

Reforms in the Public Private Partnership Model in India

India offers today the world's largest market for PPPs. With the current demographic transition and the consequent growing need for better infrastructure, it is important for India to mature its current model of PPPs, as it is an important instrument for creating infrastructure in the country. This would require a change in the attitude and mind set of all authorities dealing with PPPs, including public agencies partnering with the private sector, government departments supervising PPPs, and auditing and legislative institutions providing oversight of PPPs.

The dominant primary concern is the optimal allocation of risks across PPP stakeholders. Inefficient and inequitable allocation of risk in PPPs can be a major factor in PPP failures, ultimately hurting the citizens of India. The Model Concession Agreement (MCA) has rarely addressed project specific risks due to the "One-size-fits- all" approach. A rational allocation of risks can only be undertaken in sector and project-specific contexts.

Recommendations:

a. Revisit the PPP model.

Currently, fiscal PPP contracts focus more on fiscal benefits, but the focus should instead be on service delivery for citizens. The government must improve fiscal reporting practices and performance monitoring. State owned enterprises or public sector undertakings should not be allowed to bid for PPP projects, and PPP structures should not be adopted for very small projects, since the benefits are not commensurate with the costs. A number of stalled projects need to be kick-started, and sector-specific institutional frameworks should be developed to address them.

b. Manage and allocate risk optimally across all stakeholders.

Risk allocation should be specific to the sector and project, but at the same time, the government should develop a generic risk monitoring and evaluation framework encompassing all aspects across project development and implementation lifecycle. MCAs for each sector must be reviewed to capture the interests of users, project proponents, concessionaires, lenders and markets, and facilitate successful project delivery.

c. Strengthen institutional capacity.

The government should establish a national level institution to function as a centre of excellence for PPPs. It should also enable research, review and roll out of capacity building activities for different stakeholders and promote more nuanced and sophisticated models of contracting and dispute redressal mechanisms.

d. Establish a dispute resolution mechanism.

The government should establish a quick, equitable, efficient and enforceable dispute resolution mechanism for PPP projects. PPP contracts must contain clearly articulated dispute resolution structures that demonstrate commitment of all stakeholders and provide flexibility to restructure within the commercial and financial boundaries of the project.

e. Strengthen PPP contracts.

Private players in PPP must be protected against loss of bargaining power over time and due to external developments by allowing for renegotiations in the PPP contract. Renegotiated contracts must include full disclosure of long-term costs, risks and potential benefits; comparison with the financial position for government at the time of signing the contract; and comparison with the financial position for government at the time prior to renegotiation.