM outsourcing and mature PPP markets, Output Specifications are often underpinned by recognised industry standards. Such standards include codes of practice and recognised guidelines, performance metrics, protocols and methodologies in specific technical fields. In the UK for example, the National Institute of Clinical Excellence (NICE), produces guidance and advice for health, public health and social care practitioners. Similarly, the Department for Education (DfE) provides guidelines for children nutrition at schools, guidelines for vetting staff that work with children, etc.

The above-mentioned industry guidelines and practices are invaluable in setting performance standards that FM suppliers must comply with, and importantly they remove much of the ambiguity in relation to what constitutes satisfactory service performance.

Accreditations by recognised independent industry bodies (such as the International Standards Organisation) or from industry specialist accreditation organisations can also offer a means for establishing directly or indirectly performance standards that are required to be adhered to, as well as providing KPIs that are simple to monitor and enforce.

The development of standard Output Specifications for the Turkish Health Campuses PPP programme

The standard UK National Health Service (NHS) specifications were adopted for the majority of FM services included in the Turkish Health Campuses PPP programme.

In many areas the specifications were modified to reflect specific circumstances and local requirements.

On the other hand, for services where NHS specifications did not exist (for example, rehabilitation and laboratory services) the Turkish Health Ministry used, as a basis, existing Turkish specifications that were traditionally used for outsourcing those services. This further development illustrates the evolution of the UK FM PPP model for additional and even more complex services that are usually contracted with the private sector.

4.3 Interface of public/private sector responsibility

The delivery of a service often involves not only the physical area where such service is to be provided (for example, cleaning a building), but can also involve multi-level and complicated interfaces between different parties. For instance, in a health PPP project setting where diagnostic and laboratory services are provided by the private sector whilst clinical services are provided by the public, there are considerable interface complexities. Examples of this include:

- How patients are referred for diagnostic services and how the type of treatment, specific patient needs, urgency etc. are communicated.
- Who is responsible for communicating with the patient regarding their referral/appointment.
- Who is responsible for collecting/delivering samples and who is responsible if they are lost.
- How diagnostic or laboratory results are communicated.

A key issue that requires careful consideration is the limitation of interdependencies between different parties' workflows and maximisation of continuity of service responsibility. An example of this is the continuity of service for the provision of imaging services in a hospital where inpatients are referred for X-rays and CT scans. If the scope of the private sector service provision includes portering services, it may be the PPP Contractor's responsibility to collect patients from wards in a timely manner to attend their imaging appointment. On the other hand, if portering services are retained by the public, should there be a delay in transporting the patient, the PPP Contractor may not be accountable for failing to carry out the imaging service within the specified timescale. It is therefore critical to understand, define and analyse the risk associated with such interdependencies and multi-layered interfaces.

It is common in PPP contracts prior to start of operation to develop Service Interface Agreements which identify areas of cross-overs and define the party taking responsibility for tasks. Typical issues addressed in the service interface agreements include:

- Which party is responsible for each task (this is typically presented in the form of a responsibility matrix).
- Liability for deductions (who/when is liable for deductions).
- Reimbursement or indemnity obligations between parties.
- Limitation of liability of each party.

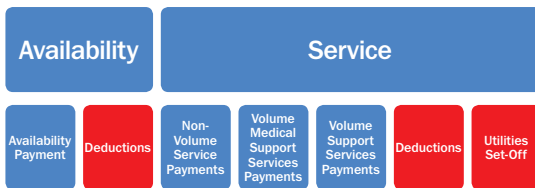
With multi-layered, that is public sector and several private sector companies, it is essential that these agreements are developed as they will feed into the Performance Management System (see section 4.6 Contract Management). It is worth noting that due to the fact that facilities design, service method statements, quality plans and other documents are required in order to develop the interface agreement, it is typical for those agreements to be amongst the last documents finalised prior to PPP Financial Close (FC).

4.4 Payment Mechanism design

Payment to the private sector partner is regulated by a Payment Mechanism and a series of performance criteria that the PPP Contractor agrees to achieve throughout the contract period. The PPP Contractor agrees to take the risk of not achieving these FM criteria and being penalised accordingly (that is, receive less payment) on the basis that any actions associated with preventing failures are within its own control. The objective of the Payment Mechanism is to incentivise the PPP Contractor to provide services to the required standards. Payments are adjusted according to the availability, quality and volume of services being delivered:

- The availability of areas (that is, the areas are maintained safe and accessible within certain environmental conditions, such as, within a certain range of temperatures, with adequate lighting, etc.).
- The quality and amount (volume) of services being provided (that is, respond to telephone calls within 30 seconds, the facilities are maintained clean in accordance with the Output Specifications, etc.).

Figure 4.2: Typical structure of payment in Health PPP projects



Source: Mott MacDonald ©

The Payment Mechanism involves the Contracting Authority paying the PPP Contractor a known sum of money (the 'Unitary Charge') for the required level of service with the ability to vary that sum of money to take account of service performance and area availability risk which is borne by the PPP contractor. The payment for the provision of FM services is usually defined as the 'Service Payment'.

The Service Payment typically comprises two primary elements:

- Fixed payments that relate to '**non-volume services**' (that is, FM services that are not sensitive to changes in demand such as Hard FM and some Soft FM services, for example cleaning services in hospital wards).
- Variable payments that are based on agreed '**volume services**' unit costs and volume of use of those services (services that are provided on demand, for example the amount of medical equipment that is sterilised and disinfected).

Volume of service demand usage risk

- For '**non-volume services**' under PPP, the public sector takes the full risk of usage volume. So irrespective of whether there is demand for the services, the PPP Contractor is entitled to a full payment provided that performance parameters set in the Output Specifications are met. In addition, if utilisation exceeds 100 percent (that is, the bed occupancy in a hospital or number of students per room is higher than the maximum specified) the contractor is typically entitled to additional payment which is agreed through the contract variation provisions.

- For ‘**volume services**’, Contracting Authorities often guarantee a minimum volume of usage for each particular service (for example, laundry and linen, number of lab tests, etc.) and therefore, accept the risk of having to pay the contractor at least a fixed minimum amount even if actual usage is below that guaranteed threshold. On the other hand, the PPP Contractor agrees to maintain the capacity for meeting a maximum volume of demand that is invariably higher than the Contracting Authority’s guaranteed volume of usage level. If the actual usage is above the guaranteed minimum but below the agreed maximum usage level, the Contracting Authority only pays for the actual usage used at the agreed service unit cost rates. If usage exceeds 100 per cent of the agreed maximum usage level, the PPP Contractor is typically entitled to additional payment (sometimes at higher rates), which is agreed through the contract variation provisions.

Demand / Usage forecasting

Demand forecasting is essential for specifying key parameters for both ‘volume’ and ‘non-volume’ services. It involves techniques including both informal methods and quantitative methods, such as the use of historical data and statistical techniques.

In cases where a project is intended to replace existing infrastructure, such as a new central court house to replace one or more existing courts, information regarding current usage levels and trends over time can be invaluable in informing forecasts. However, usage forecasts need to also take account of other socioeconomic parameters and commercial factors. For health projects, population growth and health statistics, population aging and other trends can play a significant part in demand forecasting. Competition, users’ behaviour and technology considerations can also play an important role in usage forecasting. In education projects, consideration is typically given to hospital birth numbers, enrolment applications to existing schools, but also other factors such as number of children who bring their own lunch versus children who buy their lunch at school or children who are entitled to free school meals.

Whilst it is important to analyse historic data and trends, it is equally important to assess the impact of new improved infrastructure or the offering of new or improved services on the behaviour of users. Modelling of different demand profile scenarios and the analysis of sensitivities is a key part of the process of establishing service demand parameters.

It is important to highlight that the private sector generally favours projects with higher guaranteed demand (that is, higher proportion of demand risk retained by the public sector). On the other hand, setting the guaranteed demand threshold too high or too low can have significant impact on Value for Money. It is therefore critical that appropriate effort is expended by procuring authorities to establish reliable service demand/usage forecasts.

Payment Mechanism calibration

Where the quality of service delivery falls short of that defined in the Output Specification, the Payment Mechanism determines the appropriate scale of the deduction. Deductions must be sufficient to incentivise good performance, but not be too punitive.

As mentioned before, the Payment Mechanism must clearly set out the time required for repair and rectifications of failures (depending on the importance of the affected area) before payment deductions are triggered. It must also include ‘ratchet’ mechanisms, whereby recurring or widespread failures across key services in a project lead to correspondingly higher deductions automatically.

There are a number of points of detail involved in assigning specific numbers to the various parts of the Payment Mechanism – a process referred to as calibration. The most common approach for calibrating the Payment Mechanism is to develop a full working model that reflects the project being delivered. Modelling should incorporate both (Availability Payments) and Service Payments.

It is considered best practice to develop different PPP Contractor performance scenarios (that is, good performance, fair performance and poor performance) for each service separately and for the overall project.

Methodology	Good Scenario	Fair Scenario	Poor Scenario
Experience FM Contractor's ability to provide services	A provider with experience in PPP projects, the healthcare sector and in the country, with ISO 9000 standard systems and procedures in place	Reasonable experience but lacking in one area – healthcare, PPP. On-site ISO type procedures may be in place but the Contractor or the senior on-site staff may be inexperienced.	Inexperienced in one or more areas (healthcare, PPP). On-site ISO type procedures may not be in place or the staff is inexperienced in their application. Significant changes with senior personnel on site at the same time could lead to performance of this type.
Performance Assessed in relation to assumed number of Service Requests per payment period based on previous experience in similar healthcare projects.		As performance deadlines, the number of service requests increases as there begin to be failings in the planned or scheduled works.	As performance deadlines, the number of service requests increases and there are more failures in planned and scheduled tasks as they lack understanding of the demands of the facility and tasks are not scheduled.
Failure Percentage: Based on past performance of operating hospital facilities			
Failure Allocation Allocation of failures across the different categories.	Priority is typically given to the most critical area or service, therefore the majority of failures are allocated to the lowest criticality.	Priority is still typically given to the most critical failures, however inexperience may lead to misinterpretation of some issues, leading to failures in more critical areas.	Works may not be prioritised by criticality but rather by time of the occurrence and therefore there begin to be more failures in more critical areas.
Importance of Failures Failures are assigned an importance level (X or Y) and split between missed response, missed correction or both.			
Service Failures Failures are split across the services with a higher percentage of failures applied to those services with a significant reactive element, for example Estate Services, Cleaning, Catering and Portering	The majority of planned or scheduled tasks would be completed on time.	Most of the planned or scheduled tasks would be completed as required, but failings may start to be noticed in this area, in particular relating to infrequent tasks.	Failings in planned and scheduled tasks for both frequent and infrequently required tasks. Failures in General Management Services as systems and procedures are not appropriately in place at site management level.

Calibration needs to be considered in the context of the Output Specification services. This should define not only the services to be provided but also the priority attached to these services and the rectification time that is available to the PPP contractor to resolve a service. Calibration of the Payment Mechanism can facilitate the achievement of the following:

- Ensuring that the level of payment is appropriately linked to the level of service and availability.
- Fine-tuning of failure deductions to reflect the severity of each type of failure.
- Establishing appropriate deduction escalation measures for consecutive and intermittent service failures (that is, persistent or reoccurring failures).
- Ensuring that deductions are well-balanced across all areas of service performance, so as not to introduce perverse incentives.

4.5 Value testing

In long-term contracts such as PPPs there is a need from a Contracting Authority's perspective to ensure that services supplied remain appropriate and continue to deliver Value for Money. On the other hand, the private sector requires not to be exposed for the full contract period to cost increases that are beyond its control. It is vital to both public and private sector interests to put in place value testing provisions that enable parties periodically to:

- Revise/update Output Specifications.
- Renegotiate Service Payments to reflect current competitive market rates.
- Re-configure supply chain arrangements to optimise efficiency and reflect current best practice.

Value testing in PPP is primarily implemented through Benchmarking and/or Market Testing. These processes provide a means for prices to be renegotiated in line with market rates, thereby enabling Contracting Authorities to benefit if market prices fall but also to limit the uncertainty faced by PPP Contractors by giving them an opportunity to obtain a price rise when costs increase significantly.

Value testing is used to revise cost rates to reflect market rate fluctuations that are beyond the control of the contracting parties. For example, the cost of consumables associated with the delivery of a service may increase due to changes in raw material costs or the cost of fuel for fleet management and transport services. As a result, it would be inappropriate for the PPP Contractor to bear this additional cost that could not reasonably be foreseen and was beyond its control. The inverse could also be true as in the event of consumable prices being reduced: the Contracting Authority should be able to benefit accordingly.

Market testing

Market testing involves the re-tendering by the PPP contractor of Soft FM (and very occasionally Hard FM Services) services so that the Contracting Authority can test the Value for Money of existing services against the wider market of suppliers. Any increase or decrease in the cost of services following market testing which results in the replacement of a sub-contractor of the PPP Contractor should be reflected by an adjustment in the price charged.

There needs to be strong competition and the PPP Contractor is required to invite a number of competitors (who are willing to be subcontracted) to the market testing exercise in order for the potential benefits of market testing to be realised.

Whilst in the majority of cases Output Specifications can only be revised through contract variations, in some countries the revision of Output Specifications is carried out in conjunction with market testing. Whilst this approach offers some additional flexibility and to some extent enables the implementation of specification changes under competitive tension, it also has drawbacks. For example, when Output Specifications undergo substantial changes, it is difficult to establish whether VfM has improved or deteriorated.

It is common for PPP Contractors to negotiate with the Contracting Authority and to submit a new proposal for the provision of services in order to avoid market testing. It is also typical that the PPP Contractor has a “right to match” the best proposal submitted by competitors, in order to retain under its current supply chain the services that are being market tested.

It is important to note that market testing is not suitable for all FM services. Facilities maintenance and life-cycle replacement and Hard FM services are typically retained by the same provider (typically a PPP Contractor subcontractor) throughout the Contract Period. This is due to the fact that the prospect of being replaced and therefore passing-on the liability of the state of repair of facilities and its life expectancy can act as a disincentive for investing in build/material quality and implementing a suitable maintenance regime.

A further area for consideration is the length of market testing intervals and the capital investment involved. This is particularly important for services that require significant initial capital investment where a service provider (typically a PPP Contractor subcontractor) may face the prospect of being replaced within a short period and thus being exposed to the risk of not receiving the amount of its investment return. A common example of this is medical laboratory services where laboratory equipment expected lifecycle is typically around eight to twelve years, whereas market testing may be required to be carried out every five years. The market for second-hand laboratory or other medical equipment may not be particularly strong and therefore the Contracting Authority may not obtain optimum Value for Money, as a substantial amount of the risk of early replacement will be priced in by the subsequent service provider.

Market testing in the Turkish Health Campuses PPP programme

In Turkey, the Project Company has the exclusive right to provide the Services throughout the operating period, subject to market testing. The PPP Agreement includes a market testing procedure for all services except for extraordinary maintenance services. Market Testing takes place every five years. As a result of this procedure, the Ministry of Health (MoH) is able to offer and/or maintain over time the services contract with the best Value for Money. Market testing will allow MoH to ensure that the technology of sophisticated equipment such as imaging is kept up-to-date in a cost-effective manner. This also offers benefits to the Project Company as it will not be locked into fixed price over the course of the long-term contract. Service prices will be reset at current rates; hence the PPP Contractor may benefit from price increases over time and will reduce the risk of a wrong estimation of the service cost.

Benchmarking

Benchmarking is the process by which the PPP Contractor compares either its own costs (usually in practice the costs of its subcontractors) of providing FM services against the current market cost of such services. This comparison may indicate that the PPP Contractor's current or proposed price is appropriate for the period to the next benchmarking exercise. However, if the PPP Contractor's costs are higher than market benchmark costs, this would warrant a reduction in the price to be charged to the Contracting Authority, and consequently a reduction in the unitary charge. Alternatively, benchmarking can result in an increase to the unitary charge where the PPP Contractor's costs are lower than market.

Whilst in general terms benchmarking is considered to be cheaper and less time consuming relative to market testing, a key disadvantage of benchmarking is the need for comparable cost data. With the lack of comparable and mutually acceptable data, negotiations with the PPP Contractor may be difficult.

It is therefore essential that consideration is given to the availability of cost information on a service-by-service basis prior to the inclusion of benchmarking provisions in FM PPP contracts. Availability of data, especially for countries in the early stages of their PPP programmes, is a primary discouraging factor. However, it is important that cost data information databases are progressively developed so that benchmarking becomes a more viable option once adequate information is gathered.

Where possible, Benchmarking is preferable to Market Testing because the former involves a lot of negotiation and preparation of the procurements. It can also be disruptive for the project company business as there is a risk of losing revenue for the provision of certain services every number of years.

4.6 Effective and efficient contract management

Contract management is essential to ensuring that services are delivered to specified standards, at the price expected. The fact that even under PPP, the public sector is ultimately responsible for the delivery of public services reinforces the need for effective contract management. All the benefit of the PPP is lost if there is no proper contract overview and enforcement. Unfortunately, governments pay less attention to contract management provisions during the preparation of the project because it is seen as a responsibility that can be later defined.

The maintenance of a good relationship between the Contracting Authority and the PPP Contractor can be a key differentiator in the success of a project. A challenge that is often faced, particularly at the early stages of projects, is the fact that both the Contracting Authority and the PPP Contractor project teams change. This results in a knowledge gap that can have an adverse impact to project performance and relationships as it is often the case that strong relationships between teams are formed during procurement. The expertise developed by the Contracting Authority procurement teams and PPP Contractors during the procurement stage should be maintained throughout implementation and operation, in order to ensure consistency of approach and a detailed understanding of the process.

In addition, it is important that contract management structures for both parties are established during the procurement stage and in parallel with the project management function in order to ensure a full understanding of how the service delivery and the monitoring systems are reflected in the contract documentation. Of primary importance is also the need for contract management personnel to have a detailed knowledge of contract documentation prior to service commencement.

It is worth noting that an area that is often overlooked or underestimated by Contracting Authorities is the need for financial and human resources for contract management. This need for resources is typically amplified during contract variations and renegotiations, market testing or benchmarking.

Performance monitoring

In PPP projects, performance monitoring processes are typically performed by the PPP Contractor who is expected to provide performance monitoring and quality management services as part of its role. The Contracting Authority, on the other hand, is entitled to independently verify the performance information provided by the PPP Contractor. Although invariably the PPP Contractor will report on its own performance, the Contracting Authority has a responsibility to ensure the contract delivers the right level of performance.

The role of the Contracting Authority is therefore primarily focused in assessing information provided, auditing and carrying out planned and random spot checks, to ensure that performance is being measured and reported reliably, accurately and comprehensively.

It is common practice for Contracting Authorities to appoint a technical adviser during the operation stage to monitor and confirm that the PPP Contractor is complying with the Output Specification and to review and provide recommendations in relation to performance. It is important to note that both the Contracting Authority and the project funders have a common interest in the quality of service delivery and good performance overall. It is therefore also common for lenders to appoint advisors for monitoring the PPP Contractor Performance, especially when there are concerns regarding performance failures and the magnitude of deductions.

Managing changes

Inevitably, changes will be required to buildings, equipment and services throughout the Contract Period, such as changes in law, use of buildings and service upgrades. A good contract must be flexible in the treatment of changes in scope. Managing change can appear to be bureaucratic and time consuming for the Contracting Authority and this needs to be considered when developing contractual obligations with regards to variations to contract. However, the Contracting Authority must ensure that the PPP Contractor is considering Value for Money in any major change and can evidence competitive tendering. It is essential that the correct variation process is adhered to by both the public and private sector partners as this is an area which, if not managed appropriately, can lead to spiralling costs and subsequent disputes.

The general principle in FM PPPs where the public sector is ultimately responsible for the provision of the public service, is that of 'Financial Balance' - that is, the level of compensation required to put the contractor in a position no-better-no-worse than they would otherwise have been had the change request not occurred.

The UK's Treasury recommendations for consideration prior to initiation of changes to contract

The UK Treasury recommends the following steps when considering contract changes:

1. Consider the costs/-benefits of implementing changes to the contract.
2. Check procurement documentation.
3. Ensure sufficiency of cost transparency and suitability of variations' protocols.
4. Understand what the current charges are for a service relative to what others are paying for similar services.
5. Make contact with other authorities, especially those negotiating with the same consortium members and subcontractors.
6. Check current standard provisions in respect of the amendment being considered.

The Catalanian approach to pricing changes and its challenges

The Spanish region of Catalonia included an innovative approach to pricing changes in its Built-Lease-Transfer projects (so called “Derecho de Superficie”) for the accommodation sector which involved court houses, police stations and jails.

During the tender process, bidders were requested to bid on what would be the increase in Availability Payments should a change request be of €100.000, both in capex and annual service cost. Bidders were evaluated on the two amounts, and the government ensured that the changes during the life of the contract were priced competitively.

Although the approach has been accepted by the private sector it has two difficulties. First, regarding to changes that only affects service cost, it results in a mismatch of interest in the long term because the company priced under cost due to tendering pressure, it will be motivated to not accept changes proposed by the grantor, and the other way around. There is no real need to pre-price just service changes because they are covered by a corresponding increase in the Service Payment. Secondly, where capital investment is involved, the easiest and most economic approach is usually for the capex involved to be funded directly by the public authority, but of course there may not be budget for this. In the case of the Catalanian programme, it was requested that such change would be repaid on annual increases until the end of the contract which is difficult to anticipate at bidding phase from a financial point of view.

Dispute resolution

As with any other type of contract, contracting parties in a PPP contract may occasionally have disputes. However, in international practice, very few PPP disputes have reached courts or arbitration and very few of these were associated with disputes that occurred during the Contract Period. Typical issues that are considered to be commonly linked with disputes during the Contract Period include:

- Interpretation of contract clauses.
- Interpretation of the operation of the Payment Mechanism.
- Interpretation of the Output Specifications.
- Variations to the contract.

It is standard practice to include in the PPP Contract dispute resolution procedures in order to facilitate for the efficient and cost effective determination of issues arising during the contract. Representatives of both the Contracting Authority and PPP Contractor will typically endeavour to resolve matters in dialogue and discussion. However, where this fails, more formal dispute resolution procedures can be invoked (such as conciliation, arbitration and litigation). It is worth noting that standard contract mechanisms in the majority of developed PPP markets have been designed to prevent and dissuade parties to PPP projects entering immediately into litigation or arbitration.

Disputes in PPP contracts are more likely to occur during the construction phase rather than during operation. This is due to the fact that during operation there is a focus in building long-term relationships and that FM service providers usually have equity stakes in the project. This means that parties during operation have a much greater willingness to take a “whole life approach”. Consequently, disputes that might arise during operation are likely to be approached with a greater sense of collaboration than disputes associated with construction.

It is hard to foresee and address sources of dispute for FM. However, there are measures that can be put in place that can minimise the likelihood of their occurrence. These include:

- Maintaining a good partner-oriented relationship between parties.
- Having in place contract management teams that have good understanding and practical experience of operational PPP contracts.
- Using tested and proven contract provisions and Payment Mechanisms and avoiding untested bespoke solutions.
- Having clear and concise Output Specifications that are in line with established best practices.
- Maintaining comprehensive records of all relevant contract issues that may be required in the future to resolve disputed or support any claims.
- Encouraging (but not essentially requiring) FM Service providers to have some form of equity stake or performance guarantee in the Project for the long term.

5. Summary of recommendations

Table 5.1: Recommendations to overcome barriers in implementing FM through PPPs

Area	Recommendations
Strengthening the FM policy framework	<ul style="list-style-type: none"> • The policy should clearly state the rationale behind the procurement of FM through PPP • The policy should define the extent and limits of private sector participation on the delivery of public services • The policy should provide a clear indication of the government's long-term commitment for demand for FM services • The policy should recognise the government's intention to address legal and institutional framework issues that impede or prevent effective implementation of FM through PPP • The policy should encourage all public agents to consider the delivery of public services through PPP. It should include principles for project identification and assessment • The policy should set the achievement of efficient operation and whole lifecycle cost management of infrastructure as a high priority policy objective • The policy should promote and encourage discussion among different stakeholders, furthering an increased understanding of key attributes of implementation of FM through PPP • The policy includes an approach to VfM calculation, Requirements of Feasibility Study and level of information required for project preparation
Alignment of the legal and regulatory framework	<ul style="list-style-type: none"> • Identify legal and regulatory limitations and how they impact on the definition of the project scope (including any FM elements) • The need of any legal reforms should be identified and awareness promoted with key decision and policy makers • Use best practice approaches for addressing common legal and regulatory challenges and adapted for inclusion in standard PPP contracts, as appropriate
Implementation procedures framework	<ul style="list-style-type: none"> • Develop standardised guidelines, procedures and <i>pro forma</i> documents • Take into account aspects that differentiate FM from hard infrastructure or require distinct treatment relative to the procurement
Identification of suitable projects	<ul style="list-style-type: none"> • Government agencies should be incentivised to explore FM through PPP as a means for meeting public service and infrastructure needs • Awareness of PPP as an option for the delivery of public services should be promoted across the public and private sectors • Develop supportive information material and guidelines around the subject of FM through PPPs that can be available to public servants responsible for public infrastructure and public services procurement strategy • Provide FM information material and guidelines in order to strengthen private sector interest and understanding • Carry out market sounding in order to assess market interest receive feedback to inform project structuring and scoping
Initial Assessment of projects (Qualitative)	<ul style="list-style-type: none"> • Develop information material to define project proposal submission requirements, the initial project evaluation scope, methodology and criteria for project qualification • Establish a set of criteria to screen projects against FM PPP best practices

Area	Recommendations
Value for Money Assessment	<ul style="list-style-type: none"> • Develop guidelines for the Value for Money assessment. Guidelines should include standard approaches for the development of ‘cost and revenue assumptions’, ‘Risk quantification’ and long-term affordability • Look for similar examples for VfM assumptions to support the calculation • Avoid subjectivity in the calculation
FM Output specifications	<ul style="list-style-type: none"> • Develop sector-specific standard Output Specifications for FM services. Standard specifications can be based on international best practice but must also be aligned with local practices and take account of the capability and capacity of the private sector to deliver • The level of performance and quality should be set by considering the long-term affordability implications and the social context in each location • Develop performance standards that clearly define what constitutes satisfactory service performance • Standard Output Specifications should be developed through consultation with the private sector • Use expert consultants for the development of specifications and technical preparation of projects
FM service standards	<ul style="list-style-type: none"> • Develop sector specific service standards. Careful consideration should be placed in ensuring that service standards are compatible with local specific needs and are in compliance with law
Payment Mechanism	<ul style="list-style-type: none"> • Use proved Payment Mechanisms (avoiding bespoke solutions) • Ensure that the Payment Mechanism is appropriately linked with Output Specifications • Ensure that Payment Mechanisms are appropriately calibrated to reflect the operational and strategic priorities of projects and avoid punitive/unduly payment deductions
Value testing	<ul style="list-style-type: none"> • Develop standard contract terms for market testing and benchmarking • Develop guidelines for the applicability and use of market testing and benchmarking for different types of FM services • Develop information material and guidelines for the implementation of market testing and benchmarking • Establish a national project costs database and develop mechanisms for cost data gathering

Area	Recommendations
Public sector capacity	<ul style="list-style-type: none"> • Policy makers and high-level decision makers such as ministers and senior government officials should have an understanding of basic PPP concepts and how FM can form an integral part of infrastructure and public services provision • PPP units should be able to offer FM expert assistance and advice to procuring authorities for the identification, design, implementation and management of FM in PPP projects • PPP units should be appropriately resourced with individuals that have experience in PPP and FM or are supported by experienced external advisors. External advisers should have appropriate experience and expertise in PPP but also be able to demonstrate flexibility to adapt to specific country circumstances and requirements • PPP units should establish links and collaborate with other PPP units and other international PPP entities (such as PPIAF and UND) to gain access to international best practice knowledge sharing forums • Public sector staff in ministries, line departments, government agencies and local authorities that is directly involved in infrastructure and service procurement should have a good understanding of basic FM principles and how to develop, implement and manage PPP projects with FM scope.
Private sector capacity and capability	<ul style="list-style-type: none"> • There should be well-established channels of communication and ongoing public- private sector dialogue • The private sector should be encouraged to develop FM capability and capacity for the delivery of FM • The business environment fosters local and international collaboration and the development of partnerships between private sector parties • Project risk allocation under PPP is in line with recognised international best practices and the private sector is not allocated risks that it cannot manage
Public acceptance	<ul style="list-style-type: none"> • The public is well-informed about what PPP means and how the provision of public services through PPP can in some cases offer better value for taxpayers money and/or improvements in quality • Decision-making processes associated with the procurement of FM services through PPP are transparent • Relevant (non-commercially sensitive) information is made available to the public • Public consultation is embedded in key decision-making
Contract Management	<ul style="list-style-type: none"> • Maintaining a good partner-oriented relationship between parties • Contract management teams are well-resourced and have good understanding and practical experience of operational PPP Contracts • Use tested and proven contract provisions for variations and dispute resolution (avoiding untested bespoke solutions) • Maintain comprehensive records of all relevant contract issues that may be required in the future to resolve disputes or support any claims • Encourage FM Service providers to have some form of equity stake for the long term • Encourage same teams work from procurement, construction and operation in both sides

Appendix A. Glossary

The present section aims to assist readers with understanding common PPP terms that are used in the present document. The definitions included herewith are merely simple language descriptions rather than legal definitions.

Term	Definition
Availability Criteria	The criteria used to assess if facilities are ‘available’. These may include various Key Performance Indicators associated with safety and security, accessibility and environmental conditions (cleanliness, temperature, air quality, lighting, noise etc.) of facility areas.
Availability Payments	The proportion of the Unitary Charge that relates to the maintenance of Facilities in an “available” to use state as defined by Availability Criteria.
Contract Period	The duration of the PPP contract (Typically between 20 and 30 years)
Contracting Authority	A public entity that has acted as the signatory of the PPP Contract.
Deductions	Deductions to PPP Contractor Payments associated failures to achieve Key Performance Indicators.
Financial Close	The stage when both the Contracting Authority and the PPP Contractor have signed the PPP Contract and conditions precedent to initial drawing of debt have been fulfilled.
Key Performance Indicator (KPI)	Key performance indicators are performance measures that indicate the achievement of the desired outcomes.
Output Specification	The output specification is, essentially the scope of the PPP project. It defines the Contracting Authority’s requirements in the project and covers issues such as accommodation, facilities and level of service.
Performance Failure	The failure to achieve service related KPIs within a predetermined timeframe.
PPP Contractor	The private entity that has acted as a signatory of the PPP Contract.
Procuring Authority	A public entity that is in the process of planning or procuring a PPP Contract.
Public Sector Comparator	A tool used by government authorities to determine the service provider of a public sector project, usually consisting of an estimate of the cost of the project if the authority were to deliver the project itself.
Service Payment	The proportion of the Unitary charge that relates to the performance of Services in accordance with Output Specification requirements.
Service Provider	Typically a subcontractor of the PPP Contractor that specialises in the provision of one of more services (e.g. cleaning and linen/laundry services Service Provider, Catering Service Provider)
Service Period	The period between the start of commercial operations and the end of the PPP Contract Period.
Unitary Charge	The total agreed amount payable to the PPP Contractor prior to the application of Deductions

Appendix B. Further reading and information resources

Subject	Title	Source	Internet Link
Capacity Building	India – Building Capacities for PPP	World Bank Energy and Infrastructure Unit and Finance and Private Sector Development Unit South Asia Region	www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2006/08/21/000090341_20060821095326/Rendered/PDF/368750IN0white1Partnership01PUBLIC1.pdf
Contract Management	Making savings in operational PFI contracts	UK HM Treasury	www.gov.uk/government/uploads/system/uploads/attachment_data/file/211210/iuk_making_savings.pdf
FM procurement	Review of current procurement practice in the Facilities Management sector	WRAP	www.wrap.org.uk/sites/files/wrap/FAM100-001%20Final%20report%20-%20exec%20summary.pdf
General Guidelines	GUIDELINES FOR SUCCESSFUL PUBLIC – PRIVATE PARTNERSHIPS	European Commission	http://ec.europa.eu/regional_policy/sources/docgener/guides/ppp_en.pdf
General guidelines	The Guide to Guidance: How to Prepare, Procure and Deliver PPP Projects	European PPP Expertise Centre (EPEC)	www.eib.org/epec/resources/guide-to-guidance-en.pdf
General guidelines and information	Best Practices in Public-Private Partnerships Financing in Latin America: the role of guarantees	World Bank and Ministry of Economy of Spain	https://einstein.worldbank.org/ei/sites/default/files/Upload_Files/BestPracticesPPFFinancingLatinAmericaguarantees.pdf
General Guidelines and information	PPP – Local Government Guidelines	UNDP and Minister of Local Government of Uganda	www.ug.undp.org/content/dam/uganda/img/Research%20and%20Publications/PPP%20Guidelines%20Final.pdf
Healthcare PPP Lessons Learnt	Enhancing Health Systems through Public-Private Investment Partnerships: Lessons Learned from Lesotho	The Global Health Group, Ministry of Health and Social Welfare and Ministry of Finance and Development Planning, Lesotho	http://globalhealthsciences.ucsf.edu/sites/default/files/content/ghg/hsi-lesotho-ppip-conference-report-april-2009.pdf
Healthcare PPP Lessons Learnt	Public-private investment partnerships in health systems strengthening	The Global Health Group	www.wiltonpark.org.uk/wp-content/uploads/wp909-report.pdf
Healthcare PPP Lessons Learnt	PUBLIC-PRIVATE INVESTMENT PARTNERSHIPS - An innovative approach for improving access, quality, and equity in healthcare in developing countries	The Global Health Group	www.wiltonpark.org.uk/wp-content/uploads/ppip-background-reading.pdf

Subject	Title	Source	Internet Link
Legal and Institutional Frameworks	Overview of the PPP Legal and Institutional Frameworks in the Western Balkans	European PPP Expertise Centre (EPEC)	www.eib.org/epec/resources/publications/epec_wbif_overview_ppp_institutional_arrangements_institutional_frameworks
Policy	Draft PPP Policy Outline	PPIAF	www.ppiaf.org/sites/ppiaf.org/files/documents/Note-Seven-Draft-PPP-Policy-Outline.pdf
PPP challenges	Key Challenges to Public Private Partnerships in South Africa	Presidency of the Republic of South Africa and the Business Trust	http://castalia-advisors.com/files/12345.pdf
PPP Disputes	PFI/PPP DISPUTES	Peter Sheridan	www.sheridangold.co.uk/articles/pfi_ppp_disputes.pdf
PPP Frameworks	PPP Basics and Principles of a PPP Framework	PPIAF	www.ppiaf.org/sites/ppiaf.org/files/documents/Note-One-PPP-Basics-and-Principles-of-a-PPP-Framework.pdf
PPP Frameworks	Creating a framework for PPP programmes	PPIAF and World Bank	www.ppiaf.org/sites/ppiaf.org/files/publication/PPP_guide-decision-makers.pdf
PPP Suitability Assessment	P3 Suitability Assessment Questionnaire	P3 Canada	www.infrastructure.gc.ca/plan/nic-vin/bc-ar09-eng.html
PPP Suitability Assessment	The Guide to the new Building Canada Fund P3 Screen – Suitability Assessment	P3 Canada	www.p3canada.ca/~media/english/resources-library/files/nbcf_p3%20screen_suitability_assessment_final_clean%20copy_new%20cover.pdf
PPP Units	Dedicated Public-Private Partnership Units: A Survey of Institutional and Governance Structures	Organisation for Economic Co-operation and Development (OECD)	www.oecd.org/gov/budgeting/dedicatedpublic-privatepartnershipunitsasurveyofinstitutionalanguovernancestructures.htm
PPP Units	Establishing and Reforming PPP Units	European PPP Expertise Centre (EPEC)	www.eib.org/epec/resources/publications/epec_establishing_and_reforming_ppp_units_en.pdf
Private Sector Engagement	How to Engage with the Private Sector in Public-Private Partnerships in Emerging Markets	PPIAF and World Bank	www.ppiaf.org/sites/ppiaf.org/files/publication/How-to-engage-with-private-sector-Clemencia-Farquharso-Yecome-Encinas.pdf
Project Prioritisation	Policy Brief (Pipeline Development)	Asian Development Bank and Philippines PPP Center	https://ppp.gov.ph/wp-content/uploads/2015/01/Policy-Brief-Pipeline-and-Development_2012Sept20.pdf

Subject	Title	Source	Internet Link
The use of advisers	Role and Use of Advisers in preparing and implementing PPP projects	European PPP Expertise Centre (EPEC)	www.eib.org/epec/resources/publications/role_and_use_of_advisers_en.pdf
Value for Money	Value-for-Money Analysis-Practices and Challenges	The World Bank Institute and PPIAF	www.ppiaf.org/sites/ppiaf.org/files/publication/VFM.pdf
Value for Money	Public-Private Partnerships: In Pursuit of Risk Sharing and Value for Money	Organisation for Economic Co-operation and Development (OECD)	www.oecd.org/gov/budgeting/public-privatepartnershipsinpursuitofrisksharingandvalueformoney.htm
Value for Money	How To Attain Value for Money: Comparing PPP and Traditional Infrastructure Public Procurement	OECD Journal on Budgeting	www.oecd.org/gov/budgeting/49070709.pdf

Appendix C. Specific FM PPP project suitability considerations

Considerations / Suitability Issues	Comments
Are there any legal or regulatory issues that would prevent or impede the delivery of FM services by the private sector?	Laws and regulations may impose limitations on the type of services that can be provided by a private party.
Can the scope of FM services that are to be provided by the private sector be clearly defined in terms of outputs?	For the effective transfer of risk and the delivery of services in line with operational requirements it is essential that services can be specified in terms the outputs required.
Is there scope for innovation and efficiency gains?	To what extent will the public sector benefit from private sector innovation? Projects with more opportunities for the achievement of efficiencies relative to the cost of service provided by the public sector are more suited for PPP.
Does the inclusion of FM Services in the PPP necessitate the creation of complex/multiple interfaces and interdependencies between public and private?	Complicated and multiple interfaces and interdependencies between parties can make the delivery of services inefficient and the effective application of the Payment Mechanism unworkable.
Is there adequate demand for services for the duration of the contract period that makes the service delivery by a private party commercially viable?	For services that require significant initial capital investment (such as laboratory services in hospitals where expensive equipment must be procured) it is essential that there is adequate volume of demand in the long term to make the service provision commercially viable as a business proposition.
Can the future demand of FM services be profiled with a high level of confidence?	Where demand for services is subject to significant fluctuations that cannot be predicted with confidence it is difficult to assess if the inclusion of such services is likely to yield Value for Money and whether the risks associated with volume of demand can be managed effectively.
Is the requirement of FM services and the method of their delivery susceptible to frequent changes (in terms of quality, technology, legal or regulatory requirements)?	Services that are susceptible to frequent changes are generally considered not suitable for inclusion in PPP as the implementation of changes to PPP contracts during the Service Period are most often implemented with limited competitive tension and incentive for the private sector to deliver Value for Money.
Can full life-cycle costs, including in particular long-term operational costs, maintenance and soft FM, be quantified upfront with reasonable assumptions and/or availability of historic data?	Life cycle costs are a very important factor in success of PPPs. The Procuring Authority will pay for maintenance and/or operation through the Service Period and expects the asset to be well-maintained and efficiently operated at the lowest cost possible. It is therefore critical that total life-cycle costs are well understood and accurate estimates can be developed.

Considerations / Suitability Issues	Comments
<p>Is there capability and capacity in the private sector for providing FM services to the required standard? How many firms have the capacity and capability to deliver these services?</p>	<p>It is essential that the private sector has the capability and capacity to deliver the services required. In counties with limited track record in outsourcing public services it can be challenging for the private sector to respond to demands for 'new services'. However, the prospect of international service providers with relevant experience partnering with locals should also be considered.</p> <p>In addition, it is important that there is adequate capacity and capability in the market in order to ensure a competitive bidding environment.</p>
<p>Is there public sector capacity and capability to procure and manage contracts that include FM services?</p>	<p>Public sector experience may be limited in both procurement and management of PPP contracts with FM scope. However, the prospect of partnering with other experienced procuring authorities and the use of external advisers should be considered.</p>
<p>Are there risks associated with the provision of such FM services by the private sector not being accepted by the public or other direct stakeholder groups?</p>	<p>The transfer of public services to the private sector is often met by the public and direct stakeholder groups such as unions. Industrial action and negative public opinion can be a cause for project cancellation or procurement strategy changes.</p>
<p>Is there potential for the generation of revenues from the provision of FM services to third parties?</p>	<p>Revenue generation is not a requirement for a successful PPP. However, where the provision of FM services to third parties could potentially generate revenue and reduce the burden on public funds, the PPP model is ideally suited to leveraging that potential.</p>
<p>Are there precedents of similar FM services being procured through PPP?</p>	<p>The existence of similar FM services being procured through PPP is a key indicator regarding the viability those services for inclusion in the PPP scope.</p>

Appendix D. Abbreviations

Abbreviation	Full Name
ASAP	Alberta Schools Alternative Procurement
BLT	Build Lease Transfer
BOT	Build Operate Transfer
BSF	Building Schools for the Future
COO	Countries of operations
DfE	Department of Education
EBRD	European Bank for Reconstruction and Development
EU	European Union
FM	Facilities Management
ICT	Information and Communication Technology
KPIs	Key Performance Indicators
KPPPC	Kazakhstan Public-Private Partnership Center
LCC	Life Cycle Costing
LIFT	UK's Local Improvement Finance Trust
MEAT	Most Economically Advanced Tender
MoH	Ministry of Health
NHS	National Health Service
NICE	National Institute of Clinical Excellence
P3	Public-Private Partnership
PF2	Private Finance 2
PFI	Private Finance Initiative
PPIAF	Public Private Infrastructure Advisory Facility
PPP	Public-Private Partnership
PSBP	Priority Schools Building Programme
PSC	Public Sector Comparator
RoE	Retention of Employment
TUBE	Transfer of Undertakings – Protection of Employment
UK	United Kingdom
VfM	Value for Money

European Bank for Reconstruction and Development
One Exchange Square
London EC2A 2JN
United Kingdom
Tel: +44 20 7338 6000
Fax: +44 20 7338 6100
Email: pcm@ebrd.com
www.ebrd.com

