PPP Policy Framework

Under PPP procurement, the public sector role changes from that of provider to that of facilitator. A core element of any national or sub national PPP strategy is the development of a PPP policy framework.

Experience with PPP worldwide, suggests that is useful, if not essential, to have a framework in place, to instil confidence and understanding in all participants in the PPP process. This includes both public and private partners. The following components provide framework for accelerating the development of PPP into signing of PPP agreements (closure of the PPP transaction) and the completion of funding (financial closure). An overall comprehensive PPP policy framework would set out.

This policy framework provides a set of rules that gives confidence to both the public sector which has to implement the rules and also the private sector which has to invest time and money and aims to ensure that both will achieve, within acceptable bounds, their objectives.

The PPP policy framework is not necessarily the ideal or even something to be aimed at in total at once. It describes a framework that is considered will facilitate PPP development at least in the short or medium-term.

The PPP policy maker's objectives should be focused on developing PPPs that can be implemented and that also will not create nasty surprises after a few years into the future.

Infrastructure in Latin America and the Caribbean: Recent Developments and Key Challenges, Foy and Morrison, WB, 2007.

Background and Sector Information

This would include;

- Objectives and Principles
- Responsibilities, Procedures and consultation
- Sectors covered
- Availability of Guidelines and Documentation
- Projects and Pipelines
- Progress with PPPs

Specific PPP Frameworks

A specific PPP framework would include;

- The legal and regulatory framework,
- Procurement guidelines,
- Model PPP contracts, and
- Risk Management Framework,
- Financial guidelines (Tariffs, payments and Government support),
- The Project Cycle and the role of Advisors,
- Technical design and service standards,
- Institutional and Approvals Framework (Including Dispute resolution mechanisms).

The implementation of PPP investments, especially at the provincial and municipal levels is a very challenging process and often major efforts do not result in closure of a transaction. Various levels of Government jurisdiction and regulation often blur clear assignment of ownership and accountability.

Local governments may lack the requisite skills and financial resources to fulfil service functions effectively. However, throughout the world, local governments are, in cooperation with the central/federal government, increasingly working to overcome these deficiencies. (See Module 6 -> Case studies -> India)

While there are many viable projects, there are also many economically and socially worthy projects that lack the ability to generate the requisite revenues to ensure adequate risk related returns for the investor. Also infrastructure projects require long gestation periods to ensure affordable tariff levels, which may expose private investors' investment to undue risk. However, the key message of the policy framework is that PPPs with appropriate arrangements in the sharing of risks in financing, operating and maintaining infrastructure services can provide the solution.

In the UK, the government only uses PFI where it is appropriate and where it expects it to deliver value for money. In assessing where PFI is appropriate, the UK Government's approach is based on its commitment to efficiency, equity and accountability and on the principles of public service reform. PFI is only used where it offers value for money, where it can meet these requirements, and where the value for money it offers is not at the cost of the terms and conditions of staff.

The UK Government states that it is committed to securing the best value for its investment program by ensuring there is no inherent bias in favor of one procurement option over another. The UK policy lays out in more detail the Government's approach to PFI, and its analysis of where it is appropriate and effective.

PFI: meeting the investment challenge; UK Treasury 2003.

It should be noted that good policy frameworks are not common, and especially policy frameworks that get passed into law. However, they give confidence to investors and clarify policy within government.

Why a legal framework?

To persuade investors to put their money (and others) into long-term investments and to allow the government to contract with the private sector.

Why an (economic) regulatory framework?

So that the contract can operate over a long period in a manner that is fair and equitable to all stakeholders.

Why a risk framework?

So that investors and the government can assess whether and how to contract with each other and the 'price' of that partnership.

Why a financial framework?

To detail how these parties financially partner each other.