

Country Readiness Diagnostic for Public-Private Partnerships

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THE WORLD BANK GROUP

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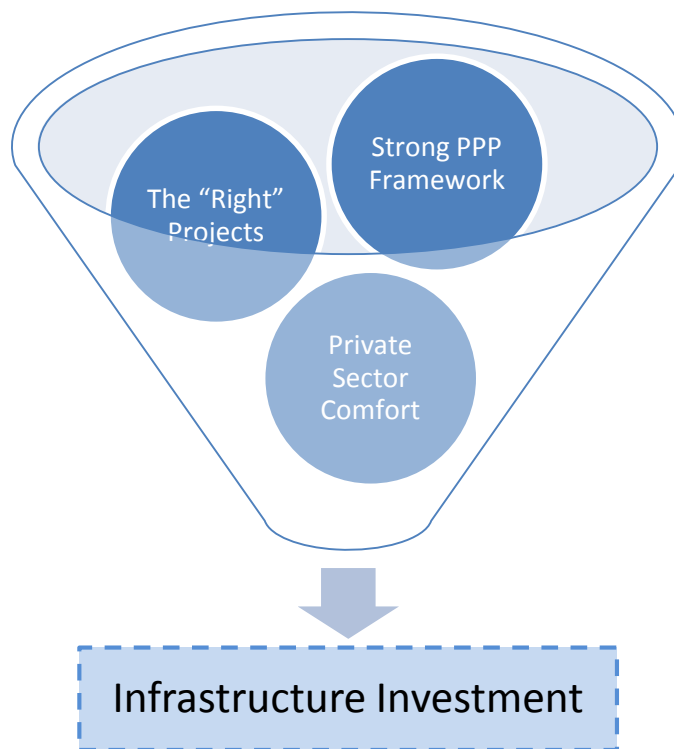
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Introduction

Public budgets have always been constrained. In addition, the global financial crisis has had a significant negative impact on fiscal space. Related developments have made access to long-term financing more difficult, particularly for emerging markets and developing economies. The overall project finance markets partially recovered in 2014, but the deal flow of public-private partnerships (PPPs) has still been quite conservative in numbers as well as volumes. Lack of fiscal space, as well as the quest for better efficiency in projects and programs, has led to an increasing interest in PPPs globally, with efforts to provide the right projects and a strong framework for PPPs, as illustrated in figure 1. However, structuring good projects and creating appropriate enabling frameworks has become more difficult in a tight fiscal environment, as appetites for private sector risk have undergone major changes in the aftermath of the financial crisis. Private sector parties have become more cautious in financing projects, although markets have been liquid in the recent past.

Figure 1: Mobilizing Private Investment



In 2014, the World Bank's Independent Evaluation Group (IEG) published a comprehensive report evaluating the World Bank Group's (WBG's) support of PPPs

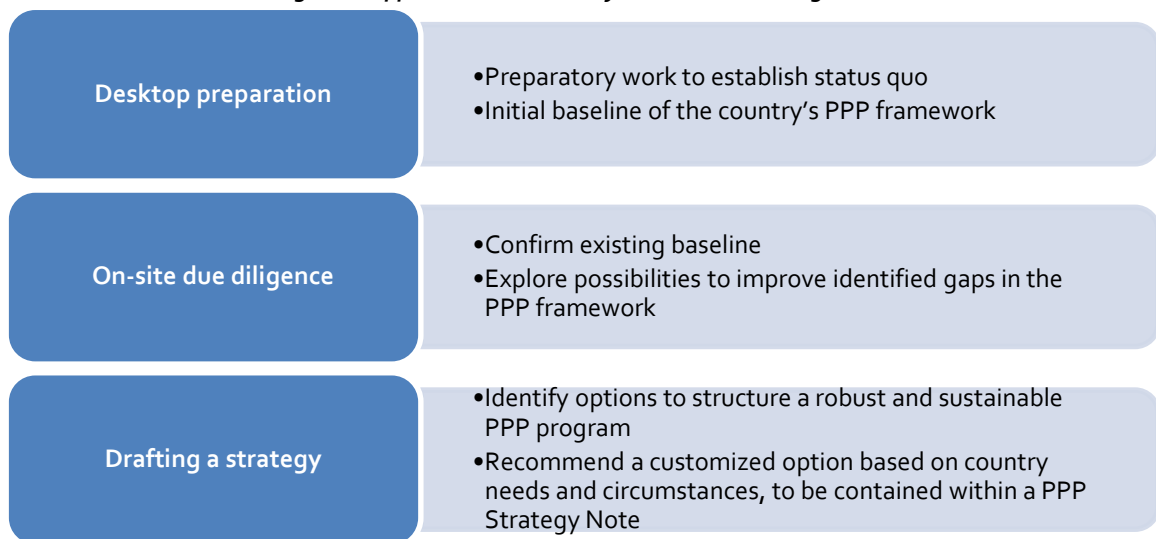
during fiscal years 2002–12.¹ One operational recommendation the IEG offered was to translate the WBG’s PPP-germane strategic intentions into an operational framework that should diagnose country PPP gaps and enhance the identification of country-tailored solutions.

Approach

The Diagnostic assesses “*readiness*” by determining the status quo and comparing the status quo or baseline with best practices to determine gaps. Closing the gaps will be based on country circumstances and the relevance of a gap—leading to a customized PPP strategy for the country, as shown in figure 2.

The status quo baseline will be determined based on the *due diligence checklists* provided in chapter 2. The application of the Diagnostic consists of three phases, including *desktop preparation, on-site due diligence, and drafting a strategy* (see chapter 10). For each phase, key questions (or due diligence checklists) were identified and systematically organized under criteria and subcriteria. The questions under each subcriterion are self-explanatory and suggest what the task team leader (TTL) or policy maker should be looking for.

Figure 2: Approach to the Country PPP Readiness Diagnostic



The exercise has been iterative; that is, we have used a mix of a top-down as well as bottom-up approaches to find the proper criteria, subcriteria, and questions. More than 70 documents, including gateway reviews, an earlier Public-Private Infrastructure

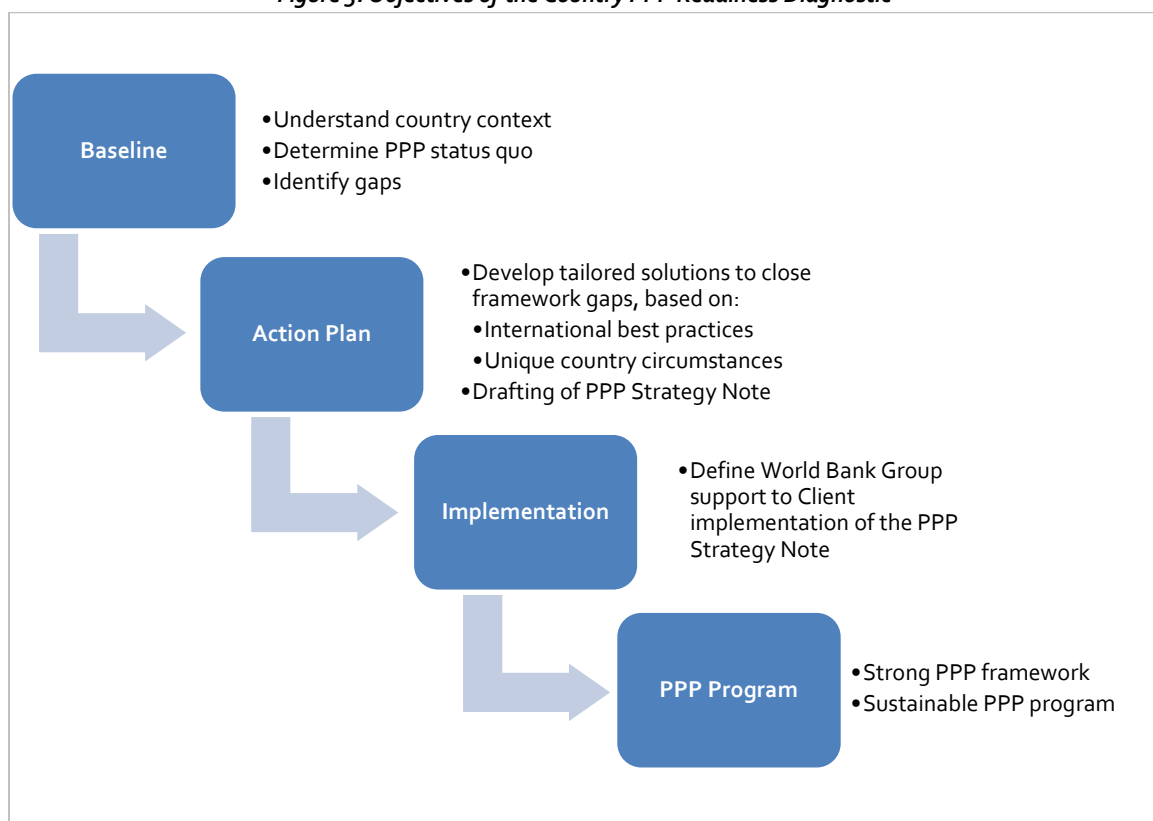
¹ World Bank Group. *World Bank Group Support to Public-Private Partnerships: Lessons from Experience in Client Countries, FY02-12*. Washington, DC: World Bank Group. Available at https://ieg.worldbankgroup.org/Data/reports/chapters/ppp_eval_updated2.pdf.

Advisory Facility country self-assessment tool, and a variety of checklists, including the G-20 checklist prepared by the World Bank in August 2014, several International Finance Corporation (IFC) quality at entry checklists, and others, were reviewed while preparing this Diagnostic. The initial draft has undergone wide internal and external reviews and several iterations.

Objective

The end goal of the Diagnostic is to provide strategic, customized advice to client countries so they can make informed decisions in determining an operational plan for their PPP program, the choice of public investment vis-à-vis PPP, and type of PPP. These objectives are illustrated in more detail in figure 3.²

Figure 3: Objectives of the Country PPP Readiness Diagnostic



Moreover, the Diagnostic serves the following purposes, in line with the IEG report:

² See World Bank Group. 2013. *Evaluation of the World Bank Group's Support for Public-Private Partnerships*. (Independent Evaluation Group (IEG) Approach Paper, Report No. 82186). Washington, DC: World Bank Group. Available at http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2013/12/02/000461832_20131202161843/Rendere d/PDF/821860IEGApprooBox379862BooPUBLI Co.pdf.

- Through leveraging the WBG institutions' respective comparative advantages, the Diagnostic will assist in planning and implementing a one WBG approach.³ This collaboration across the WBG is a "precondition to working effectively along the PPP chain."⁴
- The Diagnostic will provide an incentive for individual task managers and investment officers to collaborate, adding value and allowing them to achieve better or faster results.
- The Diagnostic can tailor upstream support to country-level constraints that the IEG report found need to be addressed more systematically, including the government's ability to assess value for money, fiscal implications associated with PPPs, political economy factors, and the government's commitment to its PPP program.⁵
- The Diagnostic will help to build a WBG-wide PPP knowledge management platform. Specifically, it will enhance the WBG's local knowledge, skills, and resources for providing technical assistance related to upstream policy, and assist governments in the identification of the appropriate financial instruments and preparation of a pipeline of bankable PPP projects, the lack of which "poses a serious limitation across most World Bank-supported countries."⁶

Themes and Key Questions

The Diagnostic starts with a "country snapshot" capturing some macroeconomic data and business climate ratios. Following that, the Diagnostic is structured around key themes that are relevant in the assessment of the PPP readiness of a country with related key questions, as per the following table.

| Theme | Key question | Chapter |
|-----------------------------------|---|---------|
| PPP experience | Does the government have any experience implementing PPPs? | 2 |
| Stakeholder support and ownership | Does the government support PPPs? | 3.1 |
| | Do the general public and other key stakeholders support PPPs? | 3.2 |
| | Is the legal and regulatory environment sufficiently conducive to PPPs? | 4.1 |

³ Under the 2013 strategy, the International Bank for Reconstruction and Development (IBRD), International Development Association, IFC, and Multilateral Investment Guarantee Agency will be working as "One World Bank Group" in delivering development benefits to clients.

⁴ IEG report.

⁵ By contrast, the most commonplace PPP constraints the WBG has addressed are government issues, regulatory failure, and inadequate sector structure (IEG report).

⁶ IEG report.

| Theme | Key question | Chapter |
|--------------------------------------|--|---------|
| Legislative and regulatory framework | Do legislation and regulations provide clarity on the management of unsolicited proposals? | 4.2 |
| | Do other legislation and regulations support the implementation of PPPs? | 4.3 |
| | Are legislation and regulations functioning well in practice? | 4.4 |
| Institutional framework | Are there institutions in place to support the preparation, procurement, and implementation of PPPs? | 5.1 |
| | Are there processes in place to guide the preparation, procurement, and implementation of PPPs? | 5.2 |
| | Are there standardized PPP documents and templates? | 5.3 |
| | Is there a government communication strategy and stakeholder engagement strategy on PPPs? | 5.4 |
| | Do the government and the industry have (access to) the skills and expertise to implement PPPs successfully? | 5.5 |
| Funding and managing fiscal risk | Does the budgetary system support PPPs? | 6.1 |
| | Is there funding available for robust PPP project preparation, procurement, and implementation? | 6.2 |
| | Is there a framework for government financial support to PPPs? | 6.3 |
| | Is there a framework for assessing and managing fiscal commitments and contingent liabilities? | 6.4 |
| | Is there a framework for project-level financial and economic assessments? | 6.5 |
| Access to finance | Are the necessary PPP project finance structures and sources available? | 7 |
| Transparency and disclosure | Are there oversight, audit, and disclosure procedures and institutions in place? | 8 |

Each key question is further broken down into more questions, differentiated at high and detailed levels. As PPP readiness may vary widely by sector, the checklists also provide

sector-specific questions, wherever relevant.⁷ Chapter 9 provides a gap assessment checklist, including all the key questions.

Use of the Diagnostic

The Diagnostic will be employed primarily from a TTL's vantage point. WBG senior project managers can also use the Diagnostic. Moreover, policy makers and PPP decision-making units can utilize the Diagnostic to assess their abilities to conduct PPPs and provide adequate upstream and downstream work. Furthermore, the Diagnostic may be useful to those interested in investing in a country.

Based on the country's PPP experience, it may not be necessary for the TTL to respond to every question in the Diagnostic. However, the TTL at a minimum should respond to each of the key lead-in questions summarized in the table. The high-level and detailed questions in each chapter should provide the TTL with sufficient background to respond to the lead-in questions. The last chapter of the Diagnostic presents the TTL with a gap assessment framed around these lead-in questions.

TTLs or policy makers may use the Diagnostic to assess the PPP readiness of a specific sector or subnational government as well. Although most of the questions on the diagnostic are equally applicable to subnational governments, or specific sectors, some additional questions are included for assessing specific issues at the sector and subnational levels.

Questions on fragility, climate change, and gender are included as required in some of the chapters. Fragility issues, where present, have the potential to affect the legal as well as institutional and capacity aspects substantially, and must be taken into account while assessing the country or subnational government's PPP readiness. Given the impact of climate change on infrastructure and vice versa, questions designed to help policy makers think through climate-related aspects of PPP have been included in some chapters. Finally, infrastructure as well as decisions surrounding infrastructure need to be gender sensitive to be effective and efficient.

This is version 2 of the Diagnostic. The Diagnostic remains a "*work in progress*" and will be updated dynamically through frequent stakeholder consultations, as well as via the active involvement of staff. Each new country assessment will provide important lessons

⁷ Sector-specific checklists will be created in instances where the government requests a PPP assessment specific to a sector and/or the WBG team feels a clear need to examine the PPP readiness of a specific sector in detail.

for refining the Diagnostic further. The Diagnostic will be used for a comprehensive assessment. However, where the assessment points need further micro-level analysis of a specific issue or area, which is in the nature of a detailed and time-consuming activity in itself requiring further resources, this will be undertaken separately. As such, the Diagnostic will be limited in its depth; in the future, based on observed needs, each point in the Diagnostic can be expanded, and further tools can be developed for each part of the country Diagnostic.

1. Country Snapshot

To undertake PPPs, it is important to understand the economic fundamentals and business climate in a country. It is also important to understand where the country stands on other key issues that might impact the efficiency and effectiveness of the infrastructure, specifically climate change, fragility, and gender. Therefore, TTLs must develop a basic overview of the country. The overview could contain the following:

1.1 Macroeconomic and Other Data

- Per capita gross domestic product
- Economic growth rate
- Current average inflation rate
- Sovereign credit rating (including details on the probability of default)
- Current account
- Capital account
- Sovereign debt ratio
- Domestic debt ratio
- Infrastructure budget-to-implementation ratio
- Ratio of actual spending over initial budget of the capital account in the budget law

1.2 Business Climate

- Rule of Law Index⁸
- Corruption Perception Index⁹
- Business Freedom Index¹⁰
- Global Competitiveness Index¹¹

1.3 Climate Change

- Nationally Determined Contributions (NDCs) submitted to address climate change¹²
- Global Climate Risk Index – German Watch¹³

⁸ http://worldjusticeproject.org/sites/default/files/roli_2015_o.pdf.

⁹ <http://www.transparency.org/research/cpi/overview>.

¹⁰ <http://www.heritage.org/index/ranking>.

¹¹ <http://reports.weforum.org/global-competitiveness-report-2014-2015/rankings/>.

¹² http://unfccc.int/focus/indc_portal/items/8766.php.

¹³ <https://germanwatch.org/en/cr>.

- Environmental Risk Index – Verisk Maplecroft¹⁴

1.4 Fragility

- Regions in the country that are affected by conflict/fragility
- Conflict phase (emergence, escalation, de-escalation, termination, and post-termination)
- Drivers of conflict: external or internal, structural (economy, natural resources, horizontal or vertical inequalities); proximate (violence during elections, coups, and so forth) or perpetuating (forced displacement, trauma, environmental degradation)
- Fragility status: (a) low state legitimacy; (b) lack of practical capacity; (c) lack of human resources; (d) lack of functional judicial system; (e) social tensions (political or social factionalism); and (f) disasters: potential for the emergence of a conflict due to the state's fragility in a post-disaster context

1.5 Gender

- Gender inclusion¹⁵

¹⁴ <https://www.maplecroft.com/themes/cc/>

¹⁵ <http://data.worldbank.org/topic/gender>

2. PPP Experience

Countries may have achieved some level of success in implementing PPP projects, with or without having in place typical PPP enabling elements such as an overarching PPP policy or legal framework. This chapter of the Diagnostic therefore assesses a country's experience with transacting PPP projects. Specifically, the questions in the chapter will prompt TTLs to dissect the success rates and challenges associated with PPP project implementation.

Key question: Does the government have any experience implementing PPPs?

High Level

- Have there been any PPP projects considered or implemented?
- What were/are the key objectives of the government in undertaking PPP projects/ programs?
- Are the implemented PPPs operational and considered a success?
- Are there any "local versions" of PPPs, potentially including joint ventures, privatizations, concessions, leases, or any other forms?
- What are the key drivers of local/variant PPPs, if any?

Detailed Level

- How many PPP projects were considered/prepared and how many reached (a) commercial close and (b) financial close?
- Were these projects at the national and/or subnational level?
- What is the range of these projects, in terms of total cost, from lowest to highest?
- What have been the key challenges to preparing, procuring, and implementing the PPP projects?
- What was the average length of time from PPP project development to (a) commercial close and (b) financial close?
- How many PPP project contracts have been renegotiated post project completion?
- How many PPP projects that reached financial close have been terminated before the contract end date?

- What types of PPPs have been implemented and/or considered, and what are their characteristics? Is there experience with user fees and availability of payment-based PPPs?
- Have there been projects with government or other public support (for example, any regional organization support¹⁶), including grants, different forms of debt, equity, guarantees, and so forth?
- How many of the implemented PPPs were the result of an unsolicited proposal or directly negotiated agreement?
- What has been the demographic composition of communities where PPP projects have been implemented?
- Are there horizontal or vertical inequalities in service provision? Do different social groups have equitable access to infrastructure services?
- Have PPP projects escalated tensions?
- Are there risks associated with the physical operation and maintenance of assets?
- Have there been any PPPs where climate change and gender aspects have been specifically identified and taken into account?

Sector Dimension

- Which sectors have considered PPPs?
- Which sectors implemented PPPs?
- Which sectors successfully implemented PPPs? Can any specific conclusions be drawn about which sector characteristics or policies might have contributed to success?

¹⁶ For example, in the case of EU countries, it could be EU support. In the case of others, the support could come from various sources such as multilateral development banks, bilateral organizations, or others.

3. Stakeholder Support and Ownership

Support from the government, the general public, and other key stakeholders is essential for the success of a PPP program. The interests of these stakeholders hold considerable influence on whether PPPs are realized. The TTL must therefore assess the extent to which stakeholder support and ownership of PPPs exists in a country.

3.1 Government Support and Ownership

Key question: Does the government support PPPs?

High Level

- Is there a clear understanding and ownership of PPPs at the highest levels of government, including the cabinet and parliament? What about subnational governments?
- Is there a clear PPP champion in the national government?
- Is there a defined PPP strategic plan/policy in place in the country?

Detailed Level

- Is there an approved national infrastructure plan in place in the country?
- Have PPPs been at the center of recent political debate in the country, and do political parties have different views on the subject?
- Is there clear support and/or pressure from the highest levels in the government for PPP disclosure and transparency? From the Cabinet? Parliament? Subnational governments? Is there clear support and/or pressure from the highest levels in the government, private sector, civil society, women's organizations, and/or media on key issues such as inclusion of climate change and gender dimensions in PPP projects and programs?

Sector Dimension

- In which sectors do elected and appointed officials demonstrate the strongest support for PPPs? Which sectors enjoy little to no support for or even opposition to PPPs?

- Is there support for PPPs in the line ministries at the middle and senior management levels?

3.2 Public Support

Key question: Do the general public and other key stakeholders support PPPs?

High Level

- Is the public supportive of PPPs?
- Is the industry supportive of PPPs?
- Is there any strong opposition to PPPs from certain stakeholder groups? If yes, please state the reasons for such opposition.

Detailed Level

- Are there political commentators, think tanks, or civil society organizations that strongly influence the public debate supportive of PPPs? What is their understanding of PPPs?
- Is there clear support and/or pressure from the private sector, civil society, environmental organizations, and/or media for PPP disclosure and transparency?
- Is there a risk that private participation in service delivery will undermine the public perception of the legitimacy of state/local government and exacerbate tensions?

Sector Dimension

- Which sectors demonstrate or expect to receive the strongest support for PPPs?
- Which sectors oppose PPPs? Why?

3.3 Potential World Bank Support Mechanisms

1. PPP webinars: <http://einstitute.worldbank.org/ei/wbeiterms/webinars/67>
2. PPP resources: <http://www.ppiaf.org/node/815>
3. PPP Roads & Highways Toolkit:
<http://www.ppiaf.org/sites/ppiaf.org/files/documents/toolkits/highwaystoolkit/index.html>
4. PPP/Infrastructure Toolkits: <http://www.ppiaf.org/node/83>
5. PPP training course: <https://www.coursera.org/course/effectiveppp>

4. Legislative and Regulatory Framework

For a successful PPP, it is important that there are sound, well-functioning, and transparent legal and regulatory frameworks. It is important that TTLs understand the status of legal and regulatory frameworks and whether these are adequate for preparing and implementing projects. Countries may or may not have specific PPP law(s), and in many cases, there could be other enabling legislation relating to specific sectors, procurement, or private sector participation in projects. The idea is to assess the level of clarity to carry out PPPs under the existing law and to gauge if there are features that would need to be incorporated into the framework through amendments in existing legislation/regulations/rules, or through new/additional legislation or adequate guidelines. This PPP legal framework assessment represents an opportunity to promote public policy objectives, such as climate change and gender equality, and to identify, for example, gender biases in existing policies, laws, and regulations or gaps in the PPP legal framework where climate or gender aspects could be incorporated. The TTL will partially complete this chapter of the Diagnostic prior to the PPP mission to the extent possible, through reviews of websites, existing literature, and telephone interviews with client country officials, private sector stakeholders, and other experts to the extent they become available.

4.1 General PPP Enabling Legislation and Regulation

Key question: Is the legal and regulatory environment sufficiently conducive to PPPs?

High Level

- Is there a civil law or common law environment?
- Can PPPs be undertaken in the country under existing law or under contract?
- Is there a specific or generic law that addresses PPPs? When was it enacted?
- Is there a clear PPP policy formalized in law, regulations, policy documents, and/or manuals? When was it put in place?
- Are there legislation, rules, or regulations that provide clarity to government officials, the industry, and other stakeholders on:
 - The definition of PPP
 - Types of PPPs that can be undertaken (such as management type, leases, build-operate-transfer, availability-based, concessions, asset sales, other)

- The process for approval of projects
- Procurement of projects
- Regulation and management of projects through the construction and approval stages
- Specific public authorities that can sign the PPP agreement
- Institutional structures that initiate, implement, and manage the PPP process with clarity on roles and responsibilities
- Have policy makers used the legislation, regulation, and/or policy for projects? If this is a Diagnostic relating to a subnational government, are there any restrictions in place from the national or other subnational governments that might hinder or thwart the subnational government's ability to award a PPP concession?
- Is the PPP policy/law/regulation reflecting and contributing toward the ambitious NDC targets (to develop low-carbon and climate-resilient infrastructure) made by the national government?
- Are there policies, laws, or regulations that promote gender equality?

Detailed Level

- Do the PPP legislation/rules/regulations include any requirements for initial or final parliamentary approval of PPP project proposals?
- Does the PPP/procurement law treat all bidders (including international bidders) equally, fairly, and transparently?
- Are there laws/rules/regulations for any "local versions" of PPPs, potentially including privatizations, concessions, and leases?
- Are there any apparent inconsistencies or overlaps between PPP-specific laws and regulations and more generic laws and regulations, for example, procurement regulation, concession law, or public finance regulations?
- Does the PPP legal framework allow for compensation to the parties in the event of termination?
- Does the PPP-specific policy or legislation deal with gender inclusion? Is the PPP-specific policy or legislation aligned with other policies, laws, and regulations that aim to ensure gender equality?
- Do any of the laws/rules/regulations governing PPPs contain explicit mention of men/women or boys/girls? Are any of the provisions explicitly biased or discriminatory?
- Does the legal/regulatory framework contain any implicit gender biases or provisions that could disadvantage women? For example, does the law/regulation:

- Allocate rights or entitlements only to heads of households, landowners, full-time registered workers, members of particular user groups, or decision-making bodies, who are more likely to be men?
- Condition rights or entitlements on a certain educational level, or on basic literacy or numeracy? Are these requirements necessary?
- Require an identity card or other documentation to access services? Are these documents necessary? Are they easy for women and men to obtain?
- Require collateral to obtain credit? Are there alternative ways to provide security?
- Establish connection charges, registration fees, user fees, or other financial requirements to access services?¹⁷

Sector Dimension

- Are sector laws/regulations/policies consistent with the PPP law?
- Do sector laws, regulations, or policies:
 - Provide a basis for charging tariffs?
 - Establish clear methodologies for tariff setting, increases, and periodic reviews?
 - Foster financial sustainability but ensure reasonable and affordable levels of tariffs?
 - Provide for independent regulator(s)?

Subnational Dimension

- Are there any restrictions on the legislative functions of the subnational government?
- Are there any restricted sectors for subnational government, especially with respect to PPPs?

Climate Change

¹⁷ See "Legal Frameworks Checklist for Gender," in: *Guidelines and Checklists for Gender in Public-Private Partnerships in Lao PDR - Grant 0309 (Draft)*, Ministry of Planning and Investment, Government of the Lao People's Democratic Republic, August 2014, as well as the chapter on the Impact of PPPs on Gender Inclusion on the World Bank's PPP Infrastructure Resource Center website.

Does the PPP policy, law, and regulation reflect and contribute toward the ambitious NDC targets (to develop low-carbon and climate-resilient infrastructure) made by the national government?

4.2 Specific Legislation and Regulation Regarding Unsolicited Proposals

Key question: Do legislation and regulation provide clarity on the management of unsolicited proposals?

High Level

- Can a government accept unsolicited proposals under existing law or under contract?
- Do unsolicited proposal (USP) regulations provide clarity on:
 - Definition of USP
 - Types of USPs that are allowed
 - Minimum requirements for USP submission
 - Time-limited processes
 - Agency leading evaluation of USP
 - Procedures for approval of USPs
 - Procedures for ensuring competition or fair market value
 - Regulation of reimbursement of the proponent, should the procurement processes result in an award for a party other than the proponent
 - Regulation on purchase of intellectual property rights

Detailed Level

- Are specific policies and procedures found within the PPP law and regulations or other guidance to select, appraise, procure (competitively or through direct negotiation), and implement projects initiated by private sector proponents through unsolicited proposals?

Sector Dimension

- Are unsolicited proposals limited to certain sectors? If so, which sectors?

4.3 Other Specific Legislation and Regulation

Key question: Do other legislation and regulations support the implementation of PPPs?

High Level

- Are there other laws, regulations, or procedures in place to assess the fiscal impact of PPPs on the government? (See chapter 6.)
- Are there other laws, policies, and procedures in place that include proactive disclosure by governments? Timelines for disclosures? (See chapter 8.)
- Is there any other relevant legislation or regulation in place that materially influences the preparation, procurement, and implementation of PPPs?

Detailed Level

- Are there simple, transparent, and predictable requirements for licenses, permits, and planning approvals?
- Does land acquisition legislation provide for speed and ease of acquisition while ensuring appropriate compensation and/or rehabilitation?
- Does land acquisition legislation determine who acquires land?
- Is there provision for urgency clauses and advance takeover of land by government during the process?
- Are the clauses under labor laws sufficiently flexible to allow maximum productivity and efficiency?
- Are there land and security laws (for example, mortgages/charges) that confer enforceable rights on lenders/contractors and permit "step in" and rescue of distressed PPPs?
- Are there tax laws that are well established and predictable, and is their application in the case of PPP special purpose vehicles and projects clear?
- Does the law provide for unilateral contract termination by the government?
- Is there sufficient protection against expropriation or nationalization of project assets?

- Is there an established, consistent, and respected court system with a reputation for treating all litigants in a dispute, including foreign litigants, on a fair and equal basis with local litigants?
- Are there alternative forms of dispute resolution, which are consistent with widely accepted international good practice?
- Are international arbitration awards recognized and can they be enforced?
- Can the public authority claim sovereign immunity, and is there provision for waiver?

Climate Change Dimension

- Is there a specific or generic climate change law or Climate Change Action Plan (CCAP) put in place at the national level? When was this law enacted or CCAP implemented?
- Is there a specific climate change policy in place? When was it put in place?
- Is the climate change policy harmonized with the PPP policy to ensure that low-carbon and climate-resilient infrastructure is developed through PPP frameworks?
- At the national infrastructure planning level, if PPPs are considered for priority projects, does the PPP framework look at climate vulnerability across sectors?
- Are there clear renewable energy (energy sector) policies in place, requiring PPP frameworks to develop such low-carbon (solar, wind, hydro) infrastructure? When were these policies put in place?
- What is the country's rating in the Global Climate Scope Index¹⁸ to develop climate-smart enabling environments that can promote renewable energy infrastructure development, mostly through PPP frameworks?
- Does the country have clean transport (transport sector) policies in place? Do these policies utilize and integrate PPP frameworks to develop such climate-smart infrastructure? When were these policies put in place?
- Are there policies in place to address adaptation through climate-resilient infrastructure in the transport sector (roads, ports, and airports) through PPP frameworks? When were these policies put in place?

4.4 Functioning of the Law and Policy Frameworks

Key question: Are legislation and regulation functioning well in practice?

¹⁸ [Global Climate Scope Index - http://global-climatescope.org/en/topic/enabling-framework/](http://global-climatescope.org/en/topic/enabling-framework/).

High Level

- If any PPPs have been implemented, by what legal and/or regulatory framework?
- Have laws and regulations been followed in practice?
- Are PPP or related laws fully implemented in letter and spirit?
- Is there a sound track record of compliance with the law and contract obligations? For example, are there instances of the government renegeing on its contractual obligations, including payments?

Detailed Level

- Have there been instances of unilateral contract termination by the government, or expropriation of project assets in the past?
- Have there been any court cases or conflicts with PPP bidders or PPP contractors regarding the application of legislation and regulation in the past?
- Does the court system provide timely redress?

4.5 Potential World Bank Support Mechanisms

1. PPP Cross-Cutting Solutions Area:
<http://globalpractices.worldbank.org/ppp/Pages/en/KBLanding.aspx>
2. PPP webinars: <http://einstitute.worldbank.org/ei/wbeiterms/webinars/67>
3. PPP resources: <http://www.ppiaf.org/node/815>
4. PPP Roads & Highways Toolkit:
<http://www.ppiaf.org/sites/ppiaf.org/files/documents/toolkits/highwaystoolkit/index.html>
5. PPP/Infrastructure Toolkits: <http://www.ppiaf.org/node/83>
6. PPP training course: <https://www.coursera.org/course/effectiveppp>
7. IBRD development policy lending

5. Institutional Framework

Although legal and regulatory frameworks enable PPPs, it is important that there is a second tier of institutions and processes, which facilitates the implementation of the law, regulations, rules, and policies. In the absence of institutionalization, it is likely that PPPs will not happen or the pipeline will be very slow to develop. In addition, the entities entrusted with specific roles and responsibilities under legislation will be unable to fulfill their responsibilities appropriately. Institutionalization means verifying the existence of institutions in the first place, followed by an assessment of the influence, authority, and maturity of the institutions and processes and the level of standardization, as well as an evaluation of the government communication and stakeholder engagement strategy. Stakeholder engagement is crucial to develop and implement tailored strategies for each affected group, and can for example ensure that gender-specific differences are taken into account throughout the stages of the project cycle.

5.1 Internal Structures

Key question: Are there institutions in place to support the preparation, procurement, and implementation of PPPs?

High Level

- Which institutions are involved in the PPP process? What are their roles and responsibilities?
- Is there a PPP unit and, if so, where is it located within the government? Does it have clearly defined roles and responsibilities? Is it adequately staffed with appropriately skilled public servants?
- Is the current institutional arrangement efficient, effective, and inclusive?
- Are the institutional arrangements implemented in letter and spirit?

Detailed Level

- Is there an institution and a dedicated team providing expert support on the preparation, procurement, and implementation of PPPs?
- Is there an institution and a dedicated team assessing projects' fiscal impacts or affordability?

- Is there an institution and a dedicated team that ensures value for money?
- Is there a cabinet or a high-level steering committee responsible for decision making at key milestones?
- Are the institutions inclusive (marginalized groups participate in decision making and are able to benefit from the service delivery and associated welfare improvement)?
- Are there institutions that may not be involved in PPPs in normal situations, but that have shown resilience and effectiveness despite conflict situations in the country, and as a result can be mobilized in developing and implementing PPPs in the country?

Sector Dimension

- Are there dedicated teams/focal points in line ministries/contracting agencies for developing projects?

5.2 Processes

Key question: Are there processes in place to guide the preparation, procurement, and implementation of PPPs?

High Level

- Are there transparent and time-limited processes for PPP project appraisal and approval?
- Are there appropriate quality control procedures?
- Are the current processes efficient and effective?
- Are the current processes known through the government organization?
- Are the current processes being followed in practice?

Detailed Level

- Are there established processes for PPP project identification and screening that define roles and responsibilities clearly?
- Are there established processes for PPP project preparation that define roles and responsibilities clearly?
- Are there established processes for PPP project procurement that define roles and responsibilities clearly?

- Are there established processes for PPP contract management that define roles and responsibilities clearly and ensure timely monitoring, evaluation, feedback, and correction in the performance of projects?
- Are there established processes for contract renegotiation that ensure transparent negotiations, with emphasis on value-for-money outcomes and protection of the interests of all stakeholders?
- Are there adequate processes put in place for PPP contract management to address “natural” force majeure events that result from extreme weather (climate change) related events? Are the current processes being followed in practice?

Sector Dimension

- In which sectors are the processes functioning well?
- In which sectors are the processes not functioning well?
- In which sectors are the PPP processes effectively integrated in the “standard operating procedures?”

5.3 Standardization

Key question: Are there standardized PPP documents and templates?

High Level

- Are there standard documents and templates for different phases of the project?
- Are there standard methodologies and guidance for value-for-money assessment, risk assessment, and fiscal impact (affordability) assessment, with established benchmarks comparable to international norms?

Detailed Level

- Are there standard request for quotation and request for proposal templates?
- Are there standardized contracts that define the rights and obligations of the parties and allocate risks to the entity best able to manage them?
- Does the PPP industry accept the standardized documents and templates?
- Are there standard methodologies and guidance for technical cost estimation?
- Are there standard methodologies and guidance for economic cost-benefit analysis?

- Are there performance standards that are comparable to international benchmarks?
- Are there comprehensive templates for disclosure?

Sector Dimension

- Which sectors have standardized documents and templates?

5.4 Communication

Key question: Is there a government communication strategy and stakeholder engagement strategy on PPPs?

High Level

- Has the government educated the public on PPPs?
- Is there a government communication strategy on PPPs with clearly defined roles, responsibilities, and timelines?

Detailed Level

- Has the government developed and implemented a stakeholder engagement strategy for the PPP program? Is the strategy designed to be flexible enough to reach different stakeholder groups (for example, men and women)?
- Have the stakeholders been identified? Are both men and women stakeholders included?
- Has there been any engagement with the stakeholders? What are the results?

Sector Dimension

- Which sectors have a PPP communication strategy and stakeholder engagement strategy?
- Which sectors have tested the communication strategy? Was it effective?

5.5 Capacity

Key question: Do the government and the industry have (access to) the skills and expertise to implement PPPs successfully?

High Level

- Does the PPP unit or other coordinating authority have the skills required for taking PPPs through the various stages of the PPP project lifecycle?
- Is there sufficient understanding of PPPs in the private sector?

Detailed Level

- Does the PPP unit or other coordinating authority have the skills required for taking unsolicited proposals through the various stages of the PPP project lifecycle:
 - PPP project identification and screening
 - PPP project business case preparation
 - PPP project procurement
 - PPP project implementation
- Are there domestic technical, financial, and legal advisors with PPP experience?
- Are potential bidders capable of understanding and completing the bidding documents?

Sector Dimension

- Which contracting authorities have the capacity to undertake projects in-house?
- Do these contracting authorities have the capacity to oversee technical, legal, and financial advisors, including supervising them and evaluating their deliverables?
- Which contracting authorities have the capacity to manage contracts?

5.6 Potential World Bank Support Mechanisms

1. PPP webinars: <http://einstitute.worldbank.org/ei/wbeiterms/webinars/67>
2. PPP resources: <http://www.ppiaf.org/node/815>
3. PPP Roads & Highways Toolkit:
<http://www.ppiaf.org/sites/ppiaf.org/files/documents/toolkits/highwaystoolkit/index.html>

4. PPP/Infrastructure Toolkits: <http://www.ppiaf.org/node/83>
5. PPP training course: <https://www.coursera.org/course/effectiveppp>
6. IBRD development policy lending

6. Funding and Managing Fiscal Risk

This chapter of the Diagnostic assesses the availability of government funding support, as well as the government's ability to manage fiscal risk.

Recent trends indicate substantial use of government support in PPPs based on specific problems presented by individual projects. Small and large projects have faced challenges in securing commercial financing. Governments have therefore attempted to improve the bankability of projects by using key support instruments in the form of equity, debt, grants, guarantees, fiscal incentives, and other contract clauses based on specific project needs. Often governments do this on case-by-case basis through customized solutions, but sometimes through preparing frameworks and standard operating procedures for the use of these instruments. All of these instruments, particularly grants and guarantees, can be powerful mechanisms for risk sharing, provided they are used judiciously. Other support instruments include fiscal incentives such as tax waivers, or contract clauses providing for termination payments, variable terms, or non-compete arrangements. This chapter includes key questions on the fiscal support and sustainability frameworks that are built into the overall PPP framework, as well as the affordability and fiscal sustainability of PPP projects from the point of view of governments.

It is important for TTLs to understand the links of this chapter to the other chapters of the Diagnostic. Before providing funding and financing support to PPPs, practitioners should assess the environment for projects in terms of the political, legal, regulatory, fiscal, and financing landscapes, as well as the institutional capacity of the public sector to implement PPPs. The Diagnostic covers these adequately. In addition, project financials and the extent to which they are impacted by environmental factors will need to be carefully evaluated. This is critical for layering sufficient flexibility in the contractual agreement, which has been touched on in the chapter addressing specific project execution issues.

6.1 Budgetary System

Key question: Does the budgetary system support PPPs?

High Level

- Do the fiscal policy priorities of the government include a focus on PPPs, with budgetary allocations for ongoing government support to infrastructure?
- Is there a well-functioning budgetary system that supports multiyear fiscal commitments to infrastructure and PPPs where such support is required?

Detailed Level

- Have there been any challenges in providing budgetary support to PPPs?
- Is there a medium-term framework that projects resources and expenditures over a period of three to five years or more?
- Is there a longer-term framework that projects resources and expenditures over a period of 15 to 20 years or more at the national, subnational, and line ministry/contracting authority levels?
- Do recurring government payments, such as payments relating to PPPs, require annual legislative approval?

Sector Dimension

- Are there any sector-specific budgetary restrictions or challenges?

Subnational Dimension

- Is the subnational government completely in control of its budget allocations and releases?
- To what extent does the subnational government depend on the national government for its resources/revenues?

6.2 PPP Project Preparation Funding

Key question: Is there funding available for robust PPP project preparation, procurement, and implementation?

High Level

- Does the government have (earmarked) funds available for professional PPP project preparation, procurement, and implementation?
- If not, does the government have access to technical assistance funds, project development facilities, or project preparation facilities from multilaterals?
- Does the PPP framework allow climate finance mechanisms, such as the Green Climate Fund,¹⁹ to be incorporated into PPP project preparation funding at the planning stage?

Detailed Level

- Does the PPP unit or other coordinating authority provide expert support on the preparation, procurement, and implementation of PPP projects?
- Have there been any challenges in the funding of PPP project preparation, procurement, and implementation?
- Have there been any challenges in the quality of PPP project preparation, procurement, and implementation?
- Are the procedures and responsibilities for the funding of project preparation, procurement, and implementation clear?

6.3 Framework for Government Support to PPPs

Key question: Is there a framework for government financial support to PPPs?

High Level

- Are there clear criteria for evaluating projects for support?
- Are there clear criteria on how the level of support under different instruments will be determined?
- Is there a provision for a variety of instruments, such as grants, debt, equity, and other types of direct funding/financing support, with a clear set of criteria on when to use each of these instruments?
- Are the institutional roles and responsibilities of the various entities (the contracting agency, PPP unit, Ministry of Finance/Economy, and so forth) in the appraisal and approval of projects for support clearly laid out?
- Has the framework been formally implemented and used in practice?

¹⁹ <http://www.greenclimate.fund/ventures/funding#get-funded>.

Detailed Level

- Has the government financially supported any PPPs?
- Have there been any issues in the application of government financial support instruments?
- Is there a separate fund/budget account supporting PPP commitments?
- Is there clarity on the types and design of direct and contingent support that can be provided under each broad instrument?
- Are the instruments appropriately designed for the government to share the revenue upsides in projects over the contract term?
- Are there caps on the amount or level of direct funding/financing support at the project, sector, and program levels?
- Are there caps on the level of contingent support by instrument and in aggregate at the project and program levels?
- Are there criteria for how to use multiple instruments of support simultaneously?
- Are projects evaluated for debt and equity support prior to or following the selection of the preferred bidder?

Subnational Dimension

- Is the subnational government able to provide guarantees and undertake fiscal commitments without any restrictions or hindrances?
- Are there any restrictions on subnational governments raising loans or issuing bonds?
- What is the risk perception of the subnational government vis-à-vis the national government and other subnational governments, from the point of view of the private sector or lenders?

6.4 Framework for Managing Fiscal Commitments and Contingent Liabilities

Key question: Is there a framework for managing fiscal commitments and contingent liabilities?

High Level

- Is there a PPP/public financial management/fiscal responsibility/budget management regulation or policy that mandates the assessment, measurement, monitoring, and management of fiscal commitments and contingent liabilities (FCCL)?
- Has a framework been developed that sets out the institutions, processes, and methodologies for assessment, measurement, monitoring, and management of fiscal commitments and contingent liabilities arising from projects?
- Does the PPP FCCL framework clearly set out the roles and responsibilities of various entities (budget office, PPP unit, debt management office, economic planning office, and contracting agencies) in the management of FCCL, including the responsibility for final sign-off of the FCCL before project approval?
- Does the framework set out the links between the FCCL and the project approval processes?
- Does the framework provide for adequate assessment of the economic costs and benefits and value for money of a project as well as the risk profile of the project?
- Is there a clear process for accounting treatment of PPPs in terms of classification as on- or off-balance sheet assets/liabilities of the government?
- Is the information on FCCL available in the public domain?
- Has the framework been formally implemented and used in practice?
- Is there sufficient expertise within the relevant offices for the sound implementation of the framework?

Detailed Level

- Does the framework clearly enunciate the treatment of FCCL arising from subnational/state-owned enterprise PPPs?
- Are the project preparation, review, approval, and FCCL management functions adequately separated in terms of institutional roles and responsibilities, to minimize conflicts of interest?
- Does the framework include an assessment of FCCL: (a) at the pre- and post-bid stages for new projects, (b) in the case of contract renegotiations, and (c) change in scope in the case of existing projects or projects already under implementation?
- Are the recommended/existing methodologies for estimating the value of the guarantee and the estimated payments sound and proven? Is there sufficient data or information to back the assumptions used? Is there a user-friendly Excel or other model provided for ease of calculations?

- Does the PPP FCCL framework clearly set out the documentation and information requirements (along with models and templates) for an assessment, measurement, and monitoring process?
- Are the information requirements for an FCCL assessment in individual projects adequately captured in other documents and processes associated with the PPP process, such as terms of references of transaction advisors and the PPP approval process?
- Are there clear instructions/guidelines for aggregating and reporting key elements of information on FCCL to Parliament as part of the annual debt statement, budget statement/notes to the budget, or debt management strategy? Are some of the following key elements included in such reporting?
 - Classification of contingent liabilities by category
 - Explanation of the reasons for taking on contingent liabilities
 - Assessment of risk
 - Total exposure—aggregate information on all guarantees
 - Expected fiscal cost (net present value of expected payments or annual cash flows)
 - Risk associated with contingent liabilities
 - Information on major individual guarantees—purpose/reason, term, and beneficiary
 - Information on events of realized risk and associated payments
 - Information on how claims against the guarantees will be paid (such as with contingency funds or specific funds)
- Are the PPP and non-PPP FCCL management frameworks integrated, and are these further incorporated with the debt management system in the country? Do these together provide a good picture of the fiscal sustainability of the PPP program for the government?
- Is there adequate provisioning for unexpected losses arising from contingent liabilities in the form of a readily accessible account in the budget or a fund such as a contingency fund or a specially created fund?

6.5 Project-Specific Assessment in Government Support and FCCL Management

Key question: Is there a framework for project-level financial and economic assessments?

High Level

- Is there a framework that prescribes the use and timing of the following assessments?
 - Identification and screening
 - Needs analysis
 - Economic cost-benefit analysis
 - Options assessment
 - Value-for-money assessment
 - Risk assessment
 - Financial feasibility assessment
 - Affordability and fiscal impact assessment
- Is the framework used in practice?
- Is there capacity to conduct and review the assessments?
- Is there guidance on the methodologies to be used in the assessments?
- Have there been challenges with project-level assessments and/or the application of any framework or guidance regarding project-level assessments?

Detailed Level

- Are there any relevant differences in prescribed assessments between PPP and non-PPP projects?
- Does the framework include an assessment of the various options and instruments of support, including direct and contingent support?
- Does the framework include an assessment of the various options to minimize the amount of support, such as additional sources of revenue, tariff adjustments, reduction in the scope of the project, or assessment of whether the contract term matches the useful life of assets?
- Does the guidance explicitly prescribe the long-term application of the assessment and valuation of contingent liabilities?

Sector Dimension

- In which sectors are project-level frameworks and guidance well developed and in which sectors less so?
- In which sectors are project-level frameworks and guidance applied in practice and in which sectors less so?

6.6 Potential World Bank Support Mechanisms

1. PPP webinars: <http://einstitute.worldbank.org/ei/wbeiterms/webinars/67>
2. PPP resources: <http://www.ppiaf.org/node/815>
3. PPP Roads & Highways Toolkit:
<http://www.ppiaf.org/sites/ppiaf.org/files/documents/toolkits/highwaystoolkit/index.html>
4. PPP/Infrastructure Toolkits: <http://www.ppiaf.org/node/83>
5. PPP training course: <https://www.coursera.org/course/effectiveppp>
6. IBRD investment loans, credit, and grants
7. IFC InfraVenture Fund

7. Access to Finance

Some of the developed country clients to whom the World Bank provides technical assistance for developing PPP projects, programs, and frameworks have less developed financial markets. Commercial bank financing as well as bond financing may be difficult to find. Sometimes financing may be available, but not at the price or terms required for the project unless the borrowing is backed by guarantees. It is important for the TTL to assess the status of the financial markets, including the availability of different financing instruments, existence or otherwise of a yield curve and its term, the depth and breadth of the secondary markets, and the role of development finance institutions (DFIs), export credit agencies, multilateral development banks (MDBs), and institutional investors in financing PPPs. It is also important to look at the credit enhancement mechanisms available in the market. In countries where the government has some closed PPP projects or projects that are in an advanced state of development, it would be good to assess project structures from the point of view of project finance.

Key question: Are the necessary PPP project finance structures and sources available?

High Level

- Is local currency financing available?
- Is there a robust project finance market, which supplements the traditional corporate finance market?
- Is there a variety of debt instruments available to cater to different project needs, such as senior, mezzanine, subordinate debt, and take-out financing?

Detailed Level

- Are there restrictions on external borrowing by domestic firms?
- Do the major sources of debt (commercial banks and capital markets), including domestic and external borrowing, provide reasonably long and adequate tenors?
- Are credit enhancement and risk mitigation products (guarantees) available to support project financing?
- Is there a reasonable secondary market available for refinancing debt and equity?
- What are the trends in the fluctuation of local currency against key currencies, such as the euro and the U.S. dollar?

- Are there readily available and affordable mechanisms for interest rate and foreign currency hedging?
- Is there a functioning bond market?
 - Is there a yield curve supported by regular government bond issuances? What is the length of the yield curve?
 - Is there a nongovernment bond market with adequate depth?
 - Is there a secondary market available for bonds with sufficient volumes (to assess the liquidity of fixed-income instruments)?
 - Is there a wide investor base in bonds that includes foreign investors as well?
- Is there sufficient access to international financing and investment sources?
 - Are there restrictions, including caps on foreign equity investments and ownership?
 - Are controls on foreign exchange or capital movements predictable and stable?
 - Are there adequate levels of foreign currency reserves?
 - Are there restrictions on repatriation of profits?
- Are DFIs and MDBs playing a major role in financing projects, directly or indirectly, and what major instruments are they using?
- Do the current regulations and rules support investments in infrastructure projects by long-term investors, including pension and equity funds? Do pension funds invest only in instruments rated AA+ or better, or is there flexibility? Are there regulatory caps on pension fund exposure to infrastructure, and do these allow for further investment in the sector?

7.1 Potential World Bank Support Mechanisms

1. PPP webinars: <http://einstitute.worldbank.org/ei/wbeiterms/webinars/67>
2. PPP resources: <http://www.ppiaf.org/node/815>
3. PPP Roads & Highways Toolkit:
<http://www.ppiaf.org/sites/ppiaf.org/files/documents/toolkits/highwaystoolkit/index.html>
4. PPP/Infrastructure Toolkits: <http://www.ppiaf.org/node/83>
5. PPP training course: <https://www.coursera.org/course/effectiveppp>
6. IBRD local currency loans
7. IBRD partial risk guarantee
8. IBRD partial credit guarantee
9. IBRD policy-based guarantee

10. IBRD currency swaps
11. IBRD interest rate swaps
12. IBRD interest rate caps and collars
13. IBRD commodity price swaps
14. IFC A loans
15. IFC B loans
16. IFC parallel loans
17. IFC equity investments
18. IFC full/partial credit guarantee
19. IFC credit-rating enhancement product
20. IFC hedging products
21. MIGA political risk insurance
22. MIGA non-honoring of a sovereign financial obligation
23. MIGA hedging products

8. Transparency and Disclosure

Better oversight by supreme audit institutions and provision for regular audit of PPPs can improve PPP governance significantly. There are also reasons to believe that significant proactive disclosure can help PPP programs achieve the desired value for money and better outcomes. Revealing information on the procurement of PPPs can improve governance; disclosing information on government financial support and assumption of risks under PPPs can improve the management of the fiscal costs of PPPs; and disclosing information on the performance of PPPs provides users of services with an understanding of what levels of service they should be getting.

Better audit oversight and contract disclosure may well produce more sustainable contracts and benefit the private sector by reduced risks of renegotiation. This chapter of the Diagnostic assesses the audit and disclosure frameworks in countries and their applicability to PPP. TTLs are advised to assess these carefully, as a closed and nontransparent system could add substantially to the costs of individual projects.

Key question: Are there oversight, audit, and disclosure procedures and institutions in place?

High Level

- Does the supreme audit institution have the capacity and skills to undertake PPP audits and does it publish the findings?
- Have there been prior audits of PPP projects? What is the substance of these audits: which key shortcomings do these reports indicate?
- Is there a clear and established framework for financial, performance, and forensic audits of PPP?
- Is there a proactive disclosure law and/or policy that is adequately implemented, and does it cover PPP?

Detailed Level

- Are there other specific methods (for example, through specific guidance to officials) for ensuring transparency in the PPP process, such as disclosure of key pre-²⁰ and post-procurement disclosure of information relating to:
 - Project approval
 - The bid process
 - Project progress
 - Fund deployment from the government
 - Projected commitments
 - Contingent liabilities
 - Project performance
- Is there clear guidance on the recommended approach to confidential information, and is the guidance clearly reflected in standard contract documentation?

8.1 Potential World Bank Support Mechanisms

1. Transparency and Accountability in Public-Private Partnerships:
http://einstitute.worldbank.org/ei/webinar/themes/transparency-and-accountability-in-public_private-partnerships
2. http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2013/03/28/000333037_20130328103832/Rendered/PDF/762780WPoBox370osureofofoProjectoPPP.pdf
3. World Bank (2015 Draft), Framework for Disclosure in Public-Private Partnership Projects
4. World Bank (2015 Draft), Disclosure in Public-Private Partnerships: Good Practice Cases
5. World Bank (2015 Draft), Disclosure in Public-Private Partnerships: Jurisdictional Studies

²⁰ This includes disclosure during the procurement process.

9. Gap Assessment

The following table presents the key questions that are necessary to perform a gap assessment. The answer “no” to a key question defines a PPP readiness gap, which will need to be addressed in the PPP strategy. Prioritization of gaps allows for emphasis on a selection of themes in the PPP strategy.

| Themes | Key question | Y/N | Priority |
|--------------------------------------|--|-----|----------|
| PPP experience | Does the government have any experience implementing PPPs? | | |
| Stakeholder support and ownership | Does the government support PPPs? | | |
| | Do the general public and other key stakeholders support PPPs? | | |
| Legislative and regulatory framework | Is the legal and regulatory environment sufficiently conducive to PPPs? | | |
| | Do legislation and regulation provide clarity on the management of unsolicited proposals? | | |
| | Do other legislation and regulations support the implementation of PPPs? | | |
| | Are legislation and regulation functioning well in practice? | | |
| Institutional framework | Are there institutions in place to support the preparation, procurement, and implementation of PPPs? | | |
| | Are there processes in place to guide the preparation, procurement, and implementation of PPPs? | | |
| | Are there standardized PPP documents and templates? | | |
| | Is there a government communication strategy and stakeholder engagement strategy on PPPs? | | |
| | Do the government and the industry have (access to) the skills and expertise to implement PPPs successfully? | | |
| | Does the budgetary system support PPPs? | | |

| Themes | Key question | Y/N | Priority |
|----------------------------------|---|-----|----------|
| Funding and managing fiscal risk | Is there funding available for robust PPP project preparation, procurement, and implementation? | | |
| | Is there a framework for government financial support to PPPs? | | |
| | Is there a framework for managing fiscal commitments and contingent liabilities? | | |
| | Is there a framework for project-level financial and economic assessments? | | |
| Access to finance | Are the necessary PPP project finance structures and sources available? | | |
| Transparency and disclosure | Are there oversight, audit, and disclosure procedures and institutions in place? | | |

10. Diagnostic Road Map

The application of the Diagnostic consists of three phases, including *desktop preparation, on-site due diligence, and drafting a strategy*. The following table describes the road map to the successful application of the diagnostic resulting in a sound PPP country strategy.

| | What | How |
|--|--|--|
| Phase I: Pre-Mission Prep (5 working days) | <i>Undertake preparatory work to establish status quo initial baseline of the country's need and readiness and enabling environment for undertaking PPPs</i> | <ul style="list-style-type: none"> ✓ Review Country Partnerships Strategy ✓ Review past, existing, and planned World Bank lending and non-lending portfolio ✓ Desktop review of the country's legal system ✓ Desktop review of the investment planning process ✓ Desktop review of the budgetary process ✓ Desktop review of past experience with PPP, if any ✓ Desktop review of current infrastructure/service delivery provision (gaps) ✓ Desktop review of the country's fiscal situation ✓ Desktop review of other multilateral/donor involvement in infrastructure development/PPPs ✓ Desktop review of the domestic financial sector and capital markets ✓ Desktop review of the domestic construction industry and private sector strength ✓ Desktop review of the country's competitiveness ranking |
| Phase II: Mission Diagnostic/ Consultation (5–10 Working Days) | <i>Confirm existing baseline, readiness, and enabling environment for undertaking PPPs; explore possibilities for policy, legal, institutional, regulatory, financing and supporting PPP arrangements</i> | <p>Obtain background information using the due diligence checklist provided in the main text:</p> <ul style="list-style-type: none"> ✓ Obtain views and update from the respective country management unit on the need, scope (national and/or subnational), and scale of a potential PPP program ✓ Undertake a review of the legal and regulatory environment for PPPs, including a review of how conducive sector legislation is to PPPs ✓ Obtain views on the need for and advantages in developing cross-sector PPP legislation |

| | What | How |
|--|------|--|
| | | <ul style="list-style-type: none"> ✓ Obtain views of the Ministries of the Finance and Planning and establish the current investment project planning and budgetary process ✓ Obtain views of the sector line ministries (and municipal local authorities) and establish a potential PPP pipeline ✓ Obtain views of the Ministries of Finance and Planning, along with the sector line ministries on the need, role, and location of a central PPP unit ✓ Review the capacity of the line ministries in undertaking PPPs ✓ Organize a public and private stakeholder consultation workshop on perceived issues and concerns, and an appropriate policy, legal, institutional, and regulatory structure for undertaking PPPs; obtain views on the overall public perception of PPPs; develop clear, concise, and measurable objectives for the country's PPP program ✓ Organize a donor consultation workshop on their perceived issues and concerns, and an appropriate policy, legal, institutional, and regulatory structure for undertaking PPPs, and create synergy on potential PPP support to the government (and avoid duplication) ✓ Assess the budgetary and financial strength of the government overall and the sector line ministries in recruiting top-notch transaction advisors, and the need for creating a project development fund ✓ Assess the culture of paying for services, such as tolls, and the willingness to pay in the future; assess the need for creating some sort of viability gap scheme ✓ Assess how contingent liabilities are assessed, recorded, and backstopped currently |

| | What | How |
|--|---|--|
| <p style="text-align: center;">Phase III: Formulation of Country PPP Strategy (10 – 15 working days)</p> | <p><i>Based on the information gathered and due diligence done under Phase II, develop a PPP strategy and options for structuring a robust PPP program; select and recommend a customized option that would best suit the country's needs and circumstances</i></p> | <ul style="list-style-type: none"> ✓ Summarize the findings of Phases I and II ✓ Propose a clear definition for the country's PPP program ✓ Propose the scope and scale of the country's PPP program ✓ Propose various options for policy and legislative backing for the PPP program ✓ Propose various options for the institutional structure (political, policy, and implementation) for the PPP program ✓ Propose the decision-making and approval regime for various stages in a PPP ✓ Propose a suitable project lifecycle for PPPs ✓ Select the best options from among the policy, legislative, institutional, and regulatory options, and recommend an overall PPP program ✓ Propose an implementation plan for the proposed program ✓ Develop a business plan (work plan, budget, staffing, and functions) for the proposed PPP institutional structure or PPP unit ✓ Provide an overview of the public investment planning process from which the PPP pipeline flows ✓ Propose a high-level fiscal commitment (including contingent liabilities) management structure for PPPs ✓ Propose the prospects of an initial potential PPP project pipeline ✓ Provide views on setting up a project development fund and viability gap scheme (and a financing facility, if needed) ✓ Summarize all of the above in a PPP Strategy Note ✓ Provide a time bound road map for rolling out the proposed strategy |

Annex 1: Illustrative List of Stakeholders the Assessing Team Should Meet

This is an illustrative list. Stakeholders for specific countries would vary somewhat based on the circumstances of the country. The TTL/ PPP expert would need to customize the list to suit each country and list the individuals/firms/organizations under each category prior to the first mission.

Government

Ministry of Finance

Ministry of Economic Development

Ministry of Infrastructure

PPP unit if separate from the above

All relevant sector ministries

National agencies or state-owned enterprises dealing with infrastructure

Regional organizations

Supreme audit authority

Accounting and statistics officials

Ministry or Department of Budget

Public Debt Management Authority

Provincial governments

Local bodies

Independent regulators, if any

Parliamentarians (based on specific country circumstances)

PPP legal firms/lawyers

These should include those who may have provided legal advice for projects initiated as PPP or on PPP legislation/regulations/frameworks.

Financiers

These should include those who may have financed any past projects or are planning to finance future projects.

State-owned development banks, if any

Commercial banks

Development financial institutions and multilateral development banks

Equity funds

Direct equity investors

Debt funds

Pension funds

Other private stakeholders

Special purpose vehicles

Developers

Construction contractors

Other subcontractor categories

Chambers of commerce

Nongovernmental Organizations and Community Service Organizations

These should include those who might be interested in service provision, key performance indicators and disclosure issues. These could be centers of excellence in PPP, national or regional transparency associations, discussion forums, and so forth.

Donors

Other multilateral development banks and bilateral aid organizations