THE GLOBAL URBAN ECONOMIC DIALOGUE SERIES

PUBLIC-PRIVATE PARTNERSHIPS

in Housing and Urban Development

UN-HABITAT
FOR A BETTER URBAN FUTURE

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United Nations Human Settlements Programme
Nairobi 2011

UN-HABITAT

The Global Urban Economic Dialogue Series
Public-Private Partnerships in Housing and Urban Development

First published in Nairobi in 2011 by UN-HABITAT.

HS Number: HS/062/11E
ISBN Number (Series): 978-92-1-132027-5
ISBN Number (Volume): 978-92-1-132356-6

Acknowledgements:

Director: Oyebanji Oyeyinka

Chief Editor and Manager: Xing Quan Zhang

Principal Author: Alexandra Moskalyk

English Editor: Eric Orina

Layout: Irene Juma

Cover design: Victor Mgendi

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FOREWORD

Urbanization is one of the most powerful, irreversible forces in the world. It is estimated that 93 percent of the future urban population growth will occur in the cities of Asia and Africa, and to a lesser extent, Latin America and the Caribbean.

We live in a new urban era with most of humanity now living in towns and cities.

Global poverty is moving into cities, mostly in developing countries, in a process we call the *urbanisation of poverty.*

The world's slums are growing and growing as are the global urban populations. Indeed, this is one of the greatest challenges we face in the new millennium.

The persistent problems of poverty and slums are in large part due to weak urban economies. Urban economic development is fundamental to UN-HABITAT's mandate. Cities act as engines of national economic development. Strong urban economies are essential for poverty reduction and the provision of adequate housing, infrastructure, education, health, safety, and basic services.

The *Global Urban Economic Dialogue* series presented here is a platform for all sectors of the society to address urban economic development and particularly its contribution to addressing housing issues. This work carries many new ideas, solutions and innovative best practices from some of the world's leading urban thinkers and practitioners from international organisations, national governments, local authorities, the private sector, and civil society.

This series also gives us an interesting insight and deeper understanding of the wide range of urban economic development and human settlements development issues. It will serve UN member States well in their quest for better policies and strategies to address increasing global challenges in these areas.

Joan Clos
Under-Secretary-General, United Nations,
Executive Director, UN-HABITAT

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ABBREVIATIONS

Public-Private Partnerships (PPPs)
United Kingdom (UK)
United States (US)
Value for Money (VfM)
Public Sector Comparator (PSC)
Request for Proposal (RFP)
Request for Qualifications (RFQ)
Toronto Community Housing Corporation (TCHC)
Siza Water Company (SWC)
Melaka-Manipal Medical College (MMMC)

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CHAPTER 1: **INTRODUCTION**

It is estimated that more than half of the world's six billion people now live in cities, towns and other urban spaces. Current trends predict that this number will continue to rise with urban population growth being significantly more pervasive and rapid in the developing world than that of the developed. According to the World Bank, over 90 percent of recent urbanization has occurred in developing countries, with urban areas gaining an estimated 70 million new residents each year. This trend is especially prevalent in South Asia and Sub-Saharan Africa, the two poorest regions in the world, where the urban population is expected to double by 2030.[1]

Adequate, well-managed cities are an important element of a sound, prosperous national economy and a significant contributor to quality of life. Consequently, as cities grow and the urbanization process continues, there is rising pressure on governments to house the world's poor and provide them with access to basic human needs such as healthcare, clean water, and sanitation. As it stands, a majority of the developing cities expected to absorb the greatest number of people are facing enormous urban challenges. Economic growth has not kept pace with the rise in the urban population. As a result, there is a severe shortage of adequate housing and much of the basic infrastructure so desperately needed to sustain urban growth is either deteriorating, or non-existent.

This study, prepared for the United Nations Human Settlement Programme, aims to provide insight into how the public-private partnership (PPP) model can help promote sustainable housing and urban development for countries at all levels of economic development. The selected case studies illustrated towards the end of this study cross-reference against PPP best practices and governing principles outlined in sections throughout this report. While the key ideas and guidelines presented here can be used to help shape future government policy, it is important to recognize that the application of the PPP model is not described in full detail. Much more resources and skills are needed for governments looking to apply this approach to housing and wider urban development projects in their communities.

[1] World Bank (2009:1), *Systems of Cities: Harnessing Urbanization for Growth and Poverty Alleviation.*

CHAPTER 2: **THE IMPORTANCE OF PUBLIC-PRIVATE PARTNERSHIPS**

While urban areas across the globe are characterized by their own set of complex issues, the financial challenges are notably the same; at all levels of economic development, there is a far greater financing need for urban development projects than can be provided by the traditional public purse alone. Recognizing this, governments around the world are turning to PPPs as one possible financing option for large scale investments in the provision of affordable housing and other basic infrastructure assets.[2] A finance model entirely driven by collaboration between the public, private, and at times nonprofit sectors, PPPs take many forms (shown below), but generally represent a more dynamic, long-term agreement between various parties in which each sector contributes and shares some level of risk.

Broadly speaking, a typical PPP allows a private consortium to assume the financing risk and two or more phases of the project's life-cycle. This may include the design and construction phases of the project and the subsequent maintenance and operation of the government facility under a carefully contrived long-term lease. This is in contrast to the private sector's traditional role in urban infrastructure development where its involvement is limited to providing skilled labour under short-term contracts, with the delivery of the services being solely provided by the public authority. It is also important not to confuse PPPs with privatization - a situation where responsibility over the delivery of the public service is fully transferred to the private partner with little or no government oversight.

Almost all countries around the world have witnessed some form of PPP investment in the provision of housing and urban infrastructure since the early 1990s. Although the level and success of PPPs varies sharply, particularly in the developing world,[3] their well-documented potential in consistently generating efficiency gains in developed countries like Canada, the Netherlands and the United Kingdom (UK) cannot be overlooked. In these countries, partnerships have been a significant contributor to lowering costs and increasing operating efficiencies for urban development projects ranging from affordable housing to water treatment facilities, roads and hospitals. As such, there is a growing body of evidence that indicates that PPPs are an important instrument that can be used to help extend infrastructure assets, along with basic urban services, to the poorest neighborhoods of some of the world's liveliest urban centers.

[2] For the purposes of this report, basic infrastructure refers to social assets such as affordable housing, schools and hospital facilities as well as infrastructure development for basic utilities including water, waste management, sanitation and transport systems.

[3] See OECD (2005:2), 'Investment for African Development: Making It Happen.'

[4] Conference Board of Canada (2010:i), *Dispelling the Myths: A Pan Canadian Assessment of Public-Private Partnerships for Infrastructure Investment* and Deloitte (2006: 21-26), 'Closing the Infrastructure Gap: The Role of Public-Private Partnerships.'

CHAPTER 3: **THE ADVANTAGES AND DISADVANTAGES OF PPPS**

The principal reason for adopting a PPP model for the provision of housing and urban development is that, where project suitability is correctly measured and implemented, this approach can offer greater value for money when compared with traditional procurement. While this section highlights this and other important key advantages associated with this model, it also considers some of the arguments made against PPP procurement for wider urban development.

Some of the advantages of PPPs can be defined as follows:

Cost Savings

Cost savings materialize in several different forms (discussed below) but are mainly due to the private sector's role as a mutual partner in the project. Generally speaking, the private partner's fundamental drive for economic gain yields it an incentive to continually improve its performance, thereby cutting overall project costs.

Whole of Life-Cycle

Public-private partnerships combine two or more of the project's phases in a single bundle for the private consortium to deliver over the long-term. This creates economies of scale by motivating the private sector to organize its activities in a way that drives efficiencies and maximizes returns on investments.[5]

Output-Based Contracts

Public-private partnership projects typically adopt an output-focused contract which links payments to performance. This specifies project results in terms of the quality delivered, rather than how assets or services are provided.[6]

Emphasis on outputs also encourages innovation to take place by motivating the private partner to develop new methods and approaches for project delivery that meets requirements at lower costs.

Risk sharing

Public-private partnerships are designed so that risk is transferred between the public and private sectors, allocating particular project risk (see figure 1) to the partner best able to manage that risk cost-effectively.

FIGURE 1: **Common Project Risk Sharing Areas for PPPs**

Procurement
Design
Construction
Operation
Permit and Approval
Political
Commissioning
Technical
Policy and Legislative
Financing
Maintenance and Operational
Devaluation of Currency (applicable to projects financed by international lenders)

Source: Canadian Council for Public Private Partnerships

[5] Conference Board of Canada (2010: 24).

[6] Conference Board of Canada (2010: 3).

PPPs Deliver On-Time

With financing risk routinely transferred to the private consortium, any delays in meeting the agreed upon timelines can lead to additional costs for the private partner as it alone carries the debt for a longer period of time. Therefore, the private sector has a direct financial interest in ensuring that projects and services are delivered on-time, if not sooner.

Enhancing Public Management

By inviting the private partner in, the public authority can transfer risks and responsibilities over the day-to-day operations of two or more phases of the urban infrastructure project to the private consortium. This frees the public sector to focus on other important policy issues such as regulating, performance monitoring and urban service planning.

Improved Levels of Service

By bringing together the strengths from the public and private sectors, PPPs have the unique ability to share a diverse range of resources, technologies, ideas and skills in a cooperative manner that can work to improve how urban infrastructure assets and services are delivered to the people.

Increased Availability of Infrastructure Funds

Public-private partnerships free up funding for other urban infrastructure projects in two ways: first, through the potential cost savings inherent in the PPP approach, and second, through access to private financing which commits the government to spread payments for services rendered over a longer period of time. Seeing that it is the private partner who typically absorbs the financing risk, the public authority is not obliged to record the investment upfront as part of its bottom line surplus or deficit for that fiscal year. This allows the transaction to remain 'off balance sheet', meaning the government can borrow money for other important projects without affecting calculations of the measure of its indebtedness.

Some disadvantages of PPPs can be defined as follows:

Additional Costs

Public-private partnerships represent good opportunities to lower overall project costs. However, when compared with traditional procurement, the complete PPP process invites additional costs that, if not managed properly, can erode some of the potential economic benefits of this model.

One of these potential cost drivers is identified in the tender process - a competitive approach to choosing a project partner unique to the PPP procurement model. Parties bidding for a project expend considerable skills and resources in designing and evaluating the project prior to implementation. Depending on the number of project bidders, costs can add up as all participating bids tend to be factored into the overall cost of the project.

Second, the long-term and inclusive nature of a PPP contract requires that each partner spend considerable time and resources on outside experts to help anticipate and oversee all possible future contingencies. This can be very costly, particularly for a public agency inexperienced with the private sector and requiring additional help to protect the public interest.

Last, while the private financing element of the partnership is one of the most important incentive drivers for the private partner, the price of financing can result in higher capital costs ranging between 1 and 3 percent.[8]

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[8] PricewaterhouseCoopers (2005:30), 'Delivering on the PPP Promise: A Review of PPP Issues and Activity.'

Unless cost savings generated by the private consortium outweigh the added cost of private loan financing, a PPP project may not deliver cost savings.

Reduced Control of Public Assets

In view of the fact that the private sector absorbs a significant portion of the project risk, important decisions over outcomes are inadvertently shared with that partner. Accordingly, this can result in the loss of public control over important decisions concerning a range of public issues, from how basic public goods such as housing and clean water should be delivered and priced, through to on-site labour issues around job pay and security.

Loss of Accountability

Partnerships are typically governed by a complex web of contracts which extend responsibility over the provision of housing and other urban service to a wide range of partners. If not clearly defined, contracts can overlap roles and responsibilities and blur lines of accountability for the public taxpayer.

Mitigating Risk

The more complex the urban project and the more people involved, the higher and more varied the risk becomes. Although a carefully structured PPP manages risk through a well-defined contractual agreement, some risk is unforeseen and therefore difficult to mitigate. In the case of such unexpected risk (or project failure), oftentimes it is the public authority that is left to not only pay for the failure of the risk, but also the emerging costs.[9]

Rigidities in Long-Term Contract

A key concern with the long-term committal nature of PPP procurement is that it limits the public sector's ability to make changes to the contract if unexpected economic or situational challenges arise. In the event that a change is required to either the use of an infrastructure asset, or to the type of urban service offered, PPPs have proven to be inflexible - both in terms of the time and administrative burden associated with altering the contract.[10]

[9] Conference Board of Canada (2010: 57).

[10] PricewaterhouseCoopers (2005:33).

CHAPTER 4: **CHALLENGES FOR PPPS IN HOUSING AND URBAN DEVELOPMENT**

It is well-documented that globally, both the private and public sectors are embracing partnerships for the provision of housing and urban development. However, when applying the PPP approach to the urban sector to try and meet the needs of the rise in population, governments around the world are facing a range of challenges. While the scale and scope of these challenges vary depending on the country's level of understanding and development in using the partnership model, this section provides an overview of some of the most common PPP challenges facing governments today.

Differing Goals

Ordinarily, the goals of the private sector fundamentally oppose those of the public sector: the former focuses on economic gain while the latter strives to protect the public interest through regulation and minimization of risk. If left unmanaged, these disparate goals of the two sectors can cause friction and mistrust between the partners. Yet oftentimes, governments are finding that aligning goals and maintaining a healthy level of trust is difficult to achieve and maintain throughout the project's entire life-cycle. This is particularly the case for subsidy-driven urban projects where additional and continuous government funding is needed to deliver basic services to the poorest segments of a country's population. In this circumstance, reasonable margins of profitability for the private partner can be harder to measure and goals can become even more difficult to join.

Public Acceptability

There may be considerable resistance to private sector participation in the provision of urban development, particularly for more traditional public urban services such as affordable housing, water, sanitation and waste management. Oftentimes, these urban services provide basic human needs to the world's poor who would not otherwise receive them. Therefore, if service is undermined due to a drive for profit, or if there is slow responsiveness to a problem, the result may be a strong public resistance to the partnership and a general distaste for private sector involvement in the urban sector overall. Keeping the public well-informed and supportive of the urban project is an on-going challenge for all governments. The public authority should facilitate early and constant dialogue with stakeholders in addition to providing widespread information regarding public issues to allay speculation and unfounded concerns where relevant.

[11] In the paper 'Closing the Infrastructure Gap: The Role of Public-Private Partnerships', Deloitte argues that there are three levels, or stages, of PPP 'maturity' that can be observed across the world. Countries in the first stage include, but are not limited to, India, China, Russia, South Africa, Poland and Croatia, and can be observed as having a low level of understanding and sophistication in applying the model to infrastructure development. Countries such as the United States and Canada, in-line with Japan, Italy, Brazil and the Netherlands, are seen as having moved up the 'maturity curve' with a fair understanding of the PPP market, but still not yet as sophisticated in the know-how of the process as Ireland, Australia and the UK.

Capacity Challenges at the Local Level

With more than half of the world's population living in urban centers, in many cases it will be the local governments who will feel the most pressure to adopt new partnership financing models and prudent urban planning strategies. However, it is to be expected that assuming this new role will be difficult for many localities that lack the basic negotiation, finance, contract and other skills required to manage highly complex urban projects such as PPPs. This is particularly true for local governments in emerging or fragile states where even the basic laws and regulations required to conduct business with the private sector are entirely absent, severely lacking, or subject to change.[12]

Challenges in Governance for Sustainable Development

It is now globally recognized that environmental sustainability is an important factor when considering policy options for housing and wider urban regeneration as urban areas show increasing signs of environmental degradation.[13] However, in numerous countries, a great majority of responsibility for the implementation of PPPs in the urban sector rests with the finance and other infrastructure departments or ministries.[14] While these departments are perhaps better equipped to plan and execute PPP projects, they tend not to be well-briefed on important environmental considerations. Consequently, many urban sector PPPs do not integrate key principles of sustainable development into their planning and implementation process.[15]

Financing Challenges for PPPs

The global financial crisis has drastically changed the financial landscape for urban PPPs all around the world. On one hand, tighter spending reviews have led many governments to adopt PPP models in order to try and ease the immediate effect on growing deficits. On the other hand, strict credit conditions have made banks and investors increasingly cautious about taking on additional projects, making it more difficult to borrow money. In the current context, many governments are struggling to secure revenue support streams for urban sector PPPs, some of which are considered high risk.[16] Finding innovative ways to attract private finance to housing and urban infrastructure, while ensuring that the financial limitations put on projects does not erode governments' leading position in public infrastructure assets, will be a challenge moving forward.

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[12] As cited in Gladys Palmer (2009: 19-20), 'Public-Private Partnerships: A Literature Review.'

[13] Environmental sustainability is one of the eight international Millennium Development Goals agreed upon by world leaders in 2000.

[14] UNECE (2008: 8), Guidebook on Promoting Good Governance in Public-Private Partnerships.

[15] For further information on how private financing and greening can work together to meet goals of sustainable development see, United Kingdom Department of Transport (2003), Green Public-Private Partnerships Guidance Note.

[16] For further information on how the global financial crisis has affected credit and other financing conditions see, Tim Murphy (2009), 'Financial challenges for P3 Projects after the Financial Crisis.'

CHAPTER 5: **RELATIONSHIPS WITH LENDERS AND OTHER PARTIES**

Typically, a PPP involves not just the relationship between the public authority and the private partner responsible for the delivery of the project, but also a consortium of third party interests such as lenders, equity investors and other interests or non-profit groups (see figure 2), many of whom have a large stake in the successful outcome of the project.

Arguably, one of the more important relationships that the partnership needs to nurture is with project lenders responsible for providing the long-term debt financing for the infrastructure asset. This can account for up to 80 percent of a project's overall funding.[17] A partnership generally seeks project financing from banks and lenders whose willingness to provide funding for the project will depend on the financial viability and predictability of the asset. As an aside, most lenders will not grant loans for urban projects that have not carried out a rigorous assessment of all project risks, or which are potentially open-ended and not well-defined in their objective.[18]

Nevertheless, once a loan has been secured, lenders play a useful role in reviewing and overseeing the overall performance of the urban infrastructure project. Stringent standards on the part of the lender usually result in lenders seeking out their own set of technical, legal, and other advisors to monitor the progress of the project. In riskier sectors or projects, separate contracts providing additional guarantees between the lender and the public authority to allow for closer monitoring of construction timelines and budgetary conditions are not uncommon. In the event that a private company does not perform the project agreement obligations, under such contracts, lenders can rectify the problem by going as far as to replace the private partner.[19] Therefore, given the significant sway lenders have in overall contract change and approval, it is imperative to the success of the partnership that a close relationship with these actors be forged.

The partnership also needs to build good working relations with equity investors who make up the remainder of the funding for the cost of the project. Equity is usually provided by private contractors involved in the project, but can also be made available through third-party equity investors who have no other contractual relationship with the partnership. Because the return on equity is received only after the financing debt has been serviced, equity financing is considered high risk for investors and therefore is one of the most expensive forms of project funding. Nevertheless, equity funders play a useful role in securing debt financing from lenders that may require some collateral for the loan, as well as providing advice in the event that problems do arise amongst the other private sector partners.[20]

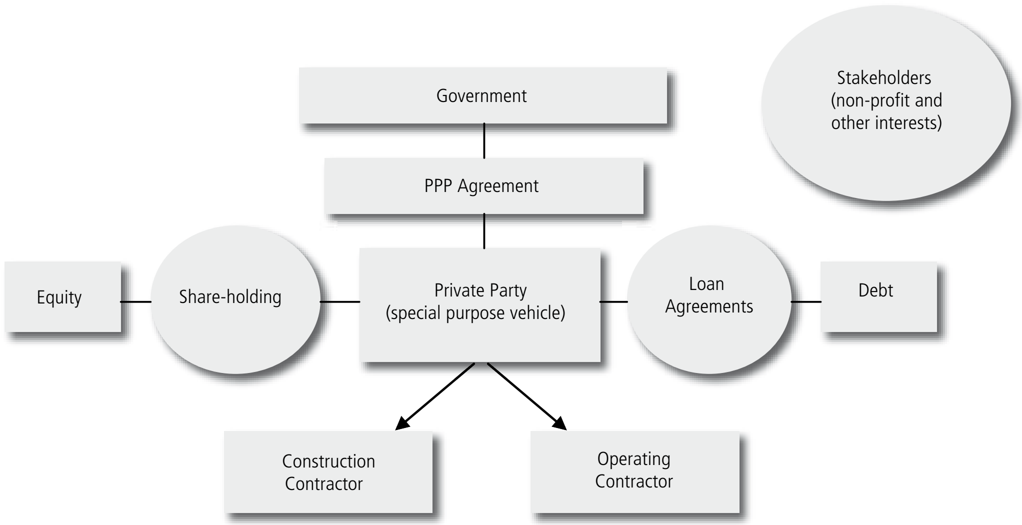
[17] Peter Farlam (2005), 'Working Together: Assessing Public-Private Partnerships in Africa.'

[18] World Bank (2009:25-26), 'Attracting Investors to African Public-Private Partnerships: A Project Preparation Guide.'

[19] Murphy (2009:16).

[20] The World Bank (2009:27). 'Attracting Investors...'

FIGURE 2: **Generic Relationship Structure for PPPs**



Source: Adapted from the South African National Treasury

Furthermore, given the people-centered nature of housing and urban sector PPPs, it is likely that there will also be a wide array of interest and non-profit groups who have strong opinions on a project's value to the public. Unlike other project participants where the relationship with these parties is generally not legally binding, public resistance to an urban sector partnership can be detrimental to its success. As such, maintaining transparent and accountable communication channels with interest groups and including them in the decision-making process is vitally important. As a general rule, public interest groups should view the private partner as one producing desirable results for the public sector while reinforcing financial cost saving goals. If financial rewards for the private consortium are seen as too high or too low, or the project lenders are mainly profit-driven rather than performance focused, then the legitimacy of the partnerships can be undermined for the paying public.

CHAPTER 6: **KEY PRINCIPLES, INSTRUMENTS AND METHODS**

Based on best practices and lessons learned, all PPPs for housing and urban development should be founded on the following key principles, methods and instruments (most of which are discussed at length in later sections of this report) in order to raise the likelihood of project success.

Key Principles

Public-private partnerships should adopt the following eight governing principles:

- The public interest is paramount.[21]
- Good practices in accountability and transparency measures must be maintained throughout the lifecycle of the project.
- A PPP project needs to be carefully planned, well-defined in scope and fundamentally clear in its objectives.
- The viability of the project needs to be measured against a criteria set by the initiating partner to assist it in determining its potential suitability for PPP procurement.
- The selected PPP model must provide value for money in terms of cost and time savings with appropriate consideration of risk transfer.
- The PPP tendering process must be competitive, fair and subject to proper due diligence on the part of the partnership.
- An urban sector PPP must reflect the needs of the affected community and must integrate into the project key stakeholder priorities.
- The project must be responsibly managed throughout the term of the agreement, with predictability and priority as determined by the partnership.

[21] City of Calgary (2008:3), Public-Private Partnerships Calgary Council Policy Framework.

Methods and Instruments

Governments should consider the following methods and instruments when applying PPPs:

PPP Suitability

In the initial planning stages of a housing and urban sector project, it is important to realize that not all urban projects should be obtained through a partnership model approach. Diversity between the urban sectors exists with each project being characterized by a unique set of distinct operating requirements, means of service delivery, and mode of payment for service. As such, the degree of private involvement for a proposed project needs to be carefully matched against the goals of the affected public and deemed suitable for PPP procurement before further consideration is given.

Project Screening Instruments

After the project's goals have been carefully aligned with public interests, rigorous screening instruments need to be developed to better measure its monetary value against alternative methods of delivery. One of the best means of measuring project suitability is by conducting a Value for Money (VfM) test. Used widely, the VfM test focuses on outputs by identifying risk and appropriately allocating it, and by calculating internal costs to governments through the implementation of the Public Sector Comparator (PSC) test. Designed to quantify value, the PSC captures then compares all necessary costs and savings of PPP procurement against the most efficient form of public procurement.22 As one would expect, screening instruments need to be fair and objective and therefore, responsibility for drafting the VfM and the PSC should lie in the hands of an independent body.

Applying Lessons Learned

Where a PPP approach to infrastructure and service delivery has been adequately measured, a good working method to apply when thinking about implementation is that while standardized PPP processes are important, and have served governments well, stark community differences in such factors as population and geographic size, as well as a country's economic and cultural stability, do exist and need to be considered.[23] Applying lessons learned from countries with similar experiences in a specified sector that may have more advanced knowledge in PPP development shows due diligence on the part of the public authority in trying to avoid mistakes.

Disciplined Planning

A disciplined approach to planning outlining a sound roadmap for implementation early on in the process is essential. Initial time spent fully exploring objectives and core values regarding the purpose of the project and how it intends to benefit the public will avoid missteps later in the process. This can also provide a degree of certainty and reassurance to all parties involved.

PPP Units

The development of PPP units on the local or national level that house the skills required to instigate and manage urban sector partnerships can be used as an effective instrument to build the expertise of governments, thereby bolstering the development of PPPs in housing and urban development. For the private partner, the units can provide a gateway on the information about partnership opportunities, as well as a single point of coordination and decision-making for greater transparency and consistency. For the public stakeholders, the units can assume many functions including: Facilitate PPP projects, share expertise and knowledge and provide education and skills training on a wide array of PPP concerns. Ultimately, creating units that keep participants informed and well-trained is part of the responsible management needed for effective PPP implementation on the part of the public sector.

Adopting a Holistic Approach

Taking a holistic approach of the PPP project that accurately considers all aspect of the project's implementation phases is a useful method to adopt to help drive down costs and alleviate potential structural problems in the long-term. It may be more cost-friendly, for example, to build an infrastructure asset using materials that are more expensive at the outset but which prove more reliable and robust for the long-term.[24] Furthermore, while much focus should be put on the transaction stage of the project, success of an urban sector PPP actually needs to consider the long-term effects of the project on the wider public community and how it connects with other urban sectors such as roads and hospitals, as well as other policies and institutions surrounding the project.

[22] Canadian Council for Public-Private Partnerships has published helpful guidelines for determining how and when to employ the PSC, made available at http://strategis.ic.gc.ca/epic/internet/

[23] Deloitte (2006:6).

[24] Conference Board of Canada (2010:25).

CHAPTER 7: **DIFFERENT APPROACHES AND MODELS OF PPPS**

Partnerships with the private sector come in many forms with a wide array of delivery frameworks to choose from. In helping to identify the many arrangements of PPPs, the following section provides a brief assessment of the varied approaches and type of PPP models. The choice of model and/or approach to PPPs varies depending on the market sector and type of project, but is usually structured to try and improve efficiency, quality of service and price.

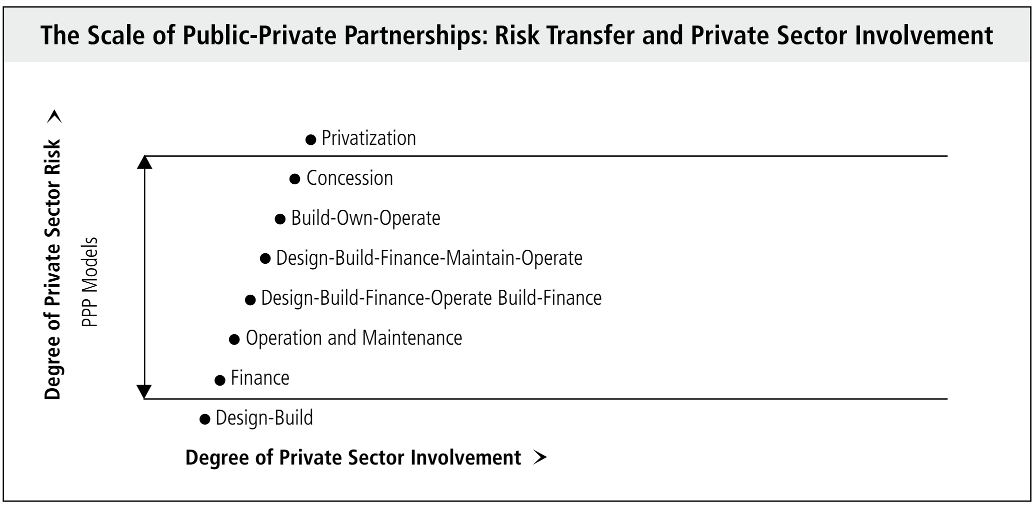
Models and their Structure

There is a spectrum of organizational models under which PPPs are typically implemented. As figure 3 below indicates, partnerships can range from being under the direct control of the level of government involved in the partnership, to a model that transfers a great deal of responsibility over the provision of the public service to the private partner.

Approaches

While it is commonly cited that a 'true' form of PPP is a collaborative model where both the private and public sectors agree to share the risks and rewards of a particular project, there are a variety of approaches that illustrate the possible power-sharing and decision-making arrangements. A partnership with the private sector can fall under a consultative approach whereby the government seeks out expert advice from the private sector or community groups. There are also contributory arrangements which are identified as ones where the public sector provides funding to the private partner that is in turn responsible for carrying out the development and management of the

FIGURE 3: **The Public-Private Spectrum and Model Definitions**



Design-Build: The private sector designs and builds infrastructure to meet public sector performance specifications, often for a fixed price, so the risk of cost overruns is transferred to the private sector. (Many do not consider Design-Build Models to be within the spectrum of PPPs).

Finance Only: A private entity, usually a financial service industry, funds a project directly or uses various mechanisms such as long-term lease or bond issues.

Operation and Maintenance Contract: A private operator, under contract, operates a publicly-owned asset for a specified term. Ownership of the asset remains with the public entity.

Build-Finance: The private sector constructs an asset and finances the capital cost only during the construction period.

Design-Build-Finance-Operate: The private sector designs, builds and finances an asset and provides hard facility management or maintenance services under a long-term agreement.

Design-Build-Finance-Maintain-Operate: The private sector designs, builds and finances an asset, provides hard and/or soft facility management services as well as operates under a long-term agreement.

Build-Own-Operate: The private sector finances, builds, owns and operates a facility or service in perpetuity. The public constraints are stated in the original agreement and throughout on-going regulatory authority.

Concession: A private sector concessionaire undertakes investments and operates the facility for a fixed period of time after which the ownerships reverts back to the public sector.

Source: Canadian Council for Public-Private Partnerships

project. Last, under community development approaches, the private and public sectors come together in a particular community and jointly contribute their strengths to achieve a common goal.[25]

There is also a combination of hybrid approaches to PPP delivery that have been developed in recent years to address the unique challenges facing local governments around the world. Bundling several small scale projects into a contract with one private partner is often used in order to attract more private sector competitors to the table and reduce transaction costs. In other cases, a joint venture company is set up with the public sector through a competitive process that includes a bid to carry out the first phase of work. Subsequent phases are commanded by the public sector but carried out by the strategic partner using the first phase as a benchmark to determine the appropriateness of future costs. Incremental partnering also allows for the public sector to commission work gradually with certain elements of the project to be stopped or carried out by a different partner if deemed unproductive. Lastly, the public and private sectors can build an alliance model whereby both sectors agree to jointly build, design, finance, maintain and operate the facility.[26]

[25] Boase (2000: 78-79) 'Beyond Government? The Appeal of Public-Private Partnerships.'

[26] Deloitte (2006: 15).

CHAPTER 8: GOOD PRACTICES IN LEGAL, REGULATORY AND FINANCE STRUCTURE

Given the role that sound legal, regulatory, and financial environments play in attracting and retaining investment to flow into the urban sector, it is now widely accepted that their effectiveness is critical to the sustainability and growth of housing and urban sector PPPs. While many developed countries require only incremental change in this regard, very few developing countries have well-established and sovereign legal, finance, and regulatory structures.[27] As a result, the objective of this section is to identify good legal, regulatory, and finance frameworks that can help public authorities lead the way for successful PPP implementation.

Legal Structure

When determining an appropriate legal framework for PPPs, governments should consider the following:

- While differences may exist depending on the country of implementation, in all instances, it has been argued that what is required are fewer, better and simpler laws.[28]
- At the most basic level, the legal environment has to minimize the likelihood of corruption and must be sufficiently reliable as to encourage private participation and investment.
- Possible investors and project participants must have confidence that the laws and contracts are stable and enforceable in courts or through arbitration where appropriate. To the degree that the legal and judicial environment is not clearly defined, investors and project participants will see the project as unpredictable and high risk.
- All laws adopted for PPPs in housing and urban development should adhere to principles of transparency and fairness, as well as reflect prudence for the long-term sustainability of the project.
- In keeping with the public interest, governments should continue to work to identify and remove undesirable legal uncertainties and impediments that limit private sector participation in PPPs.
- Concession laws should make clear what level of government has jurisdiction over the awarding of PPP contracts, what sectors or type of urban infrastructure project may be granted, as well as identify clear conditions for the construction and subsequent operation of the PPP.[29]
- Procurement laws must set out rules of process in advance and apply them equally to all qualified applicants and bidders.[30]
- Competition laws that reflect equal opportunity for all relevant companies in the same sector are encouraged. This should include respect for specific procedures in

[27] OECD (2005:23).

[28] UNECE (2008:29).

[29] For more information regarding good practices in concession laws see, UNCITRAL (2004), *Model Legislative Provisions on Privately Financed Infrastructure Projects.*

[30] For a detailed guide on PPP procurement laws see, 4ps (2008), *Development in Procurement Laws.*

awarding the investment contracts in a transparent and non-discriminatory way.

- Tax laws can be drafted or amended to create an incentive enabling environment for PPPs. This can include exemption from municipal and other taxes related to the construction and maintenance of an urban infrastructure asset so as to lower the cost for the private sector.
- Labour laws should be in place to alleviate public opposition to PPPs. This can include adopting solid stakeholder consultation policies, as well as integrating laws that protect workers' rights for pensions, wages, benefits and collective bargaining.
- The law should clarify the roles and responsibilities of the varying public agencies of the host country in terms of who will provide financial or economic support to the implementation of privately financed projects, as well as which types of support they are authorized to advance.[31]
- Investment laws should not favor local investors, lenders, or operators over foreign ones, and should provide foreign actors equal access to key inputs such as capital, permit and license processing, materials and labour.
- To the extent that laws and the judicial environment have to be changed to accommodate the desired PPP, the planning stage should reflect a realistic period for this change.

Regulatory Structure

Similarly, the effectiveness and impact of partnerships also depend on an explicitly sound regulatory environment that provides effective oversight, monitoring, and stringent requirements for audit of performance outcomes. For housing and urban sector PPP projects, such responsibility over contract compliance is best entrusted to an independent regulatory body which upholds the following characteristics:

- provides assurance that decisions are made without interference or influence from political or outside interests;
- includes clear procedures for the publication and explanation of all decisions;
- upholds key principles of accountability and transparency, thereby including a well-established system of checks and balances to ensure it fairly fulfills its own mandate;
- works to ensure that the tendering process is consistently within the overall legal framework and that the subsequent project implementation process is consistent with project goals and priorities as outlined in the planning documents.[32]

Where appropriate, special regulatory procedures should be established for handling disputes among the project participants and the independent regulatory bodies.

Finance Structure

The PPP finance structure can be highly complex, but as mentioned, typically, a PPP project is made up of two financing components: private debt financing and equity financing. The optimum balance of equity and debt is project specific with more weight put on debt financing than on equity financing.[33] Within this capital structure, it is recommended that the private partner absorb the entire project's debt financing risk. This is important because debt financing provides the proper incentives for the private sector to ensure that the cost-escalation risk associated with the

[31] UNECE (2008: 29 - 31).

[32] Institute for Public-Private Partnerships (2009:18), Public-Private Partnerships in E-Government: Knowledge Map.

[33] Farlam (2005).

debt is properly managed and performance is in-line with project expectations. In the event that non-performance occurs, the government is not required to pay the annual fee to the private consortium. Additionally, and as discussed, the private financing component secures due diligence on the part of lenders who subsequently monitor the project during all phases of the PPP.

While private financing is often cited as one of the key advantages for adopting the partnership model, it is important to remember that the private sector's cost of capital is always a more expensive alternative to traditional public financing of urban development projects. As a result, from a public finance perspective, the higher cost associated with using private capital for urban sector PPPs can only be financially justified if the transfer of risks and the efficiency gains outweigh the higher costs of borrowing.[34]

One significant effect of the recent global financial crisis is that credit approval for PPP projects has become even more costly and difficult to obtain. As a result, recent consideration has been given to replacing some of the private financing component with traditional financing whereby the public provides more upfront funding for the project. Under such a structure, it is argued that the public authority can control incentive drivers by setting penalties and large fines for non-compliance. While in theory it may be possible to create an effective incentive framework which ensures cost containment and efficiency, in practice, it can be difficult to enforce without higher litigation and administrative costs.[35] As such, despite preliminary investigation into alternative funding options, the private financing component of PPPs remains an integral part of cost-savings for governments.

[34] Conference Board of Canada (2010:12).

[35] Conference Board of Canada (2010:38).

CHAPTER 9: PUBLIC-PRIVATE PARTNERSHIP ORGANIZATIONAL AND ADMINISTRATIVE EFFECTIVENESS

Meeting the needs of growing urban populations through successful planning and implementation of a PPP approach requires measures beyond the establishment of appropriate legal, regulatory, and financial structures. In fact, many partnership problems stem from non-technical challenges that arise in the working relationships between the range of actors involved, such as a lack of project leadership and insurmountable communication issues. This section maintains that successful PPPs show a high level of commitment in the following key organizational and administrative areas:

Partner Selection

Whether initiated by the government or the private partner, well-organized PPPs begin by identifying the central problem, then seeking out the right partners to help solve it. For the public authority, choosing the lowest bidder in the tendering process is not always the best method for partner selection. A candidate with years of experience in the urban area being considered, along with a shared vision of the project's goals, are important factors in identifying the right partner.

Building Strong Relationships through Clear Communication

Fundamentally important to the functioning of the partnership will be its ability to build and maintain a deep level of trust among all partners and stakeholders. Ensuring that each party is exposed to on-going communication channels that relay timely and reliable information about the project is instrumental to effective relationship building and trust management. Experience shows that a well-structured and comprehensive communication plan that includes a strong public consultation policy will guide communications activities across the full range of project participants. If successfully implemented, the plan can positively affect the working relationship between all parties.

Clear Roles and Responsibilities

A well-crafted written agreement that formalizes the relationship between all parties, clearly delineates roles and responsibilities for each partner and puts in place a system of checks and balances to create co-dependency and transparency substantially increases the probability of success of the partnership.

Procedures

Since not all contingencies can be foreseen in the planning stages of a partnership, it is critically important for the partnership that both the private and public sectors agree on key management procedures early on in the formation of the relationship. At the most basic level, there need to be clear procedures in place for decision-making, solving problems, managing conflicts, and performance evaluation.

Strong Public Administration

Indeed, asking a private consortium to

deliver government services places more, not less, responsibility in the hands of the public administration. As a result, PPPs demand a strong (yet flexible) public administration - one that is able to quickly adapt and respond to a wide array of changing circumstances. Ensuring that there is strong in-house expertise to administer projects, as well as adequate practices for hiring outside experts on technical, legal, and financial matters is an asset. This requires managers who are trained and skilled not only in managing the complex web of relationships, but also skilled in negotiation, contract management, risk analysis and others (see figure 4). Furthermore, an institutional mechanism should be established to coordinate the activities of the public authorities responsible for issuing approvals, licenses and permits, or any other authorization required for the implementation of the urban sector PPP. Without the internal capacity to facilitate these functions quickly and effectively, risk of project failure is increased for the partnership.

FIGURE 4: **Required Government In-House Skills for Public-Private Partnerships**

Negotiation Skills
Mediation
Arbitration
Contract Law
Project Management
Performance Auditing and Quality Control
Public Process
Private Sector Finance
Risk Management

Source: Ministry of Municipal Affairs, British Columbia, Canada.

Strong Leadership

The presence of strong leadership within the organization is another key element for a successful partnership. A strong leader can ensure clear direction and communication for all partners involved, hold partners accountable, as well as provide strategic focus and direction to planning. Although the presence of a strong leader is important on all sides, it is imperative that the leadership does not reflect the narrow goals of any one partner. Partnerships should be about joint responsibilities, shared problems and solutions, and mutually divided resources, risks and rewards.

CHAPTER 10: IMPLEMENTING HOUSING AND URBAN SECTOR PPPS

Once the decision to move forward with the PPP model for a housing or urban development project has been made by the public authority, and the broader institutional and administrative preliminary work is underway, it is important to begin preparing for PPP procurement and implementation. Drawing on the experience from countries at different stages of market development, this section aims to provide some useful insight into the key activities and issues that can be applied to increase implementation success.

Building Capacity

The first step in the implementation process is to set clear guidelines that determine which government department or agency will approve the project's readiness for the procurement stage. Within that agency, a project team skilled in delivering a PPP should take on the responsibility for the planning, procurement, and negotiation stages of the project, in addition to establishing a role in performance monitoring.[36] Unless the government is deeply experienced in contracting PPPs, it will also be necessary to hire a multi-dimensional team of advisors skilled in legal, financial, economic, and sector specific areas to support the capacity of the team through the many PPP processes and procedures.

Refining the Scope of the Project

With a team in place, priority shifts to refining the scope of the project. More diligent quantification and understanding of the project's goals and objectives, its public need, and its risks, along with the sophisticated allocation of those risks, better prepares the project for the PPP procurement process. The public sector should also have established a schedule that lists timeframes for the initiation of each phase of the project with established key milestones.

Selecting the Preferred Procurement Process

Entering into the procurement phase, some decisions regarding the preferred method should be made. Generally speaking, there are two main methods of procurement: competitive negotiation[37] and pre-qualification. The choice of method is based on a range of factors, but is mainly distinguished by the level of competition and input required for the project. Whichever method is chosen, the procurement package must include standardized bidding documents, procedures for the announcement and subsequent evaluation of private sector bids, and a method for awarding contracts.[38] Exposing the project to a fair, open, and transparent procurement

[36] Ministry of Municipal Affairs (1999:46), Public Private Partnerships: A Guide for Local Governments.

[37] Asian Development Bank (n.d.:73), Public-Private Partnerships Handbook.

[38] Institute for Public-Private Partnership (2009:17).

process is fundamental to the formation of a strong building block upon which bidders will build their submissions. As mentioned, there are two primary methods of procurement:

Competitive Negotiations

When this method of procurement has been issued, typically the public partner is less interested in new ideas and inputs and more focused on cost savings. The public sector tends to have a rigidly defined scope and thus selects a fitting group of bidders to an open negotiation process where typically pressure is put on them to offer the best price. While this method tends to be quick and less expensive than pre-qualification, where a "fully competitive" process takes place, it may limit the public sector's ability to view other, potential cost-effective, or design enhancing approaches to project delivery.

Pre-Qualification

This bidding process, usually a two-stage process which includes a request for qualifications (RFQ) and a request for proposals (RFP), is typically adopted by the public agency to try and harness the innovative expertise of the private sector with the intention to help it identify how to best meet project objectives. In order to attract international bidders and increase competition, the public agency publishes and widely disseminates the RFQ document. The document outlines with specificity the skills and market knowledge required for the project to help limit the number of private parties eligible to participate further in the process. Interested candidates match the requested qualifications but only the top bidders are invited to respond to the RFP stage, which marks final partner selection. Unlike the competitive negotiations process which tends to select a partner based on price, the public sector here aspires to attract bidders who can provide the best overall value[39] to the project.

It is important that governments take advantage of the early procurement process and use it as an effective two-way communication tool between the public and private bidders to finalize what needs to be provided. Care should be taken to help identify any issues either party may have as typically, the terms of the finalized contract are based on the specifications addressed in this stage.

Finalizing Contract Terms

Ideally, the bulk of the contract should be sorted out during the bid process; however, final contract negotiations present the last opportunity to discuss any final issues between the two sides. One of the main goals of the PPP contract is to appropriately harness the expertise and the efficiency of the private partner without compromising the delivery of service for the public taxpayer. To accomplish this, the public agency is encouraged to ensure desirable outcomes by putting appropriate control mechanisms in place in addition to including highly specific contract terms and conditions that establish duties, proper allocation and management of risk, performance targets, rules for changing contract conditions and procedures for dispute resolution and performance auditing. There should also be technical and financial evaluations that include clear data on the level of service being provided, specified timeframes for project mobilization, as well as financial formulas with regard to capital expenditures and revenues.

[39] Value can come in the form of, for example, modern design techniques, operating efficiencies for service delivery, innovative technologies, and so on.

Stakeholder Engagement

Moving forward with the implementation process, a key consideration the partnership must address is the need for on-going communication and engagement with stakeholders. The importance of stakeholder relations should not be overlooked and communication activities with these groups should not end with contract award. In fact, early identification and on-going involvement of key stakeholder groups and their interests greatly increase the chances of PPP success, particularly in urban sectors traditionally under the purview of governments.[40] Therefore, as the PPP moves into implementation, as mentioned, both parties should have a comprehensive communication plan that establishes strong ties with interested members of the community and includes mechanisms for dialogue and stakeholder consultation.

[40] Daniele Calabrese (2008:27), 'Strategic Communications for Private, Public-Private Partnerships, and Private Participation in Infrastructure Projects.'

CHAPTER 11: PATTERNS IN APPLYING THE PPP MODEL TO HOUSING AND URBAN DEVELOPMENT

This section describes some global patterns in the application of PPPs for the most prominent urban infrastructure sectors, including affordable housing, transport, water service, schools and hospitals. As will be shown below, a substantial increase in the demand for the PPP approach in both the industrialized and developing countries can be tracked, with most private investors tending to favor large, wealthy, or fast growing markets, with some sectors, as well as some forms of PPPs, showing higher rates of success than others.

Urban Housing

Partnerships have been used with great success to construct and maintain low-income housing in developed countries such as the United States, Australia, Ireland, and the UK. For the most part, the PPP approach to housing projects in these countries has included a joint venture where the private and public sectors jointly finance, own, and operate a housing project, and where risk is shared according to predetermined contractual provisions. Seeing that under this PPP model the public sector typically contributes significant funds for the project, it allows the public authority to retain significant control over the planning and development stages of the partnership while making use of the private sector's resources and expertise in construction and design.[41] In several of the aforementioned countries, a range of financial mechanisms[42] aid in reducing overall housing and debt services costs for the private partner. These are important tools for low-income housing projects that depend on some form of public subsidy to keep prices at affordable levels.

In a number of developing countries across Asia and Africa, PPPs are beginning to emerge as the prominent approach to urban housing policy. While some success has been documented in India and Nigeria,[43] for the most part housing PPPs in the developing world are relatively sparse, with little empirical data made available to show any real trend to successful PPP housing policy.[44] Further to the point, a distinction should be made with wealthier countries where affordable housing success has been primarily based on a significant level of government subsidy used to keep housing costs as low as possible. Oftentimes, such subsidies are a luxury not afforded to the urban poor in the cash strapped developing world. Nevertheless, to the extent that housing PPP will flourish in poorer countries, their use is dependent, amongst other things, on the economic and political strength and housing tradition of a particular nation.

[41] Deloitte (2006:26).

[42] For instance, financial mechanisms such as tax credits and housing trust fund have been incorporated into housing policy in the US and the UK in order to secure a constant subsidy stream for low-income housing projects. For a lengthy discussion of the financial tools available to the private sector for affordable housing projects see, Michael Lea and James Wallace (1996), Current Practices for Financing Affordable Housing in the United States.

[43] See Urmi Sengupta (2005), 'Government Intervention and Public-Private Partnerships in Housing Delivery in Kolkata' and http://www.tradeinvestnigeria.com/feature_articles/959808.htm

[44] *Ibid.*

Urban Transport

In urban transport, PPPs have emerged as an effective tool for the expansion, maintenance, and construction of new roads, railways, airports, seaports and other forms of transport. Internationally, the developing regions have seen a veritable increase of such arrangements in the last 10 years (see figure 5). Transport is also the largest area of PPP investment in developed countries such as Australia, Spain, Italy, and the US.[45] Long-term concession lease models, which allow the public sector to retain ownership of the asset after the leasing period is complete, are by far the most prominent form of PPPs in this sector. Under this PPP model, the private partner commonly limits transport access to paying customers, ensuring a revenue stream that can offset all, or some of the cost of provision. Correspondingly, the financial viability of urban transport projects makes this sector a more attractive investment option to the private partner, particularly in developed countries where there is a growing public acceptance of tolls, or other user fees for roads and bridges.

That being said, the sheer scale and long-term nature of some of these projects, combined with the need for, and dependence on, accurate traffic demand forecasting in this sector significantly increases the financial risk absorbed by the partnership.[46] Thus, given the highly complex nature of transport PPPs, these arrangements can be particularly risky for developing markets that lack the resources and relative expertise on such matters.

Urban Water and Sanitation Management

Water and sanitation management represents another fast growing urban sector for PPPs around the world. With aging conditions

TABLE 1: **Regional Summary of Private Sector Investment in Transport from 2000-2008**

Region	Number of Projects
East Asia and Pacific	137
Europe and Central Asia	43
Latin America and the Caribbean	164
Middle East and North Africa	27
South Asia	154
Sub-Saharan Africa	55
Total Transport Projects	580

Source: World Bank PPI Database

** Note that the data compiled includes all forms of private sector investment. Therefore, it may include projects under complete privatization with little or no element of PPP.*

of water and wastewater systems in many developed countries, and a dire need for new investment to keep up with urban population growth in the developing economies, many governments are moving away from traditional state management of water service delivery and towards private sector involvement. In Canada, Australia and Ireland, along with a slew of developing regions (see figure 6), fiscal shortfalls have forced local governments to adopt PPP structures in an urban sector traditionally operated solely under the purview of the public authority.

Although this phenomenon has been widely tracked, partnerships in the water and sanitation sector are perhaps most controversial, particularly in emerging economies. In the last decade, large developmental institutions have been criticized for making development infrastructure loans to local governments contingent upon long-term concession contracts with private companies.[47] While

45 Deloitte (2006:19).

46 Deloitte (2006:20).

47 For more information see Food & Water Watch (2009), *Dried up, Sold Out: How the World Bank Push for Private Water Harms the Poor.*

TABLE 2: **Regional Summary of Private Sector Investment in Water and Waste Management from 2000-2008**

Region	Number of Projects
East Asia and Pacific	302
Europe and Central Asia	43
Latin America and the Caribbean	99
Middle East and North Africa	14
South Asia	11
Sub-Saharan Africa	15
Total Transport Projects	484

Source: World Bank PPI Database

** Note that the data compiled includes all forms of private sector investment. Therefore, it may include projects under complete privatization with little or no element of PPP.*

the result has been a significant level of overall investment in the developing world, it is argued that these contracts have allowed private entities to make major management decisions regarding water and wastewater services, often with limited control and input from the local governments.[48] This has led either to unaffordable water tariffs for the world's poor, or outright partnership failures in Bolivia, Indonesia, and several regions in Sub-Saharan Africa. For all the lessons that have been learned throughout these processes, the large number of high-profile failures in this sector reinforce points raised earlier that private sector involvement in urban development for all sectors, and all communities, is no panacea.

Urban Schools and Hospitals

Public-private partnerships are also becoming an accepted norm in global education and health sectors. In Australia, India, Malaysia, Netherlands, the UK and Canada - where hospitals are currently the most active sector for PPPs, governments are realizing the need for involving the private sector to help deal with the escalating costs of health and higher education. As expected, this problem is particularly pervasive in developing countries where governments do not have the resources (financial, structural, technical, or other) to adequately address the range of education and health issues plaguing their growing populations.

While partnership arrangements in these sectors differ depending on the size and scale of the project, the private sector routinely helps build, design, finance and then operate a facility under a long-term concession contract with the government. Typically with these PPPs the government retains a large role in providing core services, namely teaching and health care, with the private sector being made solely responsible for the delivery of non-core services such as food, cleaning and transport.

It is observed that applied partnership models in these sectors have had general success. However, it is important to note that given the modest size of most school and hospital facilities, oftentimes proposed projects run the risk of high transaction costs with limited capital returns for the private partner. To try and circumvent such problems, bundling several projects into one is a common approach used to help spread procurement costs and attract a healthy amount of private investor interest.[49] As well, the erosion of academic or health care standards under private operated facilities is a legitimate concern that needs to be addressed by governments at the outset.

[48] Food & Water Watch (2009:2-3)

[49] Deloitte (2006:24).

CHAPTER 12: **CASE STUDIES**

This chapter presents four case studies, one from each of the aforementioned urban sectors: housing, transport, water and sanitation management and schools and hospitals. The case studies show a range of partnership models that have been implemented in countries at various stages of economic development. The primary purpose of these case studies is to evaluate the performance of the partnership by analyzing and benchmarking each case study against the principles and best practices outlined in earlier sections of this report. The format for each case study is the same: a description of the background and context is provided to better understand the study area followed by an outline of the key observations and issues raised.

Regent Park (Toronto, Canada)

Background

Regent Park is a culturally diverse social housing development in downtown Toronto known locally as one of the poorest neighborhoods in Canada. Constructed over 50 years ago under a national government's housing program, Regent Park's housing stock was deteriorating and in desperate need of redesign, replacement, and repair (see figure 5). Under the leadership of Toronto Community Housing Corporation (TCHC), owner and operator of the property, Toronto City Council approved a plan to revitalize Regent Park in 2003. The plan included demolishing and replacing the existing supportive housing units and bringing in an additional 3,300 mixed-income market units, 300 of which are set to be affordable home ownership opportunities. New parks and streets are to be added to the neighborhood and a full mix of education, culture, and commercial facilities to be established. The overall goal of the project is to redevelop the area into more than a low-income supportive housing neighborhood by mixing together both private and public aspects of the industry.[50]

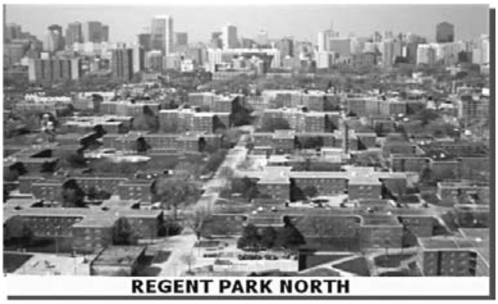
The plan will be carried out by the City of Toronto, TCHC, and the Daniels Corporation, a well-established developer in the area, in six phases over a 12-to-15 year period that began in 2005. All partners contribute and share in the risks and rewards of the affordable housing project. For its part, the City of Toronto is waiving developmental fees and realty taxes on all supportive housing units, as well as absorbing a great deal of the infrastructure costs for the creation of new parks and roads. Toronto Community Housing undertook a number of feasibility studies to determine the best approach for the regeneration of the community and is providing some of the funding for the supportive housing units. As the private developer, Daniels has agreed to help finance and oversee the design, construction and completion of all the housing units.

Key Observations and Issues

The choice by TCHC to invite a private partner to participate in the redevelopment of Regent Park was the result of a year-long process that looked at various options for

[50] TCHC (2007), *Regent Park Social Development Plan.*

FIGURE 5: **Perspective View of Regent Park North Prior to Project Development**



Source: URL http://www.rapdict.org/Regent_ Park

redevelopment. With insufficient capital reserves to repair and replace the housing stock, it was apparent to TCHC that in order to revitalize the public housing units it needed to raise additional funds for the project. After extensive consultations with community experts and stakeholders, TCHC decided it was best to develop the land with a private partner to get maximum value for the property as under this model, it is believed that there is potential for significant financial gain for the partnership.

Once the scope of the project was clearly outlined and the majority of decisions about the vision of Regent Park were solidified, TCHC invited a number of private developers to a transparent and competitive procurement process to help with the design, financing, and construction of the project. Daniels was carefully selected for the first phase and a formal contract agreement was signed, clearly articulating the financial and legal responsibilities of each partner. The process was diligently managed by TCHC who even embedded control mechanisms into the agreement to ensure that the private developer fulfills its contractual obligations. It was understood that, if Daniels did not satisfy its project requirements during the first phase, the developer would not be invited back to

FIGURE 6: **A Model of the Refurbished Regent Park Development Project**

Source: The National Post

build the remaining phases of the project.[51]

Under the terms of the agreement, TCHC and Daniels agreed to share the risks and rewards of the new market housing units. A clear majority of Regent Park's residents live below the poverty line and the public housing project is often portrayed as a neighborhood replete with violence and a range of other social ills. Therefore, a critical challenge for the partnership will be to transform the community into an exciting, mixed-income neighborhood where people choose to live (see figure 7). Another important priority for the partnership is to manage its working relationship with the local government to ensure it fulfills its obligation to waive property, and other fees, for the affordable housing units in order to keep housing costs low.

Although the full implications of this partnership will not be known for another decade, in the early stages, project goals and objectives have been effectively managed and executed and the process to date has relayed good governing principles of transparency and inclusiveness. The community is regularly informed on the progress of the partnership with continued opportunities for community consultation and input. Furthermore, the first phase of the project has been successfully completed by Daniels in accordance with contractual conditions and the developer has been invited to complete the remaining phases. That being said, concern over whether the partnership presents viable opportunities for the poor in Toronto is not clear - it has not been determined how affordable the new mixed-income market units will be and whether they will meet the needs of the lowest income earners. A thriving real estate market in Toronto has significantly raised housing prices in the area and as such, it is uncertain whether rising market pressures will translate into providing home ownership opportunities for low-income earners.

Yitzhak Rabin Trans-Israel Highway 6 (Tel Aviv, Israel)

Background

In 1999, the Government of Israel awarded a 30-year concession agreement to Derech Eretz[52] to build and then operate the largest and most complex transport infrastructure project ever undertaken in Israel. The Yitzhak Rabin Trans-Israel Highway was planned to run a total of 186 miles of highway across the country in what was set to be the first privately operated toll highway in Israel. Using the latest electronic toll collection technology, innovative cameras would scan user license plates, creating a fully-automated toll highway. It is intended that the new highway will reduce congestion, pollution and car accidents on parallel routes which were experiencing high levels of traffic flow prior to the agreement. Formed as part of a larger highway network connecting the rest of the country, it was also argued that the new road would provide enhanced capacity for military mobilization in a country often plagued with war. The project was completed on time and has been in operation since 2002 with performance of the toll route, relative to traffic and revenue projections being positive to date. However, the project remains controversial amongst key stakeholders, particularly environmental groups who loudly opposed the highway arguing that it runs through the last remaining non-urban areas in the country.

[51] Alexandra Moskalyk (2008: 32-33), The Role of Public-Private Partnerships in Funding Social Housing in Canada.

[52] Derech Eretz is a consortium of three companies: Africa-Israel, Canadian Highways Infrastructure Corporation and Housing and Construction Limited.

FIGURE 7: **A View of Highway 6 in Israel**

Source: US Department of Transport

Key Observations and Issues

In accordance with the governing principles outlined previously, it is observed that the Government of Israel adopted the PPP model for the transport project only after reviewing a series of alternative financing options. Given a shortfall of available funds, it was believed that the partnership model would deliver the project in a timely manner, allow for appropriate risk sharing between the private and public partners, and provide the most up-to-date toll collection technology to minimize the time required to pay the tolls - a feature especially important due to the fact that this would be the first toll road in Israel.[53] The project was carefully planned and evaluated and subjected to a transparent and competitive tendering process. Derech Eretz was chosen based on the company's experience and its ability to appropriately and successfully assume necessary project risk that would otherwise have been taken up by the public sector.

Although the project is credited with reducing traffic congestion on alternative roads, it is questionable whether in this case, the public interest was adequately considered. Public interest groups point out that the road gives privilege to the rich, or those who can afford to use the highway, while others are forced to use the "regular roads". Others question the figures and statistical projections used to frame the public need for the highway project. They argue that demand forecasting was intentionally inaccurate and then widely distributed to try and gain public support for what is now known to be a highly profitable partnership.[54] [55]More importantly, there is genuine concern as to whether environmental

53 US Department of Transport (2007:4-18), *Case Studies of Transportation Public Private Partnerships around the World.*

54 In 2006, Derech Eretz reported a profit of 89 million, an increase of 56% from 2004.

55 Yaakov Garb (2004:8-10). 'Constructing the Trans-Israel Highway's Inevitability.'

FIGURE 8: **Ilembe District Community Water and Wastewater Plant**

Source URL: www.biwater.com/casestudies/detail.aspx?id=13

stakeholders, who were keenly opposed to the project, were given adequate access to discussion and debate during the project's critical planning stages. According to some, appeals for project variations by the community were dismissed, leaving a sense that the public authority, in partnership with Derech Eretz, was primarily concerned with assuming, rather than justifying its position in support of the infrastructure project.[56]

In conclusion, while formally the project was more or less well designed and executed, there is some concern over the levels of participation and transparency in the partnership. Given the controversy surrounding its implementation, it is uncertain whether the PPP can be qualified as a 'successful' partnership project. When thinking about a PPP, a more balanced, transparent, and inclusive approach is recommended, especially for transport projects so large in scale that they affect a broad spectrum of a country's population.

Ilembe District Municipality - Siza Water Company (South Africa)

Background

In 1999, Suez Corporation, through a joint venture with Siza Water Company (SWC), was awarded a 30-year concession contract with the then Borough of Dolphin Coast (BODC) to become the first private company to manage and implement a water and wastewater utility in the Southern Africa region. High growth projections for the areas, combined with poor stock of existing infrastructure, financial shortfalls, and lack of experience and managerial capacity in water provision left BODC to investigate PPP options for alternative service delivery in 1996.

Initially, the partnership was welcomed by the city council and senior levels of government; however, by 2001, the company began facing significant financial challenges due to a combination of the following factors: external currency shocks, faltering technology, and incorrect demand estimates for the initial concession design, which grossly overestimated population growth.[57] Unable to pay its annual concession fees to the municipality,

[56] Garb (2004).

[57] USAID (2005:3-5), *Case Studies of Bankable Water and Sewerage Utilities.*

SWC fought for a renegotiation of the terms of contract and won. The new agreement trimmed down the annual concession fees paid to the municipality by SWC for five years, increased water prices for the local community, and cut promised investment in maintaining and upgrading services by more than half.[58] Following renegotiations, SWC slowly climbed back to profitable numbers while Suez reportedly obtained a 21 percent return on its investment, mainly due to a fixed annual fee SWC pays each year.[59]

Key Observations and Issues

A brief overview of this case study presents a mixed picture of the performance and reliability of the water and wastewater partnership. The procurement process initiated a fair and competitive tender process with SWC chosen only after lengthy evaluation of the partner's suitability as outlined by the municipality.[60] Additionally, there appeared to have been considerable due diligence taken on the part of the partnership to ensure reliability and viability in the planning stages of the project. Advisors on both sides were called in to help consult on complex negotiation and contract issues with the final concession agreement providing considerable details on matters of price, performance parameters, the rights and responsibilities of various partners, as well as provisions for performance monitoring and evaluation.

In hindsight, however, it is clear that a greater effort and investment was needed in testing the information that formed the basis of the contract to ensure better performance and monitoring of the project. For example, more information was required in the feasibility studies when evaluating the basis of PPP suitability in the region, particularly with regard to the demand data collected in projections. In addition, while the agreement outlined a system for project oversight by the municipality, it is clear that the public partner did not have the necessary skills to fulfill this role. An emphasis on providing training for municipal staff so they could adequately oversee the management of the water utility might have achieved more reliable service delivery with fewer price increases for the community.[61] Lastly, given that the contract did not include a specific provision for community consultation, better integration of stakeholders into the process could have ensured that more adequate information was available when formulating contract decisions.

It should be noted that to date, community members have expressed considerable dissatisfaction and mistrust of the partnership's ability to provide quality water service for the region. Since the beginning of the concession agreement, there have been several interruptions of water services with little or no warning, and many communities still suffer sewage overflow, causing health hazards for surrounding communities.[62] Reported unresponsiveness on the part of SWC on these, and other community complaint issues are a pointed concern despite the fact that the company operates a well-equipped call center that tracks complaints data.[63] Residents also report confusing communication channels on important information regarding service and other provisions. For instance, policy clarity on the accommodation of a national free water requirement for the poor, along with conflicting information regarding the cost and approaches for service delivery, were reportedly

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58 *Ibid*.

59 *Ibid.*

60 Glen Robbins (2004:12), *A Water Sector Public-Private Partnership Case Study: Ilembe Municipality (formerly Dolphin Coast) Siza Water Company.*

61 Farlam (2005:26).

62 Robbins (2004).

63 *Ibid.*

64 *Ibid.*

FIGURE 9: **Manipal University Medical College in Manipal, India**

Source: Manipal University

poorly channeled to the community.[64] Greater transparency and accountability on the part of the partnership, along with meaningful service channels, could have led to a higher level of trust and acceptance amongst members of the community.

More significantly, this case study illustrates the controversy and difficulty of water concession partnerships in the developing countries. The concession is now a third complete and while there have been some high priority investments to the quality of the partnership since 2001, the partnership cannot yet be considered an unqualified success. Financial challenges that arose in the beginning of the partnership make it difficult to measure whether value for money has been achieved for the local population and SWC has yet to meet all of its obligations in maintaining and upgrading basic water services. Therefore, notwithstanding the fact that the concession today is showing some signs of maturity, expectations from all stakeholders remain high with a considerable measure of hesitation from the community as to whether or not the partnership will create new opportunities for the local people, particularly for the poor.

Meleka-Manipal Medical College (Malaysia-India).

Background

Formalized in 1993, Melaka-Manipal Medical College (MMMC) is the first joint venture partnership in professional education between the Malaysian and Indian governments. Prior to the agreement, a lack of financial and managerial capacity impeded the Malaysian government's ability to meet the rising demand for more well-trained doctors in Malaysia. Recognizing this deficiency, medical students traveled abroad to receive high quality medical training but at a great financial cost. The objective of the partnership is to meet the rising demand for more doctors in Malaysia by affording students access to higher medical education at a lower price. The university offers students a twinning Bachelor of Medicine and Bachelor of Surgery Degree with pre-clinical training received at Manipal University, a private learning institute operating in Manipal, India, and clinical training awarded in Melaka, Malaysia.

As a partner, the Government of Malaysia donates the hospital and health centres for medical teaching, some part-time faculty for clinical training, as well as financial assistance to deserving students admitted to the institution. Additionally, its regulatory bodies, the Medical Malaysian Council and the National Accreditation Board, partner to supervise and provide advisory services to ensure educational requirements meet minimal standards of conformity with government regulations. For its role, a private consortium under the leadership of Manipal Group, provides the infrastructure and educational component for the Manipal campus in India, along with the facilities, faculty, and management needed to augment patient care at these hospitals and health care centres.

In 2003, the medical degree which is conferred by Manipal University, was formally recognized by the Malaysian government and the institution now plays a larger role in attracting international students to study in Malaysia. Today the university and its programs are continually expanding and the partnership has helped meet the medical and educational needs for Malaysia's growing population.

Key Observations and Issues

The choice to invite Manipal Group, along with its flagship university, to partner with the Malaysian government in the provision of higher medical education was a customary one. Manipal University has a long history of training Malaysian doctors in India and Manipal Group enjoys a healthy reputation for being involved in joint venture partnerships both within India and abroad. In addition, an enabling economic environment in Malaysia provided great opportunities for PPPs in the health and education sector: the demand for doctors was high and was expected to grow as population and affluence rose steadily and the fundamentals of the economic and political climate remained strong. As such, it seemed only natural that the partnership between the two countries be formalized.

That being said, the Malaysian government took prudent measures to ensure the strength and viability of the partnership. Before formalizing the agreement, the Malaysian government recognized that the role of privately managed institutions like MMMC must "not be at the expense of proper maintenance of expected norms and standards of teaching."[65] It was made clear early on that the intention of inviting the private sector to higher medical education was to complement, not replace, public medical schools and therefore, the government set strict criteria for the implementation and monitoring of the partnership in order to entrench consistency and fairness across the two curriculums. Further to the point, the regulatory bodies responsible for overseeing MMMC are well-equipped with appropriate policy and legal powers as well as the resource capacity to adequately monitor and protect the public interest in the practice of medicine.[66]

In many aspects the institution today is regarded as exemplifying a true partnership between the two countries and the private sector. Good governing principles, combined with a realistic approach towards PPPs on the part of the Malaysian government has allowed for greater accountability and transparency to occur. Manipal Group has expressed that it has been a rewarding experience to work with the public sector in Malaysia and the cooperative and prudent efforts by the partners seems to facilitate a participatory process on the ground.[67] The partnership has also worked to spread the cost of education between the two sectors. The Government of Malaysia provides subsidies to the existing private school program by funding some student enrollment and providing teaching supports while Manipal absorbs the cost of delivering medical education to students. This cost sharing feature has worked to eliminate institutional start-up expenses for the Malaysian government while better positioning the private partner to accrue financial gains in the future. More significantly, the incremental cost-saving for each partner has allowed for high-quality education to become more accessible for Malaysian students, many of whom would otherwise not be afforded the opportunity to study medicine.

[65] Physicians for Peace and Social Responsibility (2008:14), "Training Future Doctors: Have We Got it Right?"

[66] See http://mmc.gov.my/v1/index.php?option=com_frontpage&Itemid=1

[67] Physicians for Peace and Social Responsibility (2008).

CHAPTER 13: **CONCLUSION**

The infrastructure challenges facing governments around the world today are enormous. A significant increase in the urban population over the last decade, combined with sluggish economic growth across many regions has resulted in major gaps in infrastructure and urban service delivery. The goal of this report was to investigate the role that public-private partnerships can play as one possible financing tool for facilitating urban infrastructure and service delivery for countries at all levels of economic development. The research outlines a range of key PPP ideas and principles that can be used to provide guidance for governments on the application of the PPP model to wider urban development. In doing so, the main objective is to raise awareness of the partnership approach and show how it can be used to try and meet the housing and infrastructure needs of governments around the world. It further identifies four sector-specific case studies drawn from PPPs around the globe in hopes that the examples would highlight lessons learned that might strengthen future efforts to initiate PPPs. While the case studies show that the level of PPP success can vary depending on a range of factors, they reinforce the thinking presented here that with careful application of the partnerships process, housing and urban infrastructure can be effectively delivered and managed.

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HS Number: HS/062/11E
ISBN Number (Series): 978-92-1-132027-5
ISBN Number (Volume): 978-92-1-132356-6

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UNITED NATIONS HUMAN SETTLEMENTS PROGRAMME
P.O.Box 30030,Nairobi 00100,Kenya;
Tel: +254-20-7623120;
Fax: +254-20-76234266/7 (Central office)
infohabitat@unhabitat.org
www.unhabitat.org/publications