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UNITED NATIONS
CENTRE FOR TRADE FACILITATION AND ELECTRONIC BUSINESS
(UN/CEFACT)

INTERNATIONAL TRADE PROCEDURES DOMAIN GROUP
Trade and Transport Programme Development Area

Recommendation

Public and Private Partnership in Trade Facilitation

SOURCE: Recommendation of PPP in TF Revision Project Team
ACTION: Nearing a finalized draft for experts' consideration
STATUS: Draft v0.5

THE RECOMMENDATION!!!

52

53 The use of Public Private Partnerships models in trade facilitation can be advantageous in
54 taking forward projects that will benefit from the application of private sector know how or
55 investment or is otherwise unaffordable. Care must be taken, however, in ensuring that the
56 procurement of services is undertaken in a transparent manner, that delivers affordable and
57 value for money services, within an effective and robust governance structure. Critically the
58 public sector needs to ensure that contractual mechanisms are in place to minimise
59 behaviours that effectively lead to an increase rather than a reduction in the barriers to
60 trade.

61 Potential Advantages

62 On the assumption that best practice is being followed there are, potentially, a number
63 of advantages that might arise by providing a service under a PPP contract in TF. The process
64 may

65 a) improve the project selection. PPPs bring stakeholders to design, implement and improve
66 TF reforms in infrastructures, ICT, border management, corridors accelerate the
67 infrastructure and services provision.

68 b) Support the standardization and harmonization of processes. PPPs bring in stakeholders
69 to coordinate, harmonize and standardize processes in international trade in a context of
70 an organized free market to compete among private and public companies that could
71 even attract foreign investments.

72 c) bring all (public and private sector) stakeholders together to simplify procedures, which
73 should lead to a cost reduction when participating in international trade.

74 Public Private Partnerships in Trade Facilitation are more likely to succeed if they
75 incorporate the following characteristics that seek to maximise the benefits and minimise
76 the disadvantages that can arise when undertaking PPP projects.

77

78

79

80 **General (standard) Characteristics**

81 1. A full business readiness diagnostic should be undertaken to confirm the procurement
82 route and the findings reflected in the feasibility study and business case.

- 83 2. An independent and transparent feasibility study and business case should be
84 developed.
- 85 3. The Procurement itself should transparent and follow good practice procedures.
- 86 4. The Private sector supplier should be entitled to make a reasonable return.
- 87 5. Risks should be shared such that the party that accepts any risk is the party best
88 placed to manage that risk.
- 89 6. The supplier should only be paid for the quality service (performance availability and
90 usage) delivered.
- 91 7. At the end of the contract, the supplier should transfer back to the public sector a
92 serviceable asset.
- 93 8. Effective Public Sector Governance should be in place throughout the contract.
- 94 9. Both parties should support a monitoring and evaluation regime.

95 **Specific Characteristics**

- 96 1. The private sector should take the specification compatability and interoperability
97 risk of all Computer assets, including screens keyboards servers and other related
98 devices
- 99 2. In order to ensure business continuity and security of data all such assets as specified
100 and procured should be owned by the Public sector
- 101 3. In the event of supplier failure Assets should be transferred to the public sector
- 102 4. The service should be set up as a social enterprise (or similar) where any super-profits
103 are reinvested in the advancement of trade facilitation
- 104 5. As far as possible the contract should ensure that both public revenue and private
105 sector income is retained within the countries of operation
- 106 6. That any levies or charges on the public are agreed by the government of the country
107 and not the contractor.

108 The contractor is paid for service delivery by the government for quality of service
109 (usage/performance /availability) and not directly from revenues collected

110

111 The supporting guidance notes address good governance in PPPs, based on transparency,
112 accountability and a clear, predictable and appropriate legal and institutional framework,
113 covering budgetary and fiscal processes as well as the procurement and contractual aspects
114 of PPPs.

115

PPP-TF RECOMMENDATION

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116

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118 1. Introduction

119 2. Definitions of Public Private Partnership ~~In general (Commercial/infrastructure,~~
120 ~~Developmental and Hybrid/Blended and triangular)~~

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133 **NOTE: WE HAVE TO DEVELOP EXIT STRATEGIES TO THE TEST**

134 Annex Country Diagnostic. Business/economic/legal/institutional environment

135 Annex Business Cases. Case models. Feasibility study (independent).

136 Annex Procurement Process

137

138

139

140

141 1. INTRODUCTION

142

143

144 Increasingly, governments are turning to the private sector for the financing, designing,
145 construction, and operation of infrastructure projects, Information and Communication
146 Technology (ICT), and new types and approaches of Public and Private Partnerships (PPPs).
147 This Recommendation has the aim to provide a better understanding of Public and Private
148 Partnership (PPP) in Trade Facilitation (TF).

149

150 The main objective of this Recommendation is to provide a guideline to apply PPP in TF
151 successfully, increasing the quality of the services provided, reducing costs, increasing
152 efficiency, reducing disputes among partners, and eliminates corruption. For all these
153 reasons, it is important to create mechanisms to reduce the asymmetry of information among
154 partners and tools to monitor PPP projects. Disclosure of information has to follow a pattern
155 of normality, or being in regular basis, in which information is accessible without specific
156 active request.

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Any PPP in TF should follow the following principles:

- 1) Increase the predictability. Any unexpected procedure, quota or certificate; any substantial change in the tariff rate applied; any unpredictable aspect, rule, regulation, taxes, or laws are all just some examples of non-transparent practices that mean restrictions for trading abroad.
- 2) Simplify procedures. Examples of simplification within transparency can include: minimizing the number of documents required to trade; increasing the speed and flexibility of getting import permissions; easing the requirements for compliance to trade abroad; and harmonizing procedures along the trade chain from producers to end clients and through any service providers.
- 3) Increase transparency among the partners and any stakeholders.
- 4) Accountability in the context of international trade is about the capacity to execute the right to make the different entities responsible; the capacity to agree warranties in contracts.

PPP is just one among many other ways that the public sector may decide to provide a service involving the facilitation of trade, especially under budgetary constraints. Such traditional service provision, may be retained completely within the public sector, or may involve the private sector in some form. Nevertheless, an increasingly private sector engagement, is referred to as a “partnership” between the public and private sector regardless of the actual contractual relationship. The engagement of the private sector in the delivery of trade facilitation services, goods and infrastructure, justifies the need of this Recommendation to contribute to the right and proper implementation of PPPs. It provides for the conceptual framework and the concrete scope of applicability in trade facilitation, sharing knowledge, building the capacity to plan, executing and monitoring a PPP project in TF, and showing case studies as best practices and pitfalls.

Therefore, in many countries there is no clear definition of the boundaries and scope of application of the PPP legal framework threatening the contract validity. Also, the tender procedure must be open, fair, equal, and transparent to ensure the efficiency throughout all its stages –tender preparation, bid preparation, bid submission, bid evaluation, and tender award--to select the private partnership.

191 2. DEFINITIONS OF PUBLIC AND PRIVATE PARTNERSHIPS (PPP)

192

193 International organizations and the literature show different definitions of the term
194 Public and Private Partnership (PPP). There is not a consensus in terminology, scope and
195 contents all over the world about PPP, and the legal frameworks, if any, varies enormously
196 from country to country. Additionally, there is a wide variety of business models in PPP
197 which make it more difficult to identify them. A key issue in this Recommendation in PPP in
198 Trade Facilitation is to ensure that the scope of this text is clear and well defined. The
199 definition suggested in this Recommendation merges the definition of PPP issued in the
200 “Guidebook on Promoting Good Governance in Public-Private Partnerships” (UNECE, 2008)
201 and the definition of TF provided by the former TBG15 Chair, Gordon Cragge. Thus, Public-
202 Private Partnerships (PPPs) in TF will be where, the simplification, standardisation and
203 harmonisation of procedures and associated information flows required to move goods from
204 seller to buyer and to make payment that facilitate trade is being undertaken on projects that
205 involve some or all aspects of the private sector financing, designing, implementing and
206 operating public sector facilities and services-

207

208 There are three main characteristics in any PPP project:

- 209 a) A contract between the public sector and the private sector delivery partner.
- 210 b) An appropriate sharing of risk between the public and private sector (the risk owner being
211 the the party best able to manage a risk. This would include the transfer of risks to the
212 private sector such a demand and performance.
- 213 c) Payments for service delivered (no guaranteed payment stream).

214

215 3.- POTENTIAL BENEFITS OF PPP IN TRADE FACILITATION

216

217 By providing a service under a PPP in TF, some advantages arise:

- 218 a) Improves the project selection. PPPs bring stakeholders to design, implement
219 and improve TF reforms in infrastructures, ICT, border management, corridors
220 ... adding knowledge, operational experience, efficient business process and
221 management, and financing projects.
- 222 b) Accelerates the infrastructure and services provision. PPPs bring stakeholders
223 to coordinate, harmonize and standardize processes in international trade in a

224 context of an organized free market to compete between private and public
225 companies that could even attract foreign investments.

226 c) It includes the involvement of stakeholders to simplify procedures, which
227 reduces costs in international trade. This cost reduction could come direct or
228 indirectly by reducing administrative procedures, reducing the clearance time,
229 increasing transparency and reducing corruption, and accelerate economic
230 development and revenue opportunities.

231
232 There are also significant potential benefits that can be driven by PPP. These advantages
233 include:

- 234 a) Having access to the skills and resources of the private sector.
- 235 b) Increasing the potential for more streamlined and cost effective processes and service
236 delivery mechanisms.
- 237 c) Increased access to investment enabling business change to be incorporated in the
238 service delivery contract.
- 239 d) More flexibility with regard to structure and business change.

240

241 However the PPP in Trade Facilitation is more likely to be successful if it conforms to
242 a set of contract rules the first of which is the need for Good Governance. The effectiveness
243 of PPP in TF has suffered from the lack of adequate regulatory structures to control both
244 technical and economic performance of each project. Regulation of both qualitative and
245 quantitative factors to evaluate a project is undeveloped. Also, the mechanisms of
246 supervision, monitoring and control are not created or not adapted to neither to PPP projects
247 and PPP in TF projects.

248

249 4, MAIN TYPES OF PPP PROJECTS.

250

251 Although the types of PPPs vary enormously, two broad categories of PPPs can be
252 identified: 1) the institutionalized kind that refers to all forms of joint ventures between
253 public and private stakeholders; and, 2) contractual PPPs (see Figure 1). Finally, there are
254 another group of PPPs which comprise engagement by the private, public and third sectors,
255 which is called blended, hybrid, or triangular. These typically occur when there is some kind
256 of “market” failure and the PPP would not go ahead with out third sector investment or

257 engagement to underwrite risk. PROVIDE EXAMPLE (MAURICE'S TASK+ add Bill
258 comments)

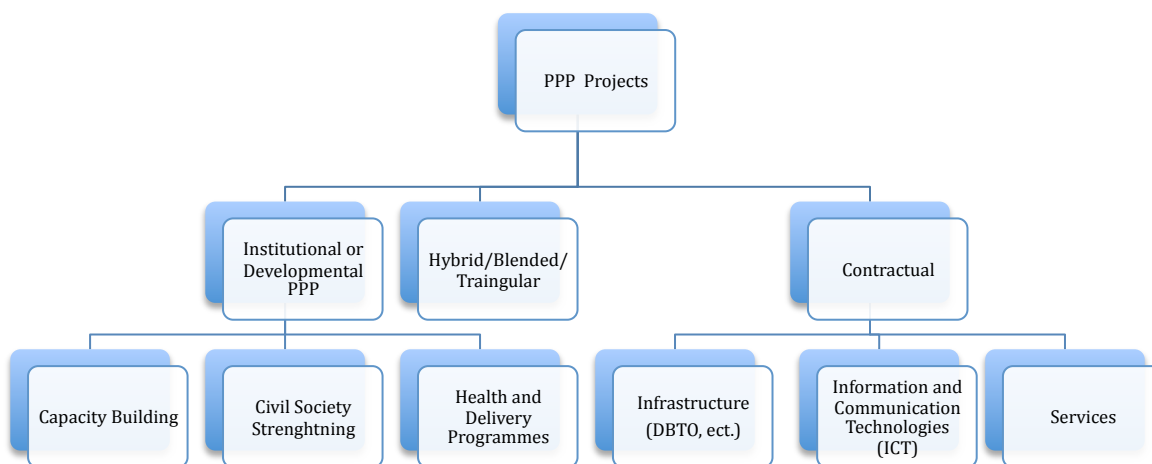
259
260 Whitin the institutional PPPs can then be broken down further into governmental capacity
261 building (BUILDING KNOWLEDGE, TRAINING, BUILDING GOOD PRACTICES
262 SKILLS), civil society strengthening, and health and delivery programmes. MORE
263 EXPLANATION (PERHAPS IS INCLUDED LATER: INTEGRATE THE TEXT TO
264 BRING CONSISTANCE WITH THE STORY)

265 Whilst, Contractual PPPs can be broken down in long term Design Build Operate and
266 Transfer (DBOT) contracts, also called Hard PPPs, and shorter term service contracts
267 (referred to as Soft PPPs).

268 . Alongside these contracts, the ICT PPP contracts have some characteristics from both Hard
269 and Soft PPPs, and specific issues of their own that must be addressed, such as data
270 ownership and data protection as well as compatibility and integration with other
271 governmental systems. (Even if there is not pure infrastructure PPPs, neither not pure
272 services ..)

273
274

275 Figure 1: Main Types of PPPs Projects.



276
277 Source: Own elaboration.

279

280 FIGURE 2 DO NOT MATCH THE PREVIOUS PARAGRAPH = HARD, SOFT AND ICT

281

282 Figure 2.- Main Characteristics of Institutional, Blended and Contractual PPP Projects.

283 BLENDED=HYBRED=TRIANGULAR

CHARACTERISTICS	INSTITUTIONAL	BLENDED	CONTRACTUAL
Contract Required	No	Yes	Yes
Joint Funding	Yes	Yes or other risk sharing	No
Service delivered	Typically public/private sector fund that contracts for services.	By private sector on behalf of public sector. May be some third sector delivery	By private sector on behalf of public sector.
Risks	Both parties agree responsibilities and agree risk profile.	Build, or Design and Build. May be underwrtien by Third Sector	Build, or Design and Build.
Payment	Normally jointly managed funds into which they contribute, and then, make payments to implementers.	Service Delivered Could be a concession or unitary charge	Service Delivered Could be a concession or unitary charge
Contract Length	Joint Venture type relationship to provide funding to third parties.	Suitable period to cover cost of investment and make a reasonable return for private sector	3-5 years 7-10 years 25-30+ years

284 Source: Own elaboration

285

286 NOTE: WE HAVE TO DEVELOP HERE SPECIFIC CONTENTS OF PPP IN TF AND
287 TRY TO RESHAPE THE TOPICS 4.1, 4.2. AND 4.3 SPECIALIZED IN TRADE
288 FACILITATION. WE HAVE TO ENRICH THOSE TOPICS (FROM 4.1. TO 4.3)

289

290 QUESTION: WHY THE FOLLOWING 4.1, 4.2, 4.3... ARE NOT INSTITUTIONAL,
291 BLENDED AND CONTRACTUAL. PERHAPS WE NEED HERE A PARAGRAPH TO
292 EXPLAIN THE NEXT PPPs.

293

294

295 4.1- INSTITUTIONAL OR DEVELOPMENTAL PPPs (~~CAPACITY BUILDING~~)

296

297 Public Private Partnerships that are institutional are typically partnerships between the
298 one or more public sector bodies and third sector organisations such as NGOs, and/or with
299 foundations development PPP are those Public Private Partnerships where public money
300 (such as USAID) is combined with private monies (from company social responsibility
301 programmes, foundations, NGOs) in a joint fund to achieve a development objective.
302 Typically, it may be capacity building, civil society system strengthening, and health delivery
303 programmes. Traditionally, institutional PPPs werent´ t considered as a type of PPP.

304

305 4.2.- HYBRID=BLENDED

306 This type of PPP project consist of a public sector infrastructure or ICT project that needs to
307 be undertaken with the private sector. Indeed, hybrid projects contain all the features of an
308 Infrastructure or ICT PPP project, however the potential financial return sometimes is
309 insufficient to attract private sector investors.

310

311 For such PPPs, it is important that the objectives of the third sector donor (NGOs), and the
312 service deliver will be complementary or aligned to the public sector's objectives in order to
313 be successful For example, the need for and success of a particular project is considered to be
314 a vital economic growth enabler.

315

316 An example of a hybrid PPP project in TF is a dry port, where the private sector may be
317 finding difficulties in achieving a commercial return. Therefore, it is necessary to find a
318 donor to support the PPP project, which objectives add feasibility to the project. In this
319 example, the donor either would not be seeking any return for their investment, or a low
320 return at most, which allows to develop a PPP feasible Then, the donor will be taking a more
321 strategic view regarding the benefits of the dry port bring for society as a whole, rather than
322 expecting to make a direct financial return on the project.

323

324 In a hybrid PPP, the support may come from the third sector in a number of different ways.
325 The donor, usually a non-governmental organization (NGO) or a foundation, may provide
326 direct (such as top up finance), or indirect support (such a loan guarantees).

327 • A loan guarantee (for intance, underwriting the loan) may help a service provider
328 obtain cheaper finance from a bank at minimal cost to the organisation underwriting
329 the loan. In turn, the cheaper finance will contribute to making the Project more
330 affordable.

331 • Provision of direct budgetary support. An NGO or a foundation provides third party
332 financial backing to make a PPP project affordable. These direct financial
333 contributions, are sometimes referred to as budgetary support. As the private sector is
334 only financing a proportion of the overall project cost the contract should become
335 more affordable.

- 336 • Finally the third sector may construct or run part of a facility without any onward
337 charge to the users or to the government, and the financing is all donor based. An
338 example would be training of staff.

339

340 Where no donor was willing to support the project, the PPP feasibility study would need to be
341 revisited with a view to re-scoping the project. If a lower cost project can be designed such
342 that the project could generate a reasonable return for the private sector without third sector
343 support it may be possible for the re-scoped project to go ahead as a standard PPP project. It
344 is considered unlikely that hybrid PPPs will occur in trade facilitation.

345

346

347 4.3.- INFRASTRUCTURE PPP PROJECTS

348

349 PPPs where there is a significant underlying asset that is constructed or renovated and then
350 maintained as part of a service contract . Examples would include significant border control
351 buildings, roadways and dry ports.

352

353 The main characteristics that Infrastructure PPP projects have are the following:

- 354 1. Design Build Transfer and Operate (DBTO) or similar projects of DBTO.
- 355 2. Typically longer term contracts of up to 20, 25 or 30 years. Roadways and bridge
356 projects could be even longer.
- 357 3. The types of infrastructure projects in PPP in TF include buildings, road ways, ports,
358 trade corridors, customs, and dry ports. Service provider may require third party
359 financing.
- 360 4. As with all PPP projects fees are earned by the service provider during the operation
361 phase of the projects.
- 362 5. Fees earned during service phase of contract NOT during the construction phase.

363

364 4.2.- ICT in PPP

365

366 There are significant issues that need to be considered with regard to ICT (Information and
367 Communication Technology). The Supplier need to consider what ICT is required for their
368 project and at the same time needs to consider whether the ICT can be standalone or needs to
369 integrate with other governmental ICT.

370

371 If the ICT needs to integrate with other governmental ICT this must be clearly expressed at
372 feasibility study phase so that it is not a surprise to any private sector bidders. If there is a
373 need to integrate or to communicate with other existing systems this will have direct impact
374 on the choice and cost of the ICT selected to deliver the PPP service. Sometimes the ICT
375 element of a PPP is relatively small and it may not be cost effective for the service deliverer
376 to take on the ICT delivery risk in which case the risk may be retained by government and
377 then let as a separate ICT contract to a specialist supplier.

378

379 Typically shorter term contracts last of up to 7 to 10 years. Because of the speed of
380 advancement in technology, suppliers are reluctant to take on the technology upgrade beyond
381 the first refresh. Therefore, there is no effective risk transfer with regard to redundancy of
382 technology beyond approximately five years, so unless the supplier is willing to take on this
383 risk longer term, there is no “PPP” value in the contract when the second refresh occurs at
384 year 10. With regard to trade facilitation there are currently significant advances in the use of
385 technology and the increasing need for commonality across jurisdictions. It will be important
386 that any specific underlying ICT requirements coding standards processes or systems should
387 be specified or prepared for in order to minimise the cost of any changes in the future (Future
388 proofing in trade facilitation)

389

390 Care must also be taken regarding the ownership of the data held on the systems by the
391 private sector supplier. Firstly the data should not be in the public domain and will be
392 covered by both local privacy and access to information legislation. Secondly the access to
393 that data by the public sector when required is critical to the normal operation of
394 Government. Therefore, there are a number of issues that need to be addressed:

395 a) Who will own the ICT? It is preferable for, at a minimum, ownership of the servers on which
396 confidential traders data and trade data is held to be with the public sector. This would require
397 government access to the servers regardless of whether the PPP service provider had ceased to
398 trade.

399 b) Who will own the licences (Government)? In the event that the PPP Service provider goes
400 bankrupt the public sector will need licences to continue to use the systems on which the
401 trade data is held. This needs to be considered during negotiations and dealt with
402 appropriately in the contract.

403 c) Can the ownership of the licences be transferred?(should be yes) If the licences are held by
404 the PPP service provider arrangements should be made for the public sector to inherit the
405 licences at the end of the contract period or ensure that they can be transferred to a new service
406 provider.

407 d) Who will own the data? The data should be held on the systems and managed by the PPP
408 service provider, but the ownership and use of the data should be with the public sector.

409 e) Will the data sit on supplier servers? It may be the case that the supplier wishes to mirror
410 data on its own servers for back up purposes. Access to such servers and the use /ownership
411 and destruction of such data must be carefully considered by government when contracting
412 with the private sector, The importance of these issues should not be underestimated. For
413 example the government may not wish data to be held on servers in another country, in which
414 case this must be made clear to the service provider. Such Constraints could have a negative
415 impact on price and should be considered a part of the business case, Equally if these matters
416 are not addressed the risk cost of data going missing or not being accessible should be
417 included in the business case.

418 Finally when a new service provider is contracted then the existing data should be freely
419 handed over to the new supplier without the original service provider creating commercial or
420 technical blockages.

421

422 **NOTE : NOTE : THE FOLLOWING PARAGRAPH HAS TO BE DEVELOPED AND**
423 **WE HAVE TO USE A TF APPROACH**

424

425

426 Figure 2. Main Types of PPPs in Trade Facilitation

427

428 PPP in Single Windows.

429

430 Single Windows is an electronic platform to exchange trade information alongside the value
431 chain in exports and imports to reduce time and costs in the logistics, licensing and customs
432 procedures (CHECK REC 33 FOR DEFINITION, SEE MY PICTURE)

433

434

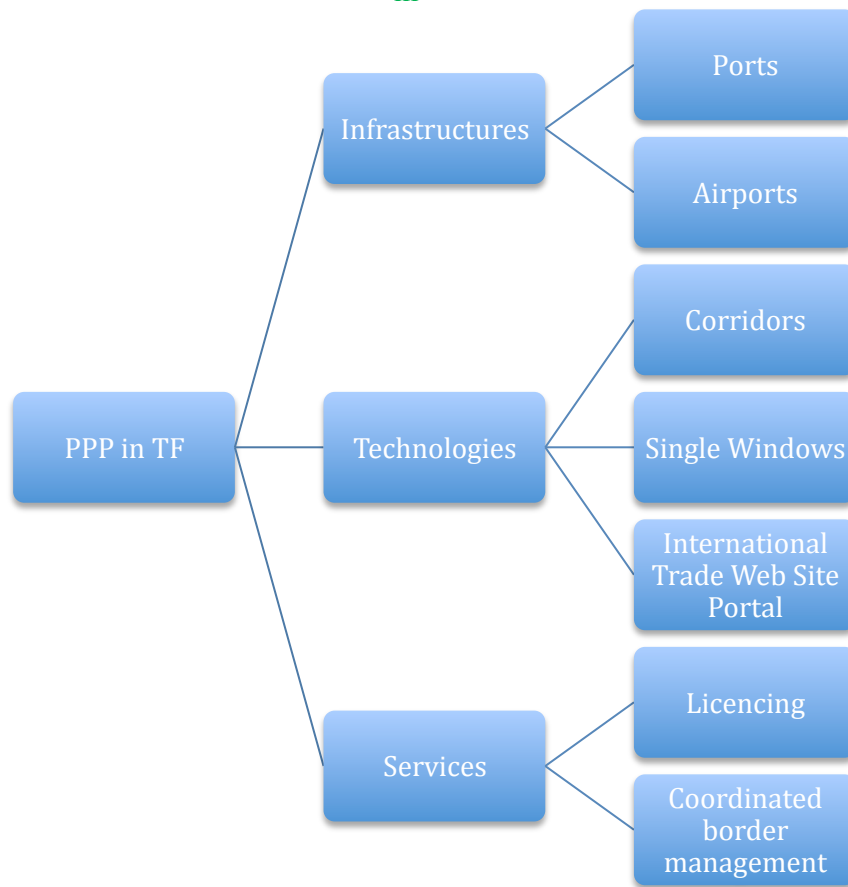
435 Private sector could be involved in a Single Window system either at the service level or/and
436 as a builder of the Information and communication technology (ICT) infrastructure. A Single
437 Window (SW) system could involve multiple projects that could include from the
438 conformance standards to the operational control of the SW authority (licensing,
439 insurance,...) .

440

441 PPP in Corridors
442 PPP

in

Ports



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451

REFERENCES FOR REC IN SINGLE WINDOWS : (4 REC IN CEFACT) +

PPP in Airports, PORTS (GUILLAUME)

PPP in LICENCING (entires system, + BORDER MANAGEMENT (MAURICE)

PPP in International Trade Web Site Portals

452
453
454
455
456

(BILL: KEEP IN MIND WCO: BORDER SERVICES THAT COULD BE PROVIDED BY
CUSTOMS MGMT: TECHNOLOGY, ...) + LEGAL STANDARDS UNCITRAL

456 5.- GENERIC BEST PRACTICE MODEL (Options Appraisal) (IN NEXT CALL WE WILL
457 DECIDE TO WRITE THIS AS AN ANNEX OR PART OF THE INTRODUCTION)

458

459 The generic format of a PPP project include the following stages: Design, Build, Transfer,
460 and Operate (DBTO). A PPP project that performs the DBTO phases, shares the tasks as
461 follow:

462 1. Design (by private sector)

463 2. Build (by private sector)

464 3. Transfer (assets back to public sector); and

465 4. Operate (by private sector)

466 **1. Design.** The design captures the innovation of private sector and allows exploration of
467 potential solutions that may not have been considered. It could be that the design is a joint
468 exercise between the public authorities and the private sector, or a separate competition. If the
469 latter, then, there are needs to be some sharing of risk between the design team and the
470 service provider.

471 **2. Build.** The build and associated risk remains with the private sector. There is an
472 assumption here that the private sector can best manage the risks associated with the build
473 phase leading to a project delivered ~~to~~ on time and costs.

474 **3. Transfer.** Following successful completion of the construction phase the ownership of the
475 underlying assets should be transferred to a suitable public sector authority/authorities. If
476 such an authority does not exist, then the ownership of the assets should remain with the
477 service provider until ~~such time as such an~~ such time an “authority” is set up. It is important
478 to highlight that the asset is owned by the public sector in the event that the PPP is cancelled
479 or the service provider fails to provide the service that the assets are already within the
480 control of the public sector and the public sector can take control of the assets in order to
481 deliver the required service or services.

482 **4. Operate.** The operation of the service should remain with the service provider for the
483 duration of the contract (subject to performance and contract terms). (KEEP IN MIND WCO:

484 BORDER SERVICES THAT COULD BE PROVIDED BY

485 CUSTOMS MGMT: TECHNOLOGY, ...)

486 **5. Risks**

487 In a PPP each of the public and private sectors should do what they do best. Thus,
488 government should play its role in planning and facilitate trade, policy, and regulation. In
489 turn, private sector should manage human resources and the businesses efficiently; develop
490 the market by delivering quality services, investment might come from either the public or

491 private sector. A joint risk schedule should form part of the contract that clearly identifies the
492 ownership of risks. At the lowest level no risks should be “shared” thereby giving clarity as
493 to who is responsible for mitigating and managing risks.

494

495 **THIS SENTENCE NEEDS AN INTRODUCTION OR PUT IT IN CONTEXT**
496 **(MAURCE: Contract Term**

497 The optimal period for an infrastructure project assumes the operating contract for the
498 provision of services post construction coincides broadly with the life expectancy of the asset.
499 The business case is based on the ability of the supplier to make a return and for the project to
500 be affordable (to payees) over the period.

501

502 There are three considerations when agreeing the length of a PPP contract. Investment cost,
503 affordability and life of the asset.

504 The length of time it takes for the service provider to pay of its debts and to make a
505 reasonable return will be affected by the need to keep the prices affordable. A large
506 infrastructure project will typically have longer contract length as it will need a longer period
507 before the initial outlay (eg loan) is recovered before a reasonable return can be achieved.
508 The more that can be charged through fees either to users of the services or to the government
509 then the shorter the contract can be. This depends on how much the users and government
510 can afford or are willing to pay.

511

512 The Public Sector should retain the right to cancel the contract as a consequence of
513 inadequate or non-performance. If the asset is still with the service provider a transfer clause
514 is required for the Government to recover the asset.

515

516 6.- GENERAL HEALTH WARNING ON SUITABILITY OF PPP FOR TF

517 To decide on the delivery mode of a specific service or project, governments and private
518 sector should conduct a value-for-money analysis that determines whether delivery as a PPP
519 or a traditional procurement financing is the cheapest option on a whole-life-cycle cost basis.
520 The value-for-money consist of the evaluation the cost and the benefits of the project. This
521 process has to be unbiased and thus should be based on high-quality data and a clearly
522 specified and standardized evaluation process. The value-for-money appears in PPP if the net
523 positive gain is greater than any alternative way to provide the service.

524

525 The value-for-money quantitative assessment in a PPP project has to include the costs of the
526 investments, operations, upgrading and maintenance, but also, the financing costs, and the
527 transaction and contract oversight costs. Additionally to the costs, the value-for-money
528 assessment includes the benefits of providing a PPP project, such as, the improvements in the
529 service delivery and the predictable changes in end-user requirements.

530

531

532 7.- RISK (MORE CONTENT???)

533 In any type of PPP project, risks allocation and management are critical in order to provide
534 responsibility, accountability and back the cost associated with the following topics:

535 1. Objective of the project, its design and development (including implementation,
536 certification, transition,...).

537 2. The funding and financing structure through the length of the contract.

538 3. The quality of service standards agreed (in frequency, speed, availability, continuity,
539 updated and innovative solution/technology..)

540 4. The variability of the demand and the appearance of competitors (with the same
541 service o new solutions)

542 5. The residual value of assets when the transfer risks and the end of the contract occurs.

543

544 The risks assessment should reflect the evaluation of potential of additional costs and the
545 consequences of each risks. When an accurate monetary evaluation of risks is made in a PPP
546 project it is easier to estimate the price that each party should be willing to pay to transfer the
547 risks from the public to the private sector and vice-versa.

548

549 To provide the value for risks, a probability factor is introduced using the following formula:

550

551 Value of risks = Outcome – ((Consequence of risk* probability of risk event) + contingency)

552

553 In order to evaluate the consequences of a risk in monetary terms, a risk identification
554 and its consequences analysis must be made. In a PPP project the types of risks that could
555 occur should be:

556

557

558

559

TYPE OF RISKS	RISKS DESCRIPTION	MONETARY CONSEQUENCES OF RISKS	EXAMPLES
Commissioning risks	This risk appears when a licence, administrative permission, or an output specifications needed is not reached	Costs from delays and maintenances	
Construction risks	Delays, exceed the budget or not follow the specification	Cost of construction and/or maintenance	
Demand risks	Less revenues	Financial cost	
Design risks	The project design is unable to meet the performance and service requirements in the output specification.	Redesign costs, construction costs and/or delay costs.	
Political risks	Unsecured legal framework, dispute resolution, the regulatory framework, government policy, taxation, expropriation and nationalisation.	Asset costs, financial costs, interest rate costs, inflation, discount costs	
Environmental and social risks	Environmental externalities	Construction and maintenance costs	
Financial risks	Funding risks	Delay costs, financial costs	
Performance risks	The project is unable to reach the results needed	Less revenues, maintenance costs	
Operating risks	Inefficiencies in the project development and exploitation	Less revenues, maintenance costs	
Latent defect risks	Inherent and hide risks in the construction of the project (infrastructure or equipment)	Permission costs, delay costs, construction and maintenance costs	
Technical and technological risks	The project is unable to provide a valid solution for partners and/or consumer and clients	Less revenues, maintenance costs	
Residual value risks	The loss of the value of assets budgeted at the moment to transfer the contract	Financial costs	
Industrial relation risks	Risk of conflict of interest management among the partners of a project	Delay costs, financial costs, construction costs and/or delay costs	

561

562 Source:

563

564

565 8.- ECONOMIC ASSESSMENT (VALUE FOR MONEY) (MORE CONTENT???)

566

567 (Value for Money – VFM / economic assessment / environmental)

568

569 The financial source of investment could come from the private sector in the form of debt or
570 equity and the source of the revenue that will pay back the investment (by taxes, user charges,
571 or price of the services,..). However, the financial source of investment is more linked with
572 the risks of a PPP project, and the source of the revenue is more linked with the business
573 model and the value for money in a PPP project.

574

575 PPP projects allow to joint the best of two approaches: the public sector introduce terms of
576 efficiency (reducing cost, allocating resources, and increasing profitability), client orientation
577 and service quality; and the private sector bring the defence of general interest, planning and
578 regulation.

579

580 When a bidding process is used in a PPP project to select the private sector party, the
581 efficiency is increased by selecting the best proposal based on the technical solution, the
582 budget needed, the operational feasibility, the quality and variety of services provided and the
583 compliance with environmental standards and/or the society. The best solution that win the
584 bid, reduce the risks of the project.

585

586 The project should find the best way to allocate and manage the risks (and the costs
587 associated with those risks) among the parties during the full length of the PPP contract in
588 TF, which should be held by the parties best able to manage them. This risks allocation and
589 management has an influence in the whole management of the project, but also in the Value
590 for Money calculation.

591

592 The business model of a PPP project in TF should find the balance among:

- 593 a) the way in which the private sector recover the investment done in the project;
- 594 b) the public or clients get a benefit from the service received and have the willingness
595 to pay for it; and
- 596 c) the public sector is able to implement politics, programs and infrastructures efficiently
597 which may partially or totally finance the PPP project in TF with taxes and grants.

598

599 VFM is the balance of revenues and costs of any PPP project. The business model should
600 derive a positive Value for Money. If there is a negative VFM assessment, this means that

601 there are negative synergies that cause inefficiencies to the project.

602

603 At the same time that the VFM should be accurately calculated, projects should consider
604 options and variations and compare these to the original project specification (in technical
605 requirements, technology, methodology) in order to achieve best value for money. This
606 flexibility should not be used as a tool to avoid transparency and good governance.

607

608 The main factors that affect the assessment of VFM in a PPP project are the following:

609 a) Bid criteria.

610 b) Delays during the project.

611 c) Penalties mechanisms (lack of quality, unreachable deadlines,...).

612 d) Poor specification of risks allocation and management (and the cost associated with
613 the transferable and retained risks.

614 e) Unrealistic affordability calculation (poor cash-flow estimation and unrealistic
615 assessment of the capability to attend payment commitments).

616 f) Possibility to re-competing contracts in regular intervals during the PPP project in TF.

617 g) Low demand of the service.

618 h) Inappropriate pricing or taxes recovery.

619 i) Investments in new capital assess during the contract duration.

620 j) Property rights payments associated to the service delivery of the PPP project in TF.

621 k) The use of economies of scale in any stage of the project.

622 l) Interest rates, taxes, inflation, discount rates, and exchange rates estimation.

623 m) Positive and negative externalities of the project.

624 n) Variable, semi-variable and fixed (direct and indirect) costs.

625

626 There are specific difficulties in calculating VFM for each type of PPP project in TF. VFM
627 depends on risks assessment, risks allocation (public or private), the length of the PPP
628 project, the demand, the sources of revenues for the project (taxes, grants, price paid by
629 customers,..).

630

631 A number of options should be evaluated to determine the option that provides the best value
632 for money.

633

634 This should include an economic impact study (not just the impact of the facility itself, but
635 also the impact on the economy itself [the local area, for example]). This is undertaken using
636 discounted cash flows and by calculating an equivalent annual charge. VFM is not always the
637 affordable option (particularly if you think about adding in transfer of asset costs into the
638 contract)

639

640 Other Aspects:

641 1. Estimation of maintenance / service updating costs for delivering the product
642 (especially important for longer-term project) – i.e. the whole life cost (build,
643 maintenance, renewal).

644 2. Environmental impact

645

646

647 8.- AFFORDABILITY

648

649 As well as assessing Value for Money the business case also needs to assess the affordability
650 of the project. We have to think here how the project is going to be funded and

651

652 • will sufficient funds be available to the government throughout the whole life of
653 the deal to make payments to the service provider, Or

654

655 • where users are expected to make payments will the fees be low enough not be
656 affordable, or at least not be so high as to be off putting to the users, resulting in
657 insufficient demand for the services offered.

658

659 If there are insufficient funds the appropriate actions suggested are:

660 1. To seek additional funds to support the scheme (from internal or external sources).

661 2. Review the scheme to see if the scope or specification or performance levels can be
662 adjusted to reduce the overall cost.

663 3. Consider different and mixed charging and budget support mechanisms.

664 4. If the budget gap cannot be bridged to make a clear decision not to go ahead with the
665 scheme.

666

667 In some cases there may be conflict between the scheme that delivers best value for money
668 over time and the scheme that is most affordable.

669

670 It maybe that budget or other financial/treasury constraints mean that the only affordable
671 option is for a government to commission service delivery through the PPP mechanism¹.
672 However, although PPP projects has many advantages mentioned before, the PPP projects
673 could create number of pitfalls as set out below:

674 **a. Generation of super profits.**

675 In addition to undertaking a full value for money assessment, using a risk adjusted whole life
676 costing, there also needs to be careful consideration to the contractual commercial clauses
677 associated with payment and reward mechanisms, step in and exit clauses and the freedoms
678 and rights that the contractor (the private sector) has in order to operate the service and to
679 generates additional revenue streams.

680 **b. Barriers to trade.**

681 It is important that the private sector is restricted from operating in a manner that will or
682 might create barriers to trade, these barriers could be in the form of tolls, levies, or physical
683 such as invasive searches to time associated with the administration required to pass through
684 border posts.

685 **c. Risk of the PPP Models: Public Sector Perceptions.**

686 It should be noted however that the overt use of the private sector can lead to resentment
687 from the public and if they believe that the private sector is unfairly benefitting from the
688 contractual arrangements it can lead to problems, non compliance and avoidance.

689

690 A lot of PPPs fail because they are not “affordable”. For those PPP projects where the public
691 sector make a regular payment for services received over the lifetime of the project, it may be
692 that insufficient funds have been made available to pay the service provider the charges over
693 the lifetime of the project. The level of funding will be determined by national (or regional or
694 supra-national) budget. Before the project commences the Public Authority needs to secure
695 the revenue funding required to support the operational phase of the project. In some cases,
696 the charges will be levied on members of the public but there may be a need to subsidise the
697 operation. This will normally be planned as any direct charges will be regulated and are
698 unlikely to cover the full cost of the operation.

699

¹ This was the case in the 1990s in the UK where the UK government chose to lilit (WHAT DOES LILIT MEANS ?) borrowings required to undertake capital projects, and therefore in terms of affordability the only realistic option was to undertake proejcts using the PPP route which enabled payments to be made from revenue rather than capital.

700 BILL COMMENT= DIFFICULTIES OF RISKS EVALUATION + RISK ALLOCATION,
701 SOME TIMES IS BASED ON THE POWER OF THE PARTIES NOT BASED ON WHO
702 CAN MANAGE BETTER THAT RISK; FLEXIBILITY (IN FEES,...)

703

704 For example, a government department may sign a deal with a contractor, which contains a
705 price escalator to deal with the impact of inflation on the service provider over the period of
706 the contract. The basis may the same as that used internally within government in which case
707 if internal funding continues on the current basis for the period of the contract and the
708 funding is available there should not be a funding gap. However, if the funding basis changes
709 or the government adopts a different inflation escalator over a period of time the government
710 department may no longer have the funds to support the contract. If the department applies
711 for additional funds and these are not forthcoming the public sector may have to renegotiate
712 terms or default.

713

714 The system implementation should be self-financing from additional revenues generated. If
715 there is a net cost, then the system should not be introduced. Another reason that there might
716 be funding gap is as a result of the system of pledging resources that may or may not
717 materialise. An example of this may be a trade corridor that either impacts on, more than one
718 country and one country decides not to go ahead with its part of the deal or can no longer
719 afford to make contributions to the unitary charge.

720

721 As part of the affordability analysis any such resources should be clearly identified, as the
722 sponsor/donor may withdraw their support and render the project unaffordable.

723 If money is not available, such a scheme would have to be self-financing. But if cost of use
724 becomes a barrier to trade, should not be a PPP.

725

726

727 9. - TRANSPARENCY

728 Including the participation of the private sector in trade facilitation could increase the quality
729 of the services provided, but care must be taken and mechanisms must be created in
730 procuring the services in a transparent manner and ensuring that the contractual mechanisms
731 are in place to minimise behaviours that effectively lead to an increase rather than a reduction
732 in the barriers to trade.

733 In this context, public consultation is one of the key tools employed to improve transparency,
734 efficiency and effectiveness. Any consultation process in PPPs improve management
735 effectiveness, regulation and governability (see Recommendation of Best Practices in Trade
736 and Government Consultation on Trade Facilitation Matters, UN/CEFACT 2014).

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757 Transparency and accountability are the best tools to ensure lack of corruption. One of the
758 characteristics of transparency is the access to the information. In a PPP project in TF not
759 only the partners of the project should access to the information: information should be
760 accessible for any stakeholders. In an environment fully transparent, all the information about
761 the project should be accessible and explained in an understandable way.

762

763 Partners in a PPP project in TF should be fully informed about:

- 764 a) The range of services included in the contract.
- 765 b) The level of execution/performance of the project in regular basis.
- 766 c) The revenues, benefits and performance levels agreed and achieved.
- 767 d) The use of government grants, guarantees and other financial support including
768 significant risk-bearing.
- 769 e) The stream of payments and costs of the project.
- 770 f) Any changes made since the contract was originally signed and side agreements
771 including government guarantees.
- 772 g) The creation of mechanisms to reduce corruption, or inefficiencies (IT solutions,
773 supervision agency, verification systems,...).
- 774 h) Future stream of payments and government commitments under PPP contracts.
- 775 i) Risks allocation and accountability system to protect the aim of the project against
776 individual interests.

777

778 10. – GOOD GOVERNANCE

779

780 The supporting guidance notes address good governance in PPPs, based on transparency,
781 accountability and a clear, predictable and appropriate legal and institutional framework,
782 covering budgetary and fiscal processes as well as the procurement and contractual aspects of
783 PPPs.

784

785 Good governance in PPPs is a topic that has recently been addressed in international norms
786 and standards. The UN Convention against Corruption (UNCAC) contains provisions
787 relevant to PPPs in article 9 (“Public procurement and management of public finances”) and
788 article 12 (“Private Sector”), supplemented by requirements in article 10 for public reporting
789 and transparency (access to information concerning public administration and periodic public
790 reporting). Article 9 focusses on procedures for the adoption of the national budget; timely
791 reporting on revenue and expenditure; accounting, auditing and oversight; risk management
792 and internal control systems; and measures to preserve the integrity of relevant
793 documentation. Article 12 requires measures to prevent corruption involving the private
794 sector, referring specifically to PPPs and corporate governance.

795

796 The OECD’s Principles for the Public Governance of PPPs set out the need for a clear,

797 predictable, legitimate and appropriately resourced institutional framework — involving
798 public awareness through consultations of the relative costs, benefits and risks of PPPs and
799 public procurement; the need to maintain key institutional roles and responsibilities (to ensure
800 prudent procurement process and clear lines of accountability); and the need for regulation to
801 be clear, transparent, enforced and not excessive. They also discuss the need for a transparent
802 budgetary process to minimize fiscal risks and ensure integrity of the procurement process in
803 PPPs, with disclosure of all costs and contingent liabilities and the need to ensure the
804 integrity of the procurement process.

805

806 Ensuring appropriate good governance standards is a critical pre-requisite where donor funds
807 are sought as co-financing but it is desired that the PPP operate under the country's own
808 framework; if the donors agree to this use of country systems, the fiduciary assurance
809 obligations of the donors will require them to be as rigorous as the donors' own (some
810 donors will in any event insist on their own systems).

811

812

813 Sources: www.unodc.org/documents/corruption/Technical_Guide_UNCAC.pdf;
814 [www.oecd.org/governance/oecdprinciplesforpublicgovernanceofpublic-](http://www.oecd.org/governance/oecdprinciplesforpublicgovernanceofpublic-privatepartnerships.htm)
815 [privatepartnerships.htm](http://www.oecd.org/governance/oecdprinciplesforpublicgovernanceofpublic-privatepartnerships.htm); [http://wbi.worldbank.org/wbi/Data/wbi/wbicms/files/drupal-](http://wbi.worldbank.org/wbi/Data/wbi/wbicms/files/drupal-acquia/wbi/WBIPPIAFPPPReferenceGuidev11.0.pdf)
816 [acquia/wbi/WBIPPIAFPPPReferenceGuidev11.0.pdf](http://wbi.worldbank.org/wbi/Data/wbi/wbicms/files/drupal-acquia/wbi/WBIPPIAFPPPReferenceGuidev11.0.pdf)

817

818 10.1.- Protection of commercially or otherwise sensitive information

819

820 While the principle is full disclosure in [the above] areas, there need to be appropriate
821 safeguards to avoid the disclosure of information that should remain confidential. The public
822 authority may occasionally be prohibited by law from disclosing some information – e.g.
823 public health and welfare information, depending on the nature of the market concerned, or
824 where the law of the land requires prior judicial authorization to disclose information. More
825 commonly, commercially sensitive information that could impede fair competition under the
826 current PPP in TF or a future PPP in TF should not be disclosed. As an example of this, we
827 can think in a set of to competitors for a particular contract, in which information arising in
828 one contractual relationship that might affect competition in other contractual relationships.

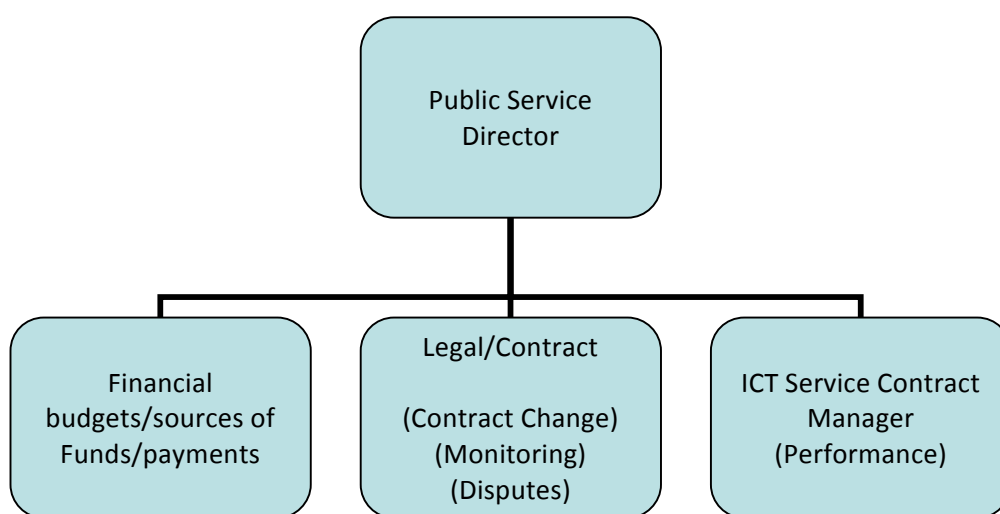
829

830 Given the need to apply the overriding principle and to avoid abusive reliance on this type of

831 exemption, however, the standards should refer to legal sources that define or describe the
 832 information that can be withheld, and categories of authorized or unauthorized persons for the
 833 purpose. The possibility of legal challenges to decisions in this context should be
 834 contemplated, further highlighting the need for a clear regulatory framework.

835
 836 Sources: UNCITRAL Model Law on Public Procurement, article 24, accompanying Guide to
 837 Enactment, and Procurement regulations, available at
 838 http://uncitral.org/uncitral/uncitral_texts/procurement_infrastructure.html

839
 840 Figure 3. Governance: Public Sector Service Contract and Management Relationship Team



841
 842
 843 Public Sector Service Management (Contract Monitoring) Committee

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 847
 848 Figure 4. Contract Governance: Reporting and Monitoring and Management.

	GOVERNANCE BODY	RESPONSIBILITY	SUB COMMITTEES REPORTING	CORE MEMBERSHIP
1.1	Annual Partnering Board		Deal with high level relationship issues and any staffing concerns High level strategic discussion	Senior representation from Govt dept meets senior rep from Private sector partner others by invitation only
1.2	Quarterly Contract Board	Board sits on a quarterly basis to consider contractual issues including	Sub Committees a. Contract Changes b. Performance and Payment Dispute	Public and Private Reps Service Director Legal

		contract changes Quality management risk management performance and payments resolution	c. Resolution Processes and Procedures d. Quality Management e. Exit and transfer of Assets	Financial Contract Manager Commercial Users
1.3	Monthly Performance Board	Agree Performance report and Authorise payments to supplier	Report to Quarterly Contract Sub Committee Prepare Performance Report and calculation of payments	Commercial managers Contract Managers Service Managers
1.4	Weekly Meeting	Small issues that can be quickly resolved, Report to Monthly Board on Activity	Local contract manager (meeting could be by phone) But any actions taken must be reported to Monthly Board	Service Manager

849 14. SPECIAL LEGAL AND CONTRACTUAL CLAUSES

850

851 Contacting Parties

852 Indemnities

853 Services Required

854 Services to be provided

855 Payment and Performance

856 Direct Agreements (Public Sector with Funders)

857 Contract Change

858 Dispute resolution

859 Condition Surveys

860 Acceptance of any underlying Asset

861 Ownership of Assets

862 Ownership of Data (ICT)

863 Use of Data (ICT)

864 Condition of Assets

865 Public Sector Audit Rights

866 Governance

867 Exit Clauses

868 Possible clauses re transfer of staff

869 Risk Schedule

870

870
871 13. PPP IN TF – KEY CHARACTERISTICS

872
873 NOTE: LONG TABLES MUST BE DEVELOPED AS TEST

874
875 INSTITUTIONAL

876

KEY CHARACTERISTICS	Development PPP are those Public Private Partnerships where Public money (such as USAID) is combined with private monies (from companies, Foundations, NGOs) in a joint fund to achieve a development objective. Typically it may be capacity building, civil society system strengthening, health delivery programmes. A development PPP may be used to train Customs and Revenue officials
BEST PRACTICE MODEL	
BARRIERS TO TRADE	No Implication Investment in TF Development PPPs should lead to a more transparent environment as it would focus providing resources for implementing best practice and capacity building.
CHARGING	User charges These programmes are normally free to the recipients . Contracts are let to third parties to deliver the programme on behalf of the Fund Partners. The service delivery may be through training, or through technical support and advice.
PERFORMANCE MODEL	Contracts will be signed with service providers. Payments will be made to the service provider. The contract will have a performance mechanism based on the quality of service as assessed by the users and/ or and will be subject to outcomes achieved as a consequence of the service provided. For example the generation of increased revenues.
CONTRACT LENGTH	These PPP programmes are relatively short from a few months to three to five years(although in the health sector they may be as much as 7 years)
ASSET OWNERSHIP	There are normally no significant assets associated with a development PPP.
RISK MANAGEMENT	Development PPPs often use computers and related software. A key issue is to ensure that any such training would be undertaken on appropriate platforms.

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878

KEY CHARACTERISTICS	<p>ICT (Information and Communication Technology) Infrastructure</p> <p>a) Eg single-window b) Eg E-procurement systems c) Eg CCTV/identification cameras/charging cameras</p>
BEST PRACTICE MODEL	<p>Design, Build, Implementation, Transfer, Operate</p> <p>Design System to integrate appropriately with related wider government systems. System to reflect local conditions, ie reliable power supply/back up power supply/ robust kit, secure comms (possibly satellite)</p> <p>Build Supplier to recommend and supply kit to Authority. Supplier to take risk on compatibility issues regarding the recommended kit.</p> <p>Implementation Supplier to install all equipment and commission the system.</p> <p>The supplier may have a simple support contract to maintain the ICT or may have a wider brief to provide the full service or part of the service.</p> <p>Transfer Following build and implementation all hardware and communications equipment to be transferred to the ownership of the authority.</p>
BARRIERS TO TRADE	<p>a) Incompatible systems – failure of systems to talk to one another – lack of a genuine single window and the time / cost associated with that.</p> <p>b) User Charges- entry/processing/registration charges set a level that may discriminate against SMEs and local service providers,</p> <p>c) Charges set by supplier (service provider) rather than controlled and capped by a public authority</p> <p>d) An unexpected consequence of contractual performance and payment causes the Operator behaving in a way that maximises their revenue that slows down or impedes trade</p>
CHARGING	<p>User charges</p> <p>Ideally use a unitary charge payable by government and subject to a performance and availability mechanism</p> <p>Transaction charges to the user – these may need to be limited so as not to impede trade and should be set by government and not be linked to the cost of the contract.</p> <p>Otherwise there is state shadow charging</p> <p>The Supplier should be paid a pre-agreed fee or set of fees.</p> <p>Any element specifically tied to the generation of additional revenues should be capped to ensure that supplier does not generate super profits by operating the service on behalf of the public sector.</p>
PERFORMANCE MODEL	<p>There are two elements:</p> <p>1.- Performance(ie speed of response) and availability of the system</p> <p>2.- Availability of the system – and ability to handle a specific amount of traffic at anyone point.</p> <p>This would normally be an acceptable risk to the contractor – although this may limit the ability to future proof the technology (for example if trade doubles beyond expected growth over the contract period)... although in that scenario you could define server response times.</p>
CONTRACT LENGTH	<p>PPP is a poor choice for long term PPP contracts and typically ICT contracts are shorter than Infrastructure projects due to the rapidly changing pace of technology.</p> <p>ICT service providers will not typically take on the risk of technological change after the first “refresh (normally approximately 5 years and certainly no more than 10 years.</p>

	<p>Typical Contract lengths:</p> <ul style="list-style-type: none"> • Three to Five years (departmental or local projects) • Five to Seven years Large (departmental and expensive projects) • Eight to ten years (large national ICT project) • Ten to fifteen years (Major very expensive nationally important ICT projects) <p>The smaller the ICT component and the larger the service domain element the more the likelihood is for a five year contract with possible extension and that trade software would need to be mobile technology for smaller traders – particularly in Africa where mobile technology is more mobile based than in say the UK where there is a greater proliferation of land based internet technology.</p>
ASSET OWNERSHIP	<p>As far as possible assets should be transferred into public ownership as soon as possible following construction. Depending on the type of PPP (DBOT may transfer ownership a later time; but many recent PPPs are looking to have the transfer of ownership at an earlier stage)</p>
RISK MANAGEMENT	<p>Ideally the Public Sector should contract separately for the wider service delivery and restrict the “PPP” contract to the technical delivery of the system.</p> <p>All hardware, software and communications to be “recommended”, provided and implemented, by the contractor</p> <p>The System implementation and operation should be integrated with existing government systems, based on fixed fee for implementation and operation.</p> <p>Performance and availability mechanisms should be in place with the opportunity for a supplier to earn back some of the income lost by improved performance etc.</p>

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INFRASTRUCTURE

KEY CHARACTERISTICS	<p>Design Build Transfer and Operate (DBTO) or similar. Typically longer term contracts of up to 20, 25 or 30 years. These include buildings, road ways and dry ports. Service provider may require third party financing. Roadways and bridge projects could be even longer As with all PPP projects fees are earned by the service provider during the operation phase of the projects Fees earned during service phase of contract NOT during the construction phase</p>
BEST PRACTICE MODEL	Design, Build, Implementation, Transfer, Operate
BARRIERS TO TRADE	<p>a) Need to align cross border applicable legislation b) Need to align existing systems and processes which may be incompatible with existing systems and processes c) Any Service provider should be seeking to minimise processing time d) If possible, along a trade corridor repeat processes should be eliminated.</p>
CHARGING	<p>Unitary Charge (example of topics that could be included) In order to minimise the barriers to trade the supplier should be paid according to a robust payment model. The service provider should be paid according to performance and availability of service. There should be no direct association between the level of charges at the border posts dry ports etc, and the receipt of income by the service provider. Rather the number of units charge and the accuracy of that charging should be the clear indicators used to pay the service provider against an agreed initial payment schedule. Any bonuses must be limited in scope and financed from the use of best practice operations rather than through perceived harassment or the slowing down of traffic creating a trade barrier. With direct charging the income collection by the service provider is vulnerable to alternative routes that enable their service points to be bypassed. National and international infrastructure and trade facilitation policies The unitary charge may comprise budgetary sourcing from more than one national entity. In such circumstances it may be case that direct charging is less risky for the service provider</p>
PERFORMANCE MODEL	<p>The performance mechanism associated with the unitary charge should take into account any such polices that affect the usage and payment of dues by users on the service provider. Some examples that could be used as a performance model) On the assumption that users are not directly charged and an availability of asset seems easiest solution. Roads can be done on number of lanes availability or average time travelled between two points Ports on number of docking spaces available, or turnaround times. More analysis is required on specific projects to understand the benefits of one approach over another. Government sets a KPI (for the operator / service provider). Service model (how should the Service Provider respond to customers) A Monitoring and evaluation mechanism needs to be established.</p>

CONTRACT LENGTH	<p>Long enough for the asset to generate suitable income for the private sector and allow secondary investments – thus making it an attractive investment prospect.</p> <p>Keeping in mind that it should not become a barrier to trade.</p> <p>Overall compensation to the Service Provider needs to provide them with a <i>reasonable return</i>.</p> <p>Public sector aspects to be brought in here.</p> <p>Contract needs to be long enough to allow private sectors to want to participate in PPP; but also important for public sector to look over how contract is managed/operated so that when and if they take over the project, they will have been able to absorb the aspects that make it work in the first place.</p> <p>Length of contract should depend on the type of PPP project (see below).</p>
ASSET OWNERSHIP	
RISK MANAGEMENT	<p>Important to consider local legislation. For example Facilities such as ports may not be able to be held as private sector assets Legally the private sector may not be able to deliver certain services – if legislative environment is not taken into consideration, it might be perceived as a barrier to bidding for the PPP).</p> <p>A PPP service may start and later be proven that it is actually not a service which can be provided by the private sector – health services, for example)</p> <p>Therefore consideration must be given to revising local legislation</p> <p>Risks associated with the physical assets remain with the service provider regardless of ownership</p>

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888 Annex Country Diagnostic. Business/economic/legal/institutional environment
889 Annex Business Cases. Case models. Feasibility study (independent).
890 Annex Procurement Process

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893 Annex A

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895 The Canadian Council for Public-Private Partnership has described the following PPPs
896 agreements:

897 1.- Finance Only: A private entity, usually a financial services company, funds a project
898 directly or uses various mechanisms such as a long-term lease or bond issue.

899 2.- Operation & Maintenance Contract (O & M): A private operator, under contract, operates
900 a publicly-owned asset for a specified term. Ownership of the asset remains with the public
901 entity.

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

904 4.- Design-Build-Finance-Maintain (DBFM): The private sector designs, builds and finances
905 an asset and provides hard facility management (hard fm) or maintenance services under
906 a long-term agreement.

907 5.- Design-Build-Finance-Maintain-Operate (DBFMO): The private sector designs, builds
908 and finances an asset, provides hard and/or soft facility management services as well as
909 operations under a long-term agreement.

910 6.- Build-Own-Operate (BOO): The private sector finances, builds, owns and operates a
911 facility or service in perpetuity. The public constraints are stated in the original agreement
912 and through on-going regulatory authority.

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

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