

## Development Path for PPP

The diagnosis performed under Module 1 -> Enabling PPPs should allow an assessment of current performance of the road sector and of current status of the enabling environment for PPPs. This should provide a basis for identifying the nature and scale of the benefits which may be expected from PPP procurement and the scope of the required reforms to provide a suitable enabling environment.

The decision-maker has to make some initial choices; consultation and feedback shall be necessary to assess the results of the diagnosis and the possible courses of action. In the event that a PPP program is launched, there will be a need to define its mandate. Some of the issues to be flagged are the following:

- What are the limits or constraints set by the economic and administrative background?
- What are the possibilities offered by the current legal framework (legislation, contracts, legal culture, legal skills, etc.)?
- What are the functions / activities which can, politically and socially, be delegated to the private sector? (depending on both political choices and the capacity of the private sector to get involved in the process).
- Which implementation process is possible, politically acceptable and preferred? Shall the decision-maker adopt an incremental process, (easier to sustain but postpones some of the expected benefits) or decide on a “big bang” approach, likely to meet the objectives faster but with increased risk of failure?

Since the political, constitutional, legal, economic, social and cultural circumstances of every country differ, there can probably be no blueprint of how to make a PPP program work. Each Administration embarking on a PPP voyage must plot its own particular course. Nonetheless, all the experience of those who have gone before points to two clear pieces of advice.

The journey to a PPP program will be a long one. It takes several years to arrive at an up-and-running program and certainly longer than one political cycle. Therefore, the policy must have very committed high level political support and as a policy it must be broadly acceptable to the majority of political opinion.

It has become clear that it is unlikely that any Public Administration has officials who can, unaided, introduce a PPP program. It is paramount if the PPP introduction is to be a success that the Public administration is prepared to draw on and learn from experts in the field. For Governments and Administrations who have no budget for such help, the expertise can be made available through bilateral and multilateral assistance programs. The use of experienced PPP advisors is also paramount.



Draft Guidelines for Private Public Partnerships for Infrastructure Development.  
UN/ECE Forum on Public-Private Partnerships for Infrastructure: the Next Steps (PPPs). 2000.

Policy makers from low and middle-income developing countries, and especially where progress has been slow in PPP development, should also consider the follow specific guidelines before launching their PPP program:

- When starting from a low base of PPP development, the aim should be to incorporate key principles of good governance but not necessarily to have a complete PPP framework in place. A complete PPP framework can be worked towards while some projects are being developed and experience gained.
- Develop a proper PPP policy and consult widely on it. Take into account views (where they do not ultimately endanger the key concepts of transparency/competition and benefits).
- Build capacity in the public sector institutions and help develop capacity in the private sector. Convince the private sector that doing PPPs well means more and better business for them.
- The policy should encompass a flexible approach that fits the political, financial, economic social situation/conditions in each country. A comprehensive and rigid approach from day 1 is not desirable nor essential.
- If, in the initial stages, a pipeline of PPP projects is difficult to prepare, ring fence several 'good' projects and develop as PPPs, flexibly, but incorporating key minimum conditions for PPP.
- Work towards a pipeline of good i.e. bankable PPP projects.
- Develop 'good' projects, with help of multilaterals/good advisors, with the basic PPP principles of;
  - Good project preparation including sound draft tender documents incorporating the principles of competition and transparency.
  - Consider a range of highway projects; bridges, tunnels, new motorways, brownfield upgrading, maintenance, rural roads, port and airport accesses.
  - Consider a range of PPP modalities PBC, Concessions, BOT, Annuities etc.
  - Select projects that are reasonably large but not too complex or risky and if possible those that need little or no government financial support.
  - Understand and integrate risk management (identification, allocation and mitigation) principles in the selected projects.
- Obtain commitment at all levels, starting at the most senior across the board and within the line ministry/highway authority.
- Prepare projects on a realistic schedule-keep up pressure but not cutting corners to fast track.
- Work towards, have a view to the development of, in the medium-term a more comprehensive framework of laws, regulations and regulatory bodies. Regulate by contract initially.

## From project-level to program-level PPP

Each country has to choose its own course in determining the role of PPP in the highways sector. The path to development of PPP is represented on the figure below.

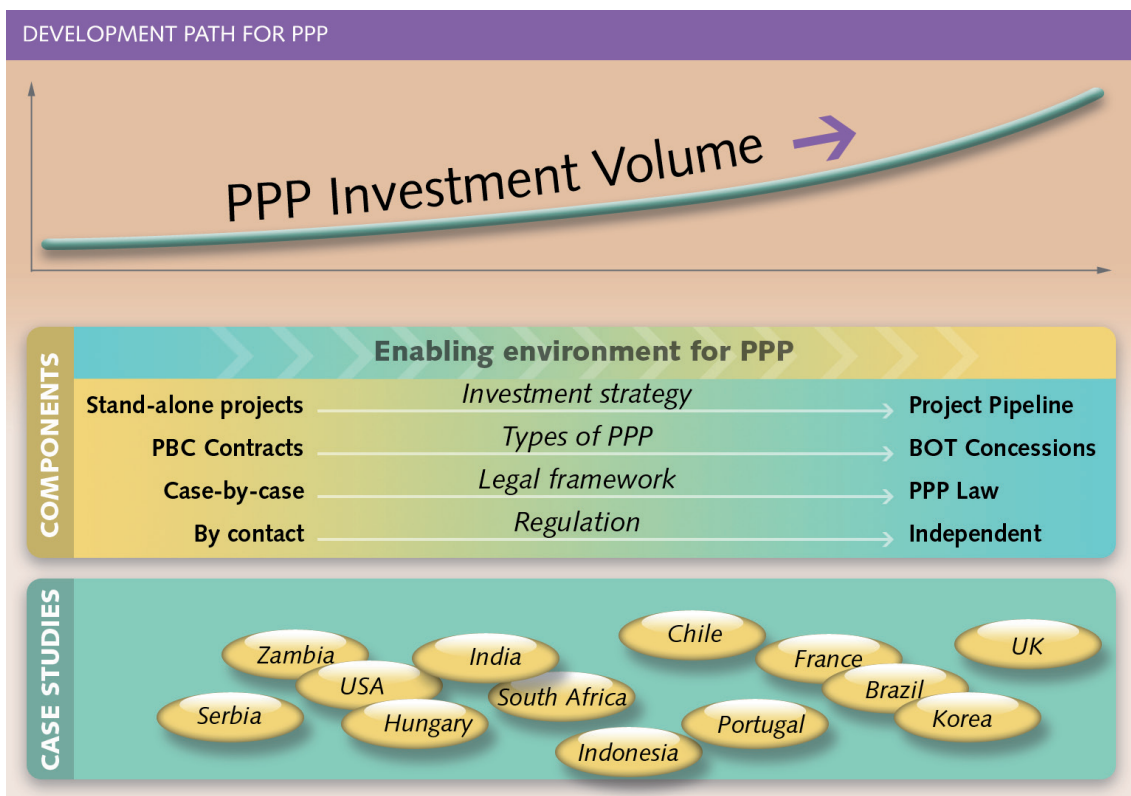
The general path of a given country will be to progress from project-level PPP development on the left to program-level PPP development on the right, a process through which PPP policy would be constantly refined in light of the experience from the initial PPP projects and the evolving political, economic and social environment in the country.

Project-level PPP could be particularly applicable in the development of flagship projects which could serve to launch a wider PPP program.

Bridge crossings are particularly suited to PPP and to an initial project-level approach. This is since they are expensive and challenging to build, generally encounter less opposition to tolling (due to previous charges on ferry crossings) and present more predictable traffic flows, due to the lack of competitive routes. In some cases, their financing could also benefit from the transfer of existing state assets and associated toll revenues. In the UK, the success of the Dartford, Severn and Skye bridge projects in the 1980s served to spur growth of the PPP program; in Portugal, the Vasco da Gama bridge crossing in the 1990s served as a flagship project for the development of its PPP program.

Project-level PPP could potentially be implemented with only limited and targeted structural changes within the PPP policy framework. This could involve a case-by-case legal approach and regulation by contract.

Program-level PPP is only likely to be appropriate where there is a significant program of investment (project pipeline) driven by a long-term investment strategy. Such a program also requires a substantial development of the enabling environment to enable the significant volumes of investment which could be mobilized.



The countries represented are those for which case studies are presented in the Toolkit (Module 6 -> Case Studies). In recent decades, as the theory and practice of PPPs has evolved worldwide, certain national governments have taken a strategic and structured approach to the introduction of PPPs as a new and significant policy initiative. Countries with the most developed programs include the UK, Korea, France, Portugal, Brazil and South Africa. However, Zambia is a good example of a country implementing consistent and progressive reforms with a steady pace of development of its PPP program which notably includes performance-based maintenance contracts. Other notable examples of countries that have successfully revamped their PPP programs include India and Hungary.

What distinguishes the approach taken in the countries included in the case studies is their intention to adopt PPP's as a new way for delivering infrastructure and related services across a range of sectors. In many cases, a common approach is sought to embrace for example road and rail transport projects, water supply and wastewater management, energy and telecoms with, in the more developed examples, the extension to schools, hospital establishments and prisons.

### Road map for PPP

The pace at which countries may be able to initiate PPPs or revamp their PPP programs will largely be influenced by the strength of the PPP drivers and the extent of the constraints to the development of PPP policy framework. The growth in capacity of both public and private sector players should also follow this pace of development, failing which problems are likely to arise in contract implementation, such as for PBC contracts as detailed in Module 2 -> Scope -> Specific Issues for Brownfield and PBC Contracts.

The road map may also be influenced by the following factors:

- In some countries, the existence of State Owned Companies that originally were a department dealing with public toll roads and then grows into a semi private semi public body can distort the competitive landscape, through ‘taking’ the best projects, winning projects through unfair competition or just hindering the PPP process,
- Traditionally, the public sector has provided public infrastructure and political considerations of this nature, political spelt with both a small “p” and large “P”, may have affected progress.
- Governance and corruption influence the attraction of embarking on new types of projects which are not well understood and place the private sector (some of which have governance and corruption issues themselves) in an equal or possibly higher position than the public sector.
- It is likely that the private sector prefers to continue to do business under public procurement rather than a new possibly more expensive/riskier way and would pressure the public sector to continue with public procurement unless tenders can be unsolicited.

The diagnosis phase has allowed policy makers to identify and characterize:

- the areas of poor performance of the present system
- the efficiency gains that could be expected by enhancing private participation in the road sector
- the basic requirements to create an enabling environment for PPP

On the basis of these elements, a road map may be defined to implement PPP with the long-term objective of rationalization of the system. The agenda will consist of:

- identifying long-term reforms for expansion of the PPP program to a project-level program;
- reforming the road agency towards a commercial management of the road assets (assign responsibilities of each part of the network, involve users to gain support and psychological ownership, secure and stabilize flow of resources, introduce commercial management practices);
- selecting PPP options most suitable to address the specific objectives set up for each part of the network;
- preparation of a consistent planning of the above activities.

However, development of PPP shall be a continual and lengthy process through which the program shall develop through project-level and subsequently pilot project phases. Experience from the PPP projects implemented shall provide essential guidance as to future direction. Designing a comprehensive set of reforms for program-level PPP and waiting for all reforms to fully deliver before embarking on a PPP program is neither feasible nor recommendable. The important questions to be asked at this stage are:

- which PPP projects / options would be the most adapted to each part of the country/ region network?

- among those, which ones can be implemented immediately within the existing environment / framework?
- which options require prior outcome of long-term reform and would be implemented at a later stage?

The answers to these questions are the core of the strategy to be worked out. The limits of the “do now” (possible PPP at present) define the steps to be taken to enlarge the scope of PPP in the future.

### Adjust ambitions in project planning

Restructuring a country’s banking system or developing the local construction industry cannot be done overnight. All these in-depth reforms require a firm commitment from government, political stability, time and effort.

Meanwhile, policy makers should be reasonable in the selection and design of PPP projects and take into account the limitations imposed by country constraints. A modest but successful project is more beneficial than an ambitious project ending in failure.

PPP options involving private financing are usually the most complex and the most demanding of an adequate PPP policy framework.

Before deciding on a specific option, it must be borne in mind that a number of factors make transport infrastructure less amenable to private financing than other types of infrastructure.

Firstly, for some types of infrastructure, such as local or urban roads, the physical difficulties of excluding users who do not pay, or the high transaction costs of implementing direct user charges, make it difficult to achieve a competitive market. Secondly, privatization may not be politically acceptable where there is a perception of large, uncompensated income transfers. Thirdly, where there are substantial externalities (such as road congestion and air pollution effects) that cannot easily be addressed by market-based instruments, there is greater likelihood of government intervention. Fourthly, when traffic flows are low, profitability from user charges is also likely to be low. Finally, some transport infrastructure is so intertwined with spatial planning that governments are not willing to leave it entirely to the private sector.



Sustainable Transport - Priorities for Policy Reforms, Development in Practice. World Bank (1996), page 45.

The greatest potential for efficiency gains from privatization lies where monopoly protection has traditionally been strongest. The greater the number of dimensions in which prospects are good, the lower the risk to the investor, and the greater the probability of private non recourse finance.

PPP options involving contracting out of maintenance activities under public financing have demonstrated not only very promising results in improving efficiency and reducing

cost but also a lesser need for in-depth reform of the country institutional and legal framework.

Because PPPs are always complex, experience is an important success factor. Most officials who have been involved in the development of these types of project would recommend a step-by-step approach, starting with less sophisticated options and progressing to more comprehensive PPP schemes.



Principles for Private Sector Participation in Infrastructure, OECD, 2007.



Legislative Guide on Privately Financed Infrastructure Projects,  
United Nations Commission on International Trade Law, 2001 (pg 6-18).