PPP in Trade Facilitation Working Group

Conference Call
June 18 2013, 10:00 CET

PPP in Trade Facilitation key points

PART II. GOOD GOVERNANCE IN PUBLIC-PRIVATE PARTNERSHIPS

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2.1. Principles of good governance in PPPs

1. Do not replace existing systems which perform satisfactorily
2. Strong enabling institutions // The choice of public agency in charge //Governance
    a. Care should be given to the choice of partners (ensure that everyone can bring something to the table with no conflicts of interest)
    b. individualral persons) do not make good partners
3. Business Professionals
    a. Involving the right people at the right time with the right skill set – within the design and management
    b. Use of consultants // use of suppliers
    c.
4. Design and customization in conjunction with all stakeholders
    a. Ownership
    b. Quality standards integration
    c. Constraints on use
    d. Open and transparent approaches
5. Monitoring and evaluation by an independent third party
6. Best practice contract management
7. Stakeholders
    a. Business model should work for all partners
    b. Involve the appropriate stakeholders at the right time

2.2. Policy

1. A coherent PPP policy
2. Definition of PPP
    a. UNECE PPP Project definition
    b. Not only about infrastructure, but also investment, development/capacity-building, technical assistance…
3. Definition of Trade Facilitation
    a. UN/CEFACT official definition
    b. the simplification, standardization and harmonization of procedures and associated information flows required to move goods from seller to buyer and

to make payment”.

2.3. Capacity-Building

1. Sustainability of project / continuous development / evolution /
2. Achieving sustainable development
3. Local capacity building vs. international exploitation
4. Must not create barriers to trade
5. Training and ensuring that the users take possession of the tool
6. Ensure that capacity building is done within the country – build local capacity
7. Change management (human nature is perhaps resistant to change)

2.4. Improving legal framework

1. Legal framework « fewer, better, simpler »
2. IPR obligations (who owns the IPR – government or company…) commercial/legal issue
3. Government provides direction, Private sector provides the drive
4. Exit strategies
5. Instruction to the tenders. Agreements between public and private stakeholders.
6. Legal framework consistent with procurement and project needs
7. Research other contracts that could affect the PPP (overlapping contracts)

2.5. Risk

1. PPP = risk sharing (Core aspect of PPP is the sharing of risks)
2. Complementary objectives and mutual support
3. Appropriate Cooperative risk sharing (risks that private sector can manage, they should take; risks that public sector can manage, they should take)

2.6. PPP Procurement

1. Procurement Practice
    a. Must be done in compliance with local procurement law, but where possible in line with international best practices.
    b. Terminology has to such that it enables appropriate competition
    c. Avoid publication in regional language only which doesn’t allow other service providers to respond
2. There must be transparency in procurement process
    a. Proposals of procurement – call for proposal (transparency requirement). Must provide same information to all the tenders
    b. Best practice must be applied to retendering / unsolicited tenders
    c. Due diligence (coming into the process – ethical, financial, technical)
3. Quality of service
    a. How to define the quality in the tendering?
    b. Identify quality and performance indicators

    c. sometimes PPP is just to provide technical assistance – in this case, how to define quality
4. Business Data
    a. sometimes in the tender, development of minimum requirements (server needs to provide x number of services to the ships, for example)
    b. Careful consideration should be given to business data volumes (do not estimate, ensure that there is a critical mass that merit the investment…)
5. Operational and financial sustainability
    a. Profile of partners
    b. Project must be “bankable”
    c. Payment needs to be related to quality of service and performance
    d. Ensuring that the cost of usage does not create an unreasonable financial barrier to trade
    e. Private sector has to make a reasonable return.
6. Must provide value for money for the tax payer
    a. Limit the ability of the private sector to make super profits

2.7. Putting people first

1. There should be no conflicts of interest with local inhabitants in the development, preparation and delivery
2. Need to consider all stakeholders and users and the context in which the PPP will be delivered
3. Use of local staff
4. Ethical & National Sensitivities (due diligence, constraints on service providers)
5. Alternatives to PPP – local initiative with local stakeholders…
6. Repatriation of profits – external partner does not drain money out of the country (some countries require setting up joint-venture with local partners and limit expatriation of funds)

2.8. The environment

1. The project needs to be appropriate for the particular environment
2. ethnical Issues