# Dedicated Public-Private Partnership Units

## A SURVEY OF INSTITUTIONAL AND GOVERNANCE STRUCTURES

OECD

# DEDICATED PUBLIC-PRIVATE PARTNERSHIP UNITS

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# *Foreword*

Dedicated public-private partnership units include any organisation set up with full or partial aid of the government to ensure that necessary competencies to manage third-party provision of goods and services are made available and clustered together within government. The establishment of dedicated units serves to enhance the capacity of government to successfully manage the risks associated with a growing number and value of public-private partnerships. Although a relatively recent phenomenon, in 2009 over half of all OECD member countries reported the existence of a dedicated unit of some kind.

This book provides an overview of dedicated PPP units in OECD member countries, and includes five case studies: Germany, Korea, the United Kingdom, the State of Victoria (Australia), and South Africa (an OECD enhanced engagement country). What are the functions and location of dedicated PPP units? In exercising these functions, what role do these units play in the procurement process? What are the lessons for other countries that have already established or are considering establishing a dedicated PPP unit?

The book outlines six functions undertaken in these units to a greater or lesser degree (policy guidance, "green lighting" projects, technical support, capacity building, PPP promotion, PPP investment) and three models for organising PPP units, and distils some lessons from the analysis for countries that are planning to establish PPP units. These lessons concern green lighting of projects, the scope of projects evaluated by the PPP unit, the financing of dedicated PPP units, the staffing of units, and their assessment.

The book is the result of a project led by the Budgeting and Public Expenditures Division (BUD) of the Directorate for Public Governance and Territorial Development (GOV) of the OECD, under the auspices of the OECD Working Party of Senior Budget Officials. The project was co-ordinated by Ian Hawkesworth (Administrator, GOV/BUD) who manages the OECD Public-Private Partnership Network. Contributing authors include Shivani Ratra (independent consultant), James Sheppard (consultant,

GOV/BUD) and Philippe Burger (professor and chair of the Department of Economics at the University of the Free State, South Africa).

The OECD Working Party of Senior Budget Officials aims to improve the effectiveness and efficiency of resource allocation and management in the public sector. Every year the Working Party organises a number of meetings on topics of interest to budget officials. Some are organised on a regular basis, for example the meetings of the network on financial management (accrual accounting) and the network on performance and results. In addition to those meetings, other topics are discussed on an *ad hoc* basis, as requested by the Working Party. Such is the case for this project on public-private partnerships.

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# Acronyms

| | |
|---|---|
| BBO | Buy-build-operate |
| BDO | Build-develop-operate |
| BLOT | Build-lease-operate-transfer |
| BOO | Build-own-operate |
| BOOT | Build-own-operate-transfer |
| BOT | Build-operate-transfer |
| BROT | Build-rent-own-transfer |
| BTL | Build-transfer-lease |
| BTO | Build-transfer-operate |
| DBFO | Design-build-finance-operate |
| DCMF | Design-construct-manage-finance |
| LDO | Lease-develop-operate |
| PFI | Private finance initiative |
| PFP | Privately financed projects |
| PPP | Public-private partnership |
| SPV | Special purpose vehicle |

# Executive Summary

Dedicated public-private partnership (PPP) units include any organisation set up with full or partial aid of the government to ensure that necessary capacity to create, support and evaluate multiple public-private partnership agreements are made available and reside in government. Although dedicated units are considered a relatively recent phenomenon, in 2009 over one-half of all OECD member countries reported the existence of a dedicated PPP unit of some kind (see Table 0.1). The establishment of a dedicated unit serves to enhance the capacity of government to successfully manage the risks associated with a growing number and value of public-private partnerships. Given the substantial sums involved and the long duration of public-private partnerships, the importance of risk allocation, and the contractual complexity of the relationship, the management of public-private partnership agreements requires a high level of capacity.

**Table 0.1. Is there a dedicated public-private partnership unit at the national level?**

| | Number of countries | Countries[1] |
|---|---|---|
| **Yes** | 17 | Australia, Belgium, Canada, Czech Republic, Denmark, France, Germany, Greece, Hungary, Ireland, Italy, Japan, Korea, Netherlands, Poland, Portugal, United Kingdom |
| **No** | 12 | Austria, Finland, Iceland, Luxembourg, Mexico, New Zealand, Norway, Slovak Republic, Spain, Sweden, Switzerland, United States |

1. No data for Turkey.

This report provides an overview of dedicated PPP units in OECD member countries. It responds to the increasing attention to dedicated units as an element of success of countries' public-private partnership programmes as well as to the relative lack of written cross-country information on the subject. The "Guidelines for Successful Public-Private Partnerships" (European Commission, 2003) suggest that allocating qualified and motivated staff to a dedicated unit can help to define the role of the public sector in public-private partnerships and build institutional capacity to manage them at all levels of government. The United Nations

(2007) suggests that establishing a dedicated unit is part of the evolution and development of a country's public-private partnership programme, with dedicated units commonly being established in an intermediate stage of developing a national public-private partnership programme.[1] APEC (2008) recommends the creation of dedicated units to manage dimensions of risk in the development of public-private partnerships, establishing robust quantitative and qualitative methods to identify and assess possible public-private partnership projects.

However, little has been written about dedicated PPP units themselves. The World Bank and the Public-Private Infrastructure Advisory Facility (2007) surveyed eight dedicated PPP units to explore whether or not they contributed to successful public-private partnerships and under what conditions.[2] They defined a dedicated unit as successful if it contributed to consecutive public-private partnership transactions that responded to the government's need, offered value for money and complied with general standards of good governance. As we will suggest, such a performance metric should be extended to focus on the functions of dedicated units and their role in the procurement cycle. The World Bank and the Public-Private Infrastructure Advisory Facility survey concludes that, to be successful, dedicated units need to be supported by an adequate mandate and by political support, and should be linked to the finance ministry (or equivalent) in parliamentary systems and to the Office of the President in presidential systems.

Farrugia *et al.* (2008) survey eight dedicated units in order to compare similarities and differences between them in terms of functions and structures.[3] They suggest a number of questions for governments to consider when contemplating the establishment of a dedicated unit. Such factors include: the unit's mandate, structure, staffing, funding, the means of evaluating value for money and the extent to which it has standardised public-private partnership contracts. However, many of these issues were left as unanswered questions or areas that remained unexplored. Beyond these two papers, the discussion of dedicated units generally appears to be peripheral to public-private partnerships.

Responding to the relative lack of written cross-country information on the subject, this report provides an overview of dedicated PPP units in OECD member countries. More specifically we ask:

- What are the rationales, the general functions, location and manner of finance of dedicated PPP units in OECD member countries?
- What role do dedicated PPP units specifically have in the procurement cycle (*i.e.* pre-tender, tender and post-award)?

- What lessons exist for countries that have established or that are considering establishing a dedicated PPP unit?

This report presents the results of an OECD survey and research on dedicated units. The survey of dedicated units was conducted for the 2nd annual OECD Symposium on Public-Private Partnerships held in Paris 5-6 March 2009.[4] The symposium was attended by senior officials responsible for public-private partnership policy in OECD member countries. The results of this survey are presented in Chapter 1.

The remainder of Chapter 1 provides a discussion of conceptual issues surrounding public-private partnerships and dedicated PPP units. Attention first focuses upon the rationale, arguments for and against, associated risks, and performance indicators of public-private partnerships. Second, it discusses the rationale, arguments for and against, functions, location of and resources allocated to dedicated PPP units, as well as evidence of their success. The final section of Chapter 1 presents a summary of findings that set out to answer the questions the report raises in the executive summary. Note, however, that the findings not only build on the contents of Chapter 1, but are also based on the contents of Chapters 2 and 3. The final section therefore represents the overall findings of the study. In order to better understand the functioning of dedicated units, Chapter 2 presents five case studies of the institutional arrangements for public-private partnerships in Germany, Korea, the United Kingdom, Victoria (Australia) and South Africa (an OECD enhanced engagement country).[5] The selection of countries is not intended to suggest best practice but to provide a sample of different institutions and stimulate further discussion of the topic. Each case study includes an overview of the types and numbers of public-private partnerships in these countries, their legal framework, institutional responsibilities, involvement of the dedicated unit in the procurement cycle, and their resources. Finally, Chapter 3 provides a brief overview of dedicated units in other OECD member countries.

# Notes

1. The United Nations (2007) suggests a three-stage development model of public-private partnerships. During the first stage the government defines the policy framework, tests the legal viability, identifies a project pipeline, develops underlying concepts to guide the project evaluation and procurement process, applies lessons from earlier deals to other sectors and begins to develop a national market place for public-private partnerships. In the second stage the government establishes a dedicated PPP unit, consolidates the legal framework including publishing policy and practice guidelines for government organisations and continues to foster the domestic public-private partnership marketplace, expand the national project pipeline and extend to new sectors and leverages new sources of funds. The United Nations describes the third stage as more of an outcome than a process. The government has developed a fully comprehensive system and removed the legal impediments for public-private partnerships, has refined and reproduced its partnership models and achieved sophisticated risk allocation, has a well-trained civil service that draws upon past project experience in managing projects, has use of a full-range of funding sources while drawing upon pension funds and private equity funds. It is not clear from the United Nation's model whether the establishment of a dedicated PPP unit is considered as part of a transition process to a civil service that is experienced in public-private partnerships or whether a dedicated PPP unit remains as a constant actor within the government.

2. The survey by the World Bank and the Public-Private Infrastructure Advisory Facility (2007) included four OECD member countries (Australia [State of Victoria], Korea, Portugal, United Kingdom) and four non-member countries (Bangladesh, Jamaica, Philippines, South Africa).

3. The survey by Farrugia *et al.* (2008) included five OECD member countries (Australia [State of South Australia], Canada [Province of British Columbia and Province of Ontario], France, Portugal, United Kingdom) and one non-member country (South Africa).

4. Nineteen OECD member countries participated in the 2009 symposium (Canada, Czech Republic, Denmark, France, Germany, Greece, Hungary, Italy, Japan, Korea, Mexico, New Zealand, Norway, Portugal, Slovak Republic, Spain, Switzerland, the United Kingdom, the United States). Information on the remaining countries was collected via electronic communications with senior officials from the OECD Working Party of Senior Budget Officials.

5. For further information on the OECD enhanced engagement process, see OECD (2008).

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*Chapter 1*

# An overview of dedicated public-private partnership units

## Public-private partnerships

### *Defining public-private partnerships*

There is no standard definition of what constitutes a public-private partnership. The OECD (2008) defines a public-private partnership as:

> an agreement between the government and one or more private partners (which may include the operators and the financers) according to which the private partners deliver the service in such a manner that the service delivery objectives of the government are aligned with the profit objectives of the private partners and where the effectiveness of the alignment depends on a sufficient transfer of risk to the private partners.

Within this relationship, the government specifies the quality and quantity of the service it requires from the private partner.[1] The private partner may be tasked with the design, construction, financing, operation and management of a capital asset and the delivery of a service to the government or the public using that asset. The private partner will receive either a stream of payments from the government or user charges levied directly on the end users, or both. If the government is also responsible for a stream of payments – as differentiated from a user fee and other revenues – to the private partner for services delivered, these may depend on the private partner’s compliance with government quality and quantity specifications.

Principal to this definition is the transfer of risk from the government to the private partner. Risk is identified, priced and either retained by the public sector or transferred to the private partner through an appropriate payment mechanism and specific contract terms.[2] Risk should be allocated where it can be best managed. Risk should not be transferred to the private partner at any price for the sake of transferring risk alone. Risk transfer to the private partner may increase value for money, but only up to the point where it creates the incentive for the private partner to improve efficiency. Beyond that point, the value for money for the government may diminish as greater levels of risk are transferred to a private party.[3] Under this definition of public-private partnerships, other issues that arise in definitions – *e.g.* the different services that may be transferred to the private partner in the contract, the type of relationship between the different parties that government wishes to convey, and the length and/or material value of the contract – are of secondary importance.

Risk can be divided in two ways:

- endogenous *versus* exogenous risks; and
- legal/policy/political *versus* commercial risks.

The distinction between endogenous and exogenous risks draws attention to what can and cannot be controlled. Endogenous risks are the drivers of efficiency in public-private partnerships. Exogenous risks are not controllable by the project participants, *e.g.* natural disasters, wars and civil disorders. This therefore includes *force majeure*.

The second distinction to be made is between legal/policy/political risks and commercial risks. Legal/policy/political risks are those caused by government actions, *e.g.* new legislation, new government priorities, changes in the political landscape that may change construction or operating costs and subsequently, the project's value for money. This is the beyond the scope of control of a private partner and it is inefficient to transfer it so. In a sense, this risk is exogenous to the private partner and endogenous to government.

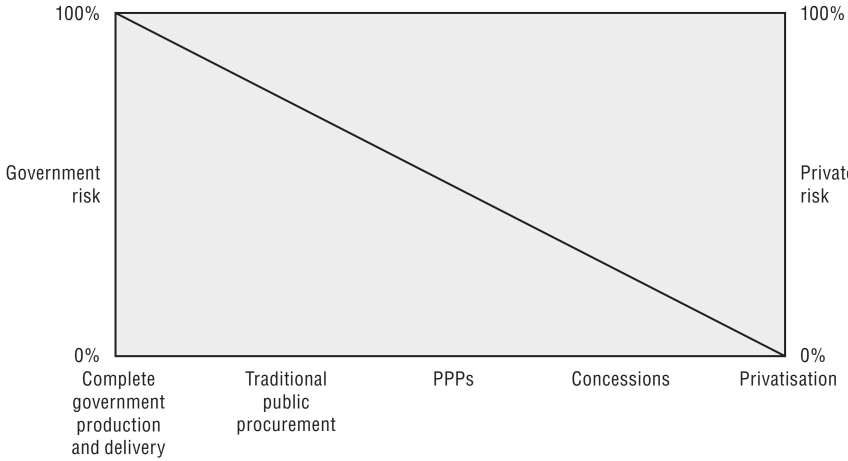
Commercial risk is associated with the responsibilities that may be transferred to the private partner in the design, construction, operation, financing and maintenance associated with public service delivery. It may encompass risks associated with the availability and cost of inputs, technical and production process, residual value of an asset and the cost of capital (supply-side risks). Commercial risks may also encompass changes in the use of the capital asset or service stemming from different consumer preferences, the emergence or disappearance of substitutes or complementary products or changes in income and demographics (demand-side risks).

Continuing the focus on the amount of risk transferred to the private partner serves to differentiate public-private partnerships from traditional public procurement, concession agreements and privatisation. Under traditional public procurement, governments specify the quality and quantity of the service required and negotiate the price with the private provider (often through a tender process). The government may also specify the design of the goods for the private sector to build accordingly. These goods and services usually constitute an input for the government's service provision though it may also transfer them directly to the public. In such cases, the government carries the risk involved in the service delivery. In the case of full private provision it is the private providers that set the quality and quantity of the goods delivered (though it may be regulated by the government) while they also specify the design and set the price (possibly after negotiating with their clients). In this case it is the private provider that carries any risks involved in service delivery.

**Box 1.1. Different country definitions of public-private partnerships**

- **Korea** defines a public-private partnership project as a project to build and operate infrastructure such as road, port, railway, school and environmental facilities – which have traditionally been constructed and run by government funding – with private capital, thus tapping the creativity and efficiency of the private sector.
- The **United Kingdom** defines a public-private partnership as "arrangements typified by joint working between the public and private sectors. In their broadest sense they can cover all types of collaboration across the private-public sector interface involving collaborative working together and risk sharing to deliver policies, services and infrastructure." (HM Treasury, 2008). The most common type of PPP in the United Kingdom is the Private Finance Initiative, which describes an arrangement where the public sector purchases services from the private sector under long-term contracts. A Private Finance Initiative is an arrangement whereby the public sector contracts to purchase services, usually derived from an investment in assets, from the private sector on a long-term basis, often between 15 and 30 years. This includes concessions and franchises, where a private sector partner takes on the responsibility for providing a public service, including maintaining, enhancing or constructing the necessary infrastructure.
- The **State of Victoria (Australia)** defines a public-private partnership as relating to the provision of infrastructure and any related ancillary service which involve private investment or financing, with a present value of payments for a service to be made by the government (and/or by consumers) of more than AUD 10 million during the period of a partnership that does not relate to the general procurement of services.
- **South Africa** defines a public-private partnership as a commercial transaction between a government institution and a private partner in which the private party either performs an institutional function on behalf of the institution for a specified or indefinite period, or acquires the use of state property for its own commercial purposes for a specified or indefinite period. The private party receives a benefit for performing the function or by utilising state property, either by way of compensation from a revenue fund, charges or fees collected by the private party from users or customers of a service provided to them, or a combination of such compensation and such charges or fees.

**Figure 1.1. Public and private participation classified according to risk and mode of delivery**




*Source*: OECD (2008), *Public-Private Partnerships: In Pursuit of Risk Sharing and Value for Money*, OECD Publishing, Paris.

The differentiation between public-private partnerships and concessions is less clearly defined. Under a concession agreement, instead of the government paying the private operator for services delivered, the private operator pays the government for the right to operate the asset. Furthermore, the transfer of risk to the private partner is generally considered to be higher than that of a public-private partnership because concessions usually depend on user charges paid by the direct beneficiaries of the service. Having made this distinction, it should also be mentioned that much of the literature does not draw a clear line between public-private partnerships and concessions when discussing the problems that give rise to contractual renegotiations or issues regarding affordability or value for money. The omission of a clear distinction is not necessarily a failure to distinguish clearly, but may result from the significant overlap in definition as well as from issues and problems that affect both modes of service delivery.

Within the category of public-private partnerships, a number of different models exist – and can also give rise to different definitions. These are influenced not only by the responsibilities of the private partner but also the ownership and conceptualisation of the asset. For example, the private partner may design, build, own, operate and manage an asset with no obligation to transfer ownership to the government (*e.g.* design-build-finance-operate). Alternatively, the private partner may buy/lease an existing asset from the government, modernise, and/or expand it before operating the asset but with no obligation to transfer ownership back to the government (*e.g.* buy-build-operate). Finally, the private partner may design, build and operate an asset before transferring it back to the government when the operating contract ends, or at some other pre-specified time (*e.g.* build-operate-transfer).[4]

It is important to note that all service delivery mechanisms – whether they are public, private or partnership models – are exposed to risks. The key difference with public-private partnerships is that a large part of their efficiency or value for money is derived from the effective identification, pricing and transfer of risk from the public sector to the private sector. Failure by the government to mitigate these risks may result not only in fiscal consequences for the government, but also impact on service delivery, thereby having consequences too.

### *Rationale for public-private partnerships*

Two main arguments have been outlined for the use of public-private partnerships: efficiency (or value for money) and fiscal constraints (Posner *et al.*, 2009). The principle argument centres on efficiency. The private sector is considered to have greater incentive and ability to deliver (design, construct, operate and maintain) cost effective capital assets than public provision alone. Moreover, tying service delivery with payment mechanisms may encourage faster construction and better continued maintenance over the contract life of the assets. The efficiency argument is, however, premised on a number of assumptions: competitive markets, effective identification, pricing and transfer of project risks, and the ability to write comprehensive contracts. While none of these assumptions holds perfectly, their violation does not necessarily render public-private partnerships more expensive than traditional public procurement. Responsibility is, however, placed upon the government to ensure that risks are correctly identified and priced, contracts are written as comprehensively as possible and that, as for all public contracts, adequate monitoring and enforcement is provided.

The fiscal constraint argument for public-private partnerships is driven by pressures for governments to reduce public spending to meet political, legislated and/or treaty-mandated fiscal targets.[5] In parallel with this, many governments face an infrastructure deficit stemming from a variety of factors including, as some see it, a perceived bias against budgeting for capital expenditures in cash-based budgetary systems. However, in its response to fiscal constraints, government should not bypass value for money and affordability. The latter may occur all too readily if public-private partnerships are not properly accounted for, thereby enabling governments to circumvent short- and medium-term fiscal policy objectives. They may also create future fiscal consequences if they violate the budgetary principle of unity, *i.e.* that all revenues and expenditures should be included in the budget at the same time (and in the same document) (OECD, forthcoming). Potential projects should be compared against other competing projects and not considered upon their own to avoid giving precedent to consideration and approval of lower value projects. Nor should public-private partnerships give rise to higher levels of capital expenditures than can otherwise be afforded.

### *Ensuring the success of public-private partnerships*

Successful public-private partnerships deliver high quality services to consumers and the government at costs that are significantly lower than those available through public procurement. Public-private partnerships are not automatically efficient and innovative policy tools by definition. The OECD (2007) has established principles covering five important sets of challenges for national authorities in private sector participation in infrastructure (see Annex A). Ensuring that projects represent value for money, as discussed above, is a first step. The decision to involve the private sector has to be guided by an assessment of the relative long-term costs and benefits as well as availability of finance, taking into account the pricing of risks transferred to the private operators and prudent fiscal treatment of risks remaining in the public domain.

The government also needs to ensure an enabling policy framework for investment and adequate capacity at all levels of government to implement agreed projects – the second and third challenges. The policy framework refers not just to the legislation and regulation of public-private partnerships themselves, but also includes other elements supportive of good public governance such as integrity and *ex post* controls, audit and reporting. Capacity within government can be a major challenge for government. Public-private partnerships have different preparation, tender and post-award management requirements. This is in part driven by the bundling of different elements and complexity of the contractual agreements. However, it also reflects the extended duration of the contract and the associated costs involved if the contract fails.

**Box 1.2. Assessing value for money in proposed public-private partnership projects**

Prior to undertaking a public-private partnership, a government should explore whether or not a PPP will deliver better value for money compared to traditional public procurement. Generally speaking, four methods may be used to assess the relative value for money of the different delivery models:

- a complete cost-benefit analysis of all alternative provision methods available to both the government and the private sector – this method is the most complex among the four presented here;
- calculation of a public sector comparator before the bidding process to assess whether or not public-private partnerships in general offer better value for money (*e.g.* South Africa);
- calculation of a public sector comparator after the bidding process to assess whether or not a particular public-private partnership bid offers better value for money; and
- the use of a competitive bidding process alone without a comparison between public and private provision methods (*e.g.* France).

Partnerships Victoria uses a public sector comparator to compare the net present cost of bids for the public-private partnership project against the most efficient form of delivery according to the output specification (a so-called reference project). The comparator takes into account the risks that are transferable to a probable private party, and those risks that will be retained by the government. Thus, the public sector comparator serves as a hypothetical risk-adjusted cost of public delivery of the output specification of a Partnerships Victoria project. The methodology for preparing the public sector comparator is published by Partnerships Victoria.

Some have contested the robustness of the public sector comparator citing that it is constantly manipulated in favour of public-private partnerships. The United Kingdom, for example, has replaced the public sector comparator to incorporate quantitative and qualitative factors in a value-for-money assessment. Quantitative factors include a reference project, and value-for-money and affordability benchmarks. Qualitative factors include project visibility, desirability and achievability (Wall and Connolly, 2009).

Finally, governments must establish a durable working relationship with, and set expectations regarding responsible business conduct of private partners: the fourth and fifth challenges. The success of a project depends on the ability of the government to be able to maintain a viable long-term relationship with the private partner over the life of the contract. Cultural differences also exist between the public and the private sectors that must be managed. Governments have multiple objectives and face different political pressures over the course of a project. The private partner on the other hand is able to take both a longer and narrower view. And, insofar as they are not rooted in formal legal requirements, governments' expectations regarding responsible business conduct need to be clearly communicated by governments to their private partners.

### *The increasing importance of public-private partnerships*

Since the 1990s an increasing number of countries use public-private partnerships. The United Kingdom by far outstrips the rest of the world in the number of PPP projects, though Australia, Germany, Korea and South Africa, as well as France, Portugal and Spain increasingly use PPPs. As noted above, there is a divergence in definitions regarding what constitutes a PPP. This also leads to different figures regarding the number of PPPs in the world. As such, not all the figures presented are comparable, but they do give an indication of the wide extent to which countries use PPPs. According to data provided for this study by Deloitte (Ireland), infrastructure projects constitute the largest sector by number of deals internationally, followed by healthcare and education. These data also indicate that the United Kingdom is by far the leading country implementing projects, followed by the rest of Europe. Furthermore, PPP activity reached a peak during the period 2003-07, before slowing down due to the onset of the international financial crisis and recession.

Table 1.1 comprises data collected by Public Works Financing's "International Major Projects Survey" (PWF, 2009, p. 2). It includes projects that represent various combinations of public and private sector risk taking (for details regarding different combinations, see endnote 4) and represents cumulative data since 1985. According to Public Works Financing (PWF), road PPPs represent almost half of all PPPs in value (USD 307 billion out of USD 645 billion) and a third in number (567 out of 1 747). Second is rail and third is water. The PWF database also confirms that Europe represents about half of all PPPs in value (USD 303 billion) and a third in number (642).

## Table 1.1. Global public-private partnership deals by sector and region since 1985

| | | Roads | | Rail | | Water | | Buildings | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | | Number of projects | Cost USDm | Number of projects | Cost USDm | Number of projects | Cost USDm | Number of projects | Cost USDm | Number of projects | Cost USDm |
| **United States** | Total planned and funded since 1985 | 77 | 61 844 | 41 | 58 334 | 187 | 20 001 | 164 | 10 986 | 469 | 151 926 |
| | Funded by 10/09 | 35 | 16 913 | 27 | 10 950 | 136 | 15 024 | 158 | 9 421 | 356 | 52 308 |
| **Canada** | Total planned and funded since 1985 | 31 | 18 103 | 7 | 9 780 | 29 | 3 029 | 91 | 12 529 | 158 | 43 531 |
| | Funded by 10/09 | 20 | 11 058 | 1 | 2 000 | 14 | 457 | 49 | 9 572 | 84 | 23 114 |
| **Latin America** | Total planned and funded since 1985 | 272 | 101 236 | 69 | 51 184 | 153 | 17 163 | 19 | 1 729 | 513 | 171 222 |
| | Funded by 10/09 | 140 | 61 652 | 26 | 10 355 | 79 | 9 865 | 8 | 521 | 253 | 82 393 |
| **Europe** | Total planned and funded since 1985 | 339 | 320 375 | 102 | 157 293 | 218 | 34 178 | 306 | 90 369 | 965 | 602 215 |
| | Funded by 10/09 | 193 | 156 692 | 55 | 54 579 | 171 | 24 657 | 223 | 66 975 | 642 | 302 903 |
| **Africa and Middle East** | Total planned and funded since 1985 | 21 | 10 886 | 16 | 12 479 | 101 | 28 166 | 10 | 1 186 | 148 | 52 717 |
| | Funded by 10/09 | 13 | 5 691 | 4 | 4 668 | 45 | 17 835 | 4 | 957 | 66 | 29 151 |
| **Asia and Far East** | Total planned and funded since 1985 | 295 | 92 662 | 93 | 101 826 | 180 | 50 745 | 37 | 11 358 | 605 | 256 591 |
| | Funded by 10/09 | 166 | 54 640 | 40 | 55 676 | 119 | 37 452 | 21 | 7 201 | 346 | 154 969 |
| **World** | Total planned and funded since 1985 | 1 023 | 605 106 | 328 | 390 896 | 868 | 153 282 | 627 | 128 157 | 2 858 | 1 278 202 |
| | Funded by 10/09 | 567 | 306 673 | 153 | 138 228 | 564 | 105 290 | 463 | 94 647 | 1 747 | 644 838 |

Notes:

Latin America includes Mexico, Latin America and the Caribbean.

Cost USDm (million) refers to nominal dollars, converted to USD at time of financial close.

This database comprises data collected by the PWF International Major Projects Survey. It includes all projects that are being planned, built or operated in 131 countries. According to PWF (2009, p. 3): "PWF's survey aims to describe projects where governments are seeking to franchise the delivery of public works infrastructure services to private, for-profit companies outside of a regulated, public utility structure. That delegation of control can take the form of long-term service contracts, concession arrangements involving finance, construction and long-term operations of facilities under term-limited contracts; private development and ownership of facilities; and divestiture of infrastructure assets."

*Source:* Public Works Financing (2009), *Public Works Financing Newsletter*, Vol. 242, October, *www.PWFinance.net*.

## Dedicated PPP units: rationale and functions

A substantial number of OECD member countries have set up, or are in the process of establishing, a dedicated PPP unit. This report defines a dedicated PPP unit as any organisation set up with full or partial aid of the government to ensure that necessary capacity to create, support and evaluate multiple public-private partnership agreements is made available and clustered together within government. The reference to "multiple" public-private partnerships is an important distinction to differentiate a dedicated PPP unit for government from a dedicated PPP project unit that may be located in government organisations to support the management of an individual project. The functions, location and jurisdiction of dedicated PPP units vary across countries. They may provide policy guidance, technical support, capacity building, promotion and/or direct funding for public-private partnership projects. In some cases they are also required to green light a project before it can go forward. They may be located within an independent agency, a centralised unit within the finance ministry, or devolved within dedicated units in one or more line ministries.

### *Rationale for a dedicated unit*

Arguments exist both for and against the establishment of a dedicated PPP unit (see Table 1.2). These centre on the separation of policy formulation and project implementation, pooling expertise and experience within government, standardisation of procurement procedures, appropriate budgetary consideration of projects, and demonstrating political commitment and trust. However, the move to establish such a unit depends on a combination of factors including: the types of pre-existing institutions in place; the sectoral composition of public-private partnerships under consideration; operation, construction and the various stages of preparation; and the political commitment of the government.

The cases of Korea, Portugal and South Africa highlight some of the different rationales for establishing a dedicated unit. Korea established the Private Infrastructure Investment Centre of Korea (PICKO) in 1999 under the Act on Private Participation in Infrastructure. (In 2005, PICKO was merged with the Public Investment Management Centre to create the Public and Private Infrastructure Investment Management Centre or PIMAC.) The establishment of the Centre was seen as part of the government's response to three major concerns. A concern existed over a perceived lack of expertise within government to develop and evaluate public-private partnerships. Concerns were also raised over a lack of transparency, excessively complicated procedures, unattractive risk-sharing arrangements and insufficient incentives – all of which detracted from the interest of private partners. The government also expressed concern about the impact of the 1997 east Asian financial crisis on public investment.

**Table 1.2. Advantages and disadvantages of a dedicated PPP unit**

| Arguments for a dedicated PPP unit | Arguments against a dedicated PPP unit |
|---|---|
| • A dedicated PPP unit can separate PPP policy formulation and implementation. | • PPP policy can be formulated by the same authority that does so for traditional procurement.<br>• A dedicated unit may not separate policy formulation and implementation if it can directly fund PPP projects. |
| • A dedicated PPP unit can act as a knowledge centre on PPP project preparation, negotiation and execution.<br>• Centralisation of knowledge can provide cost savings for government. | • Knowledge can be supplied by internal and external project advisors appointed directly by individual ministries/agencies with specific expertise in the relevant sectoral area and/or project issues. |
| • A dedicated PPP unit can help regulate the creation of PPPs by government organisations to ensure that they fulfil all requirements regarding affordability, value for money and risk transfer. | • Line ministries/agencies together with the finance/planning ministry have expertise in assessing cost-benefits of projects and political prioritisation of projects. |
| • A dedicated PPP unit can ensure that appropriate budgetary considerations are taken for PPP projects and that contingent liabilities are also evaluated. | • The closer a dedicated unit is to the relevant political leadership, the more susceptible it is to the political influence in deciding which PPP project should be initiated. |
| • A dedicated PPP unit can give a fillip to a country's PPP programme, soliciting projects, attracting potential partners/ investors, building trust and good will with private partners. | • Establishing a dedicated unit may imply an implicit approval of PPP as a policy tool and weaken the case for other viable procurement methods. |

*Source*: Adapted from OECD (2008), *Public-Private Partnerships: In Pursuit of Risk Sharing and Value for Money*, OECD Publishing, Paris.

## Box 1.3. Alternative definitions of dedicated PPP units

The World Bank and the Public-Private Infrastructure Advisory Facility (2007) define a dedicated PPP unit as including any organisation designed to promote and/or improve public-private partnerships that has a lasting mandate to manage multiple public-private partnerships transactions in response to government failures (poor procurement incentives, lack of co-ordination, lack of skills, high transaction costs, lack of information, etc.). It may control the total number of public-private partnership projects and ensure that proposed projects fulfil specific quality criteria (*e.g.* affordability, value for money and appropriate risk transfer). They define a dedicated unit's possible functions as including policy and strategy, project identification, project analysis, transaction management, contract management, monitoring and enforcement.

The Asian Development Bank (2008) defines a dedicated PPP unit as a point of co-ordination, quality control, accountability and information on public-private partnerships for one or more sectors. These units are created as a new agency or within a ministry such as the finance ministry, which is seen to be at arm's length from the sector utilising public-private partnerships as a service delivery mechanism. In its definition, the Asian Development Bank outlines the respective benefits of a dedicated unit for public and private partners in a project. For public partners, dedicated units are able to disseminate information and provide specialised management advice to the procurement process. For the private partner, dedicated units provide transparency and consistency.

Farrugia *et al.* (2008) define a dedicated "agency" as a public organisation, either within or connected to government, that provides services related exclusively to public-private partnerships to other governmental bodies. Within this category they differentiate between three sub-categories. A "review body" is primarily responsible for reviewing PPP project business plans and providing recommendations to decision-making bodies. "Full-service agencies" fulfil the responsibilities of a review body as well as providing consulting services to government agencies, develop the public-private partnerships market in their jurisdiction and sometimes provide capital/direct investments. "Centres of excellence" do not review project business plans in a regulatory capacity or provide consulting services to agencies but compile and disseminate research, information and good practice.

Fischer *et al.* (2006) focus attention on PPP task forces as special institutions to find suitable public-private partnership solutions by advocating legislative changes, supporting policy issues and advising on individual projects. They may also promote transparency and accountability, and good governance more generally.

South Africa's National Treasury PPP Unit was established in 2000 to filter fiscally irresponsible projects while maintaining investor confidence in the government's public-private partnership programme. The creation of the PPP Unit followed the Treasury's concerns over a specific project, a 30-year build-operate-transfer contract for two prisons proposed by the Ministry of Public Works. In considering intervening and establishing a precedent of arbitrary intervention in public-private partnerships by the National Treasury, the government decided to create a dedicated unit.

In Portugal, Parpública SA was delegated responsibility for public-private partnerships in 2003. The move to establish a dedicated unit was in response to: the failure of early public-private partnerships to ensure long-term affordability; delays and cost over-runs in their construction; rigidities in the procurement process; and lack of public sector capacity to manage and oversee the projects. It should be noted that Parpública SA existed as a 100% Treasury-owned company prior to assuming responsibilities for public-private partnerships.

### *Location and function of dedicated units*

After a decision has been made to establish a dedicated PPP unit, it is necessary to consider its location and the scope of its functions. Three general models of dedicated PPP units may be established by governments: an independent unit; a single centralised unit located within a finance ministry (or equivalent); or as one or more centralised units arranged by sector. The independent model may be either a government agency or a commercial venture owned in full or in part by the government. Where this is the case, a secretariat typically exists in a central ministry to regulate the work of the dedicated unit and give authorisation for projects. Line ministries and other government agencies are in some cases obliged to use the services of the independent unit, but can also hire consultants from the private sector to help in project preparation, the tender process and contract management.

Setting up an independent unit enables closer involvement of the private sector but raises a number of other governance concerns. For example, potential conflict of interests may arise between private sector interests in maximising profit from public-private partnerships and the government's interest in ensuring value for money. There is also a danger of a dedicated PPP unit promoting the use of public-private partnerships in order to keep itself in business and justify its existence. Such risks may be prevented by measures such as issuing codes of conduct, putting due process structures and complaint procedures in place, maximising transparency, and promoting a professional culture. In addition, the incentives of the unit (*i.e.* reaching the benchmarks for which it is remunerated) need to be aligned to address such problems as well as be aligned with the objectives of government. That is, defined in terms of a PPP that yields value for money.

The positioning of a dedicated unit within the Ministry of Finance provides a direct link to other expenditure and capital investment expertise and decision-making processes. Potential drawbacks of locating it in the Ministry of Finance could be that political preferences rather than the concrete costs and benefits of the project could play a role when evaluating PPP agreements. In addition, care should be taken to staff the unit with the right skills, which may not correspond to the traditional career bureaucrat's skill profile.

The functions of a dedicated unit may include:

- Policy guidance including advising on the content of national legislation; defining eligible sectors and public-private partnership methods/schemes; project procurement and implementation processes; as well as procedures for conflict resolution/termination.
- Green lighting projects, *i.e.* deciding on whether or not a project should move forward. This function refers to the so-called "gate-keeping" role that some PPP units play at various stages, ranging from the inception stage to final approval of the contract to be signed by the different partners.
- Technical support to government organisations during the various stages of project identification, evaluation, procurement, contract management.
- Capacity building including training to public sector officials interested or engaged in PPPs.
- PPP promotion among the public and/or private sector, and possibly in international forums.

Naturally, the functions of a dedicated PPP unit may also change over time. At conception they focus particularly on policy guidance to create the necessary legal and regulatory structures, as well as on stimulating market interest and pilot projects to test and demonstrate the value of public-private partnerships. As a country's public-private partnership programme grows, they focus more on ensuring value for money and developing more sophisticated project evaluation methodologies and maintaining political support (Hemming, 2006).

Table 1.3 presents an overview of the location and functions of the dedicated units surveyed. In 12 of the 18 cases, the unit is located in the finance ministry (or equivalent). Examples include the United Kingdom PPP Policy Team, the Flemish Government Executive in Belgium and the PFI Promotion Office within Japan's Cabinet Office.[6] Six are located in an independent agency, including the Czech Republic's PPP Centre, Partnerships Germany, Korea's Public and Private Infrastructure Investment Management Centre and Portugal's Parpública SA. Finally, three are located within a line ministry – typically one that has a role in public infrastructure provision, *e.g.* the Danish Enterprise and Construction Authority (under the Ministry of Business and Economic Affairs), and the Ministry of Infrastructure in Poland.

Technical support and policy guidance are the main functions of dedicated PPP units in all the countries included in the study (with the exception of Italy where the unit is not responsible for policy formulation). The unit is responsible for the promotion of public-private partnerships in over half (11) and capacity building in just under half (8) of the units. In the United Kingdom, the PPP Policy Team is responsible for all these tasks, supported by Partnerships UK, itself a PPP owned by the private sector and government, providing advice and project delivery support to public sector entities who want to set up PPPs.

### Box 1.4. Sub-national dedicated PPP units in federal states[1]

The jurisdiction of dedicated PPP units may span the national level, the sub-national level or both – the latter requiring further co-ordination where their functions are parallel or sequential to one another. Typically the jurisdiction of such units reflects the structure and delineation of powers between levels of government. In unitary states that have a dedicated PPP unit, it is located at the level of the central government.

Among the four federal states with a dedicated PPP unit (*i.e.* Australia, Belgium, Canada and Germany) the location of such a unit varies. In Australia, Canada and Germany, a dedicated PPP unit is located at both the state/province and federal levels. In each case, however, it was the state/provinces that first established dedicated PPP units (though not all states/provinces have done so) with the federal government establishing a unit during the last year. In Belgium, a dedicated unit has only been established in one of the county's three regions (*i.e.* Flanders but not Brussels or Wallonia).

## Box 1.4. Sub-national dedicated PPP units in federal states[1] *(cont'd)*

In Australia, each state and territory has appointed a lead government agency to implement public-private partnership policies. Only three state/territory governments (New South Wales, South Australia and Victoria) have established a dedicated unit. Other states and territory governments (*i.e.* Tasmania, Western Australia, Australian Capital Territory, Northern Territory) do not have a dedicated PPP unit and place responsibility within their finance ministry more generally. In Queensland, both the Queensland Treasury and the Queensland Department of Infrastructure and Planning are involved in the creation of PPPs.

At a national level, Infrastructure Australia was established in 2008 as an independent agency to set national public-private partnership policy and guidelines. The agency is located under the portfolio of the federal Minister for Infrastructure, Transportation, Regional Development and Local Government. Infrastructure Australia replaced an inter-governmental National PPP Forum established in 2004 to support a more unified national approach to public-private partnerships.

In Canada, three provinces have established a dedicated unit: Partnerships British Columbia, Infrastructure Ontario, and Public-Private Partnerships Québec (state/provincial level). At the federal level, Infrastructure Canada was set up as a separate department under the Transport, Infrastructure and Communities portfolio in August 2002.

In Germany, a number of federal states have also established their own dedicated PPP units since 2001 to support government organisations to procure and manage public-private partnerships projects. Federal states may also draw upon the services of Partnerships Germany, the independent PPP unit. Connecting the units at the federal state level, a federal expertise network (*Föderales PPP Netzwerk*) exists between the federal government, federal states and municipalities and help to facilitate reciprocal vertical and horizontal knowledge transfers.

1. Federal states have a constitutionally delineated division of power between one central government and several regional or state governments. While unitary states often include multiple levels of government (such as local and provincial or regional), these administrative divisions are not constitutionally defined. Among OECD member countries, federal states include Australia, Austria, Belgium, Canada, Germany, Mexico, Switzerland and the United States. In addition, Italy and Spain are highly regionalised countries.

### Table 1.3. Location and functions of dedicated PPP units[1]

| | Country | Location | Year created | Policy guidance | Technical support | Capacity building | Promotion |
|---|---|---|---|---|---|---|---|
| Case studies | **Germany[2]** | Independent | 2009 | ● | ● | ○ | ○ |
| | **Korea** | Independent | 1999 | ● | ● | ● | ● |
| | **United Kingdom** | Finance ministry | 1997 | ● | ● | ● | ● |
| | **Victoria (Australia)** | Finance ministry | 2000 | ● | ● | ● | ● |
| | **South Africa** | Finance ministry | 2000 | ● | ● | ● | ○ |
| Other member countries | **Czech Republic** | Independent | 2004 | ● | ● | ● | ● |
| | **Denmark** | Line ministry | 2006 | ● | ● | ○ | ● |
| | **Flanders (Belgium)** | Finance ministry[3] | 2002 | ● | ● | ● | ● |
| | **France** | Finance ministry | 2005 | ● | ● | ○ | ● |
| | **Greece** | Finance ministry | 2006 | ● | ● | ○ | ● |
| | **Hungary** | Finance ministry | 2003 | ● | ● | ○ | ○ |
| | **Ireland** | Finance ministry | 2003 | ● | ● | ● | ● |
| | **Italy** | Finance ministry | 1999 | ○ | ● | ● | ● |
| | **Japan** | Finance ministry[4] | 2000 | ● | ● | ○ | ○ |
| | **Netherlands** | Finance ministry | 1999 | ● | ● | ○ | ○ |
| | **New South Wales (Australia)** | Finance ministry | 2000 | ● | ● | ○ | ● |
| | **Poland** | Line ministry | 2001 | ● | ● | ○ | ○ |
| | **Portugal** | Independent | 2003 | ● | ● | ○ | ○ |
| | **Total** | | | 17 | 18 | 8 | 11 |

● = yes, ○ = no, n/a = not applicable

1. No dedicated PPP units in Austria, Finland, Iceland, Luxembourg, Mexico, New Zealand, Norway, Slovak Republic, Spain, Sweden, Switzerland, United States (see Table 0.1).

2. Germany refers only to the federal level.

3. Belgium: Flemish Government Executive Staff.

4. Japan: PFI Promotion Office, within the Cabinet Office.

## Main findings

As mentioned in the executive summary, this report has three main objectives. First is to establish the rationales, general functions, location and manner of finance of dedicated PPP units in OECD member countries. Second, we consider the role of the dedicated PPP unit in the procurement cycle while, third, setting out a list of lessons for countries that have established or consider establishing a PPP unit. This section sets out the findings with respect to these three objectives.

### *Rationale, general functions, location and manner of finance of dedicated PPP units*

The above discussion highlighted that there is no uniformity among countries in terms of the rationale, functions, location and manner of finance of PPP units.

- **Rationale for PPP units.** The pre-existing institutional setup in a country usually plays a significant role in determining why a country would decide to establish a PPP unit. Although there are arguments against the establishment of units, such as the need to separate policy formulation and technical support during project implementation, most OECD member countries (and several others) have established such units. Very often the existence of a PPP unit demonstrates the commitment of government to PPPs. It also demonstrates to potential private partners that government has the requisite skills to manage PPPs. In this respect Ahadzi and Bowles (2004, p. 976) argue that:

  …it is not surprising that the private sector is more concerned to see an established PPP unit within the client organisation. A PPP unit suggests an experienced and able client team that has the power and authority necessary for an effective negotiation process. The absence of such a team may raise concerns about the public sector's project management strengths. This will be particularly pertinent where the functions of the public sector client are fragmented across a number of departments.

- **The functions of dedicated PPP units (policy formulation, technical support, PPP promotion, and capacity building).** In terms of functions, most, if not all dedicated PPP units are involved in technical support and policy guidance. Indeed, these two aspects seem to be the defining characteristic of PPP units across countries.

These two functions also follow closely from the rationale for the establishment of PPP units in several countries and can be explained by the rather technical nature of PPPs. Capacity building and PPP promotion also feature in approximately half of the countries discussed in this report. As the discussion in Chapter 2 indicates, capacity building features especially high in four of the case studies (Korea, the United Kingdom, Victoria [Australia] and South Africa). In the United Kingdom, the PPP Policy Team as well as Partnerships UK are responsible for technical support to government entities wishing to enter PPP agreements, PPP promotion and capacity building. There are differences between units regarding their relationship with public entities implementing public-private partnerships and the finance ministry. The units mostly act as consultants for implementing entities, but may also have a mandatory review dimension.

- **The functions of dedicated PPP units (green lighting of projects).** Most PPP units do not green light projects. However, of the five case studies, three (the United Kingdom, Victoria [Australia] and South Africa) fulfil such a gate-keeping role. In the cases of Germany and Korea, the Ministry of Finance fulfils this role. The difference between these countries coincides with the location of the units; in the United Kingdom, Victoria and South Africa, the PPP units reside within the Ministry of Finance, while in the case of Germany and Korea they are independent agencies. Where units are PPPs themselves (and thus not strictly speaking public bodies), the question also exists as to whether or not it can be endowed with the necessary authority to green light projects.

- **The location of PPP units.** Generally speaking there are three models of dedicated PPP units. The first model is to locate a dedicated unit within the regular departmental structure of the Ministry of Finance (*e.g.* the United Kingdom, Victoria [Australia] and South Africa). The second model is to locate a dedicated unit as an independent government agency that collaborates with a secretariat in the finance ministry (or equivalent). A variation on this second model would be for the dedicated unit to be a public-private partnership itself (*e.g.* Korea). A third model is to locate a dedicated unit in an individual line ministry that is predisposed in its functions to use public-private partnerships, such as an infrastructure ministry.

- **The funding of PPP units.** Dedicated PPP units may be funded from either the government budget, through user charges or a combination of both. Government budget financing refers to funds appropriated through the annual government budget. The precise details will, however, vary depending on the budget's appropriation structures and rules. User charges are levied on a government organisation to capture the cost, either in part or in full, of services provided to other government organisations in implementing their activities and delivering public services. Funding is of course also influenced by the location of the dedicated unit as well as practices with regard to charging for services more generally within the government.

## *The role of dedicated PPP units in the procurement cycle*

Chapter 2 discusses the role of the dedicated PPP units in the procurement cycle of the five case studies (see in particular Table 2.2). The table shows some significant differences between the units, though there are also some similarities. It distinguishes between the pre-tender, tender and post-award phases of the procurement cycle.

The **pre-tender phase** includes project initiation, an assessment of feasibility and value for money, budgeting and project approval. During this phase, the greatest similarity among the five case studies concerns the role that all five units play to assess feasibility and value for money. Four of the five (Korea, the United Kingdom, Victoria [Australia] and South Africa) have a direct role, while the German PPP unit has an indirect role. As the discussion above indicated, one of the main rationales for using PPPs is the presumed higher value for money that private participation may bring compared to traditional procurement. Thus, it follows that the most common feature of these PPP units is the assessment of value for money.

As mentioned above, the PPP units (as well as the Ministry of Finance) in the United Kingdom, Victoria (Australia) and South Africa green light projects (*i.e.* conduct project approvals), while in the other cases (Germany and Korea) this function is left solely to the Ministry of Finance (and even Parliament in the Korean case). However, in the case of Germany and Korea, the PPP unit plays an indirect role. In addition, with the exception of Korea, all the units play either a direct or indirect role with respect to the budgeting for PPP projects.

The **tender phase** includes the invitation to tender, the bid evaluation, negotiations and the bid approval. During the tender phase the dedicated PPP units in Germany, Korea and South Africa play a mostly indirect role, with the procuring government agency playing the direct role. However, the South African PPP unit is responsible for the bid approval. The Ministry of Finance plays neither a direct or an indirect role in any of the five case studies (with the exception of Korea where the Ministry of Finance plays a direct role with regard to the invitation to tender).

With regard to the **post-award phase** (which includes contract management and payment oversight) most dedicated PPP units only play an indirect role. In Korea the unit plays neither a direct, nor an indirect role. In all five cases the procuring agency plays the direct role. This follows from the nature of the PPP unit as a body that mainly supports procuring organisations. It also follows from the point of departure that, to enhance efficiency and value for money, both the public and private partners need to manage their risk to ensure the maximum value for money. The public partner in this case is the procuring organisation.

### *Lessons to be learned*

The third objective of this report is to distil some lessons from the analysis for countries that have established or are planning to establish PPP units. These lessons concern green lighting of projects, the scope of projects evaluated by the PPP unit, the financing of dedicated PPP units, the staffing of units, and the assessment of units.

- **Green lighting.** The discussion above noted the distinction between the powers of the PPP units in the United Kingdom, Victoria (Australia) and South Africa on the one hand, and those of Germany and Korea on the other. It highlighted that this distinction can be related to the location of the unit. Though not explored in this report, a question remains as to whether or not a unit should be involved in policy formulation, technical support during project implementation and the green lighting of projects, or whether it should limit its role only to the former two. Given the possibility of a conflict of interest between the provision of technical support and the green lighting of projects, when a PPP unit is responsible for both technical support and green lighting projects, there should be a Chinese wall separating these functions within the unit.

- **The scope of projects covered.** One of the major differences between Korea and the dedicated PPP units in the other four case studies is that the Korean unit is strictly speaking not just a PPP unit. It considers all government investment projects, including PPP projects. In the other four case studies, the dedicated PPP units focus only on PPPs. The one significant advantage of unifying the assessment and approval of all government investment projects within one agency is that doing so makes it more likely that the value-for-money and investment criteria applied to PPP and traditionally procured projects are aligned. It might also eliminate a perception that a PPP unit is biased towards the creation of PPPs.

- **Funding of dedicated PPP units.** As mentioned above, dedicated PPP units may be funded from either the government budget, through user charges or a combination of both. Very often the nature of the funding depends on the location of the unit. Whatever the funding model used, in deciding the funding model for a dedicated unit, government should keep in mind that the source of funding might create an incentive structure that influences the behaviour of the PPP unit. For instance, user charges levied on those government entities seeking help, might, if not structured correctly, create an incentive that is biased towards the creation of PPPs. On the other hand, a unit that is solely dependent on the Ministry of Finance for its budget might become biased towards or against PPPs, depending on the political views dominating the Ministry of Finance. Thus, to prevent bias might require clear criteria for funding the PPP unit that ensures that the PPP unit is funded for pursuing value for money. This means that a PPP unit must know that it will also get the necessary funding to fulfil its functions even if it finds that, compared to traditional procurement, most of the projects it considers do not represent an improvement in value for money.

- **The staffing of dedicated PPP unit.** In order to successfully fulfil its functions, a dedicated unit requires expert staff. These include sector specific technical skills as well as experts in economics and finance, regulation, procurement, communications and training. To attract people with the right skills, including people from the private sector, dedicated units have to be able to offer attractive packages to both permanent staff and short-term consultants. In some cases, rigid public sector salary systems may render this difficult. While the public sector might never be a market leader in terms of remuneration, a number of other attributes (*e.g.* interesting and large projects, job security, work-life balance) can make the public sector attractive to highly skilled staff.

- **How should a dedicated PPP unit be assessed?** Expectations and goals for a dedicated unit need to be measurable, realistic and phased in over a period of time. Measuring the success of a dedicated unit based upon the success of a country's public-private partnership programme alone is a problematic measure. In many cases, a dedicated unit is only one actor involved in the project procurement cycle. A dedicated unit's success should be measured by whether or not it carries out its functions successfully: the quality of its advice; the quality of its risk analysis, its ability to provide innovation in projects and its overall enhancement of value for money.

While the impact and quality of these activities can be difficult to measure, both quantitative and qualitative measures should be part of an evaluation of any such unit. The success of the unit should never be measured on the basis of the number of PPPs alone. Indeed, it might even be argued that the success of the unit should not only be judged in terms of the number of PPP projects created that improve value for money, but it should also be judged in terms of the number of PPP projects that it prevented from being created because doing so would not have improved value for money.

Finally, it should be clear that the task of a dedicated unit is not to provide automatic legitimacy for the use of public-private partnerships. Whether or not a PPP is created should, in the first and last instance depend on the nature of the project and more specifically whether or not creating a PPP will improve value for money compared to traditional public procurement.

# Notes

1. This publication uses the term private partner in the singular. Public-private partnerships are, however, often organised by way of a special purpose vehicle (or joint-venture special purpose company). A special purpose vehicle is typically a consortium of companies responsible for all the activities of public-private partnerships. In practice, a consortium includes banks and financial institutions that have experience in the structuring of the capital and financial aspects of PPPs.

2. The Statistical Office of the European Communities (Eurostat, 2004) considers that the main issue in classifying a public-private partnership depends on who bears the most risk. Eurostat recommends that assets involved in a public-private partnership should be classified outside the government sector if both of the following conditions are met: *i)* the private partner bears the construction risk; and *ii)* the private partner bears either the availability risk or the demand risk. The bearer of risk is not always easy to define, and contract design varies. In cases where it is not possible to classify a public-private partnership as on or off the government books, other contract features can be considered, such as if the asset is supposed to be transferred from the private partner to the government at the end of the contract period and at what price. This event is also an important part of the risk sharing.

3. It should also be noted that the government and its private partner may value risk quite differently from one another and subsequently use different market risk pricing methodologies. The government usually uses the social time preference rate and other risk-free discount rates for project appraisals. Private partners tend to include higher discount rates to reflect the higher risk premium to which they are subject.

4. A large soup of acronyms has emerged for public-private partnerships. This report refers to public-private partnerships in general and does not go into specific types – which indeed, vary significantly between countries. There exist a number of variations on design-build-finance-operate (DBFO), buy-build-operate (BBO) and build-operate-transfer (BOT) schemes. Variations of design-build-finance-operate include build-own-operate (BOO), build-develop-operate (BDO), and design-construct-

manage-finance (DCMF) schemes. Variations of buy-build-operate include lease-develop-operate (LDO) and wrap-around addition. Finally, variations of build-operate-transfer include build-own-operate-transfer (BOOT), build-rent-own-transfer (BROT), build-lease-operate-transfer (BLOT) and build-transfer-operate (BTO) schemes. See Hemming (2006).

5. Legislated fiscal targets are contained in primary law (*e.g.* the Constitution and legislation). Political targets may constitute a political commitment by the government or a coalition agreement between political parties that form the majority of the legislature. Treaty mandated fiscal targets are contained in supra-national agreements (*e.g.* the European Union Stability and Growth Pact).

6. The responsibilities of Japan's Cabinet Office include economic and fiscal policy.

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# *Chapter 2*

# Dedicated PPP units: five case studies[1]

## Comparing dedicated PPP units

Whereas the previous chapter introduced dedicated PPP units and their general functions across OECD member countries, this chapter examines the institutional architecture surrounding the procurement of public-private partnership projects in five case studies: Germany, Korea, the United Kingdom, the State of Victoria (Australia) and South Africa. These countries have been selected based on their respective experience with public-private partnerships and different country characteristics. All five countries have over ten years of experience with public-private partnerships. The volume and value of their projects range from 19 worth EUR 1.9 billion in South Africa to 450 projects worth EUR 43.3 billion in the United Kingdom (see Table 2.1). The sample includes four OECD member countries and one non-member country; three unitary and two federal countries; as well as four central and one sub-national/state governments.

### *Involvement of the dedicated unit in the procurement cycle*

Table 2.2 presents an overview of the different actors involved in the procurement cycle. The overall picture emerging from the case studies is that the procuring government organisation is directly responsible for each phase of the procurement process, sharing indirect or direct responsibility with the PPP unit in selected stages. The important exception to this is the project approval stage, which in Germany and Korea is the responsibility of the Ministry of Finance, not the PPP unit, and in the United Kingdom, Victoria (Australia) and South Africa is the responsibility of the PPP Unit which is also part of the Department of Finance/Treasury. In South Africa, the National Treasury gives “Treasury Approvals” at various stages of the public-private partnerships procurement cycle: after the feasibility study, procurement, and value-for-money report, and when the project agreement management plan is finalised. In other words, when deciding on whether or not the project is deemed to be affordable and to provide value for money, the final decision rests with the Ministry of Finance. After project approval, the tendering stage and post-award stage is handled by the procuring government organisation assisted by the PPP unit (and in some cases the Ministry of Finance), assuming that the results of the tendering process adhere to the project approval parameters.

**Table 2.1. Overview of dedicated PPP units in the five case studies**

| | Dedicated PPP unit | Volume of projects[1] | | Value of projects[2] | |
|---|---|---|---|---|---|
| | | Awarded | Pipeline | Awarded | Pipeline (estimate) |
| **Germany[3]** | Partnerships Germany | 123 | 153 | EUR 3.5 billion | EUR 5.2 billion |
| **Korea[4]** | PIMAC | 415 | 154 | KRW47.7 trillion (EUR 26.7 billion) | n/a |
| **United Kingdom[5]** | PPP Policy Team | 668 | 117 | GBP 55.2 billion (EUR 62.5 billion) | GBP 19.01 billion (EUR 21.5 billion) |
| **Victoria (Australia)[6]** | Partnerships Victoria | 18 | 3 | AUD 6 billion (EUR 3.5 billion) | AUD 4 billion (EUR 2.3 billion) |
| **South Africa[7]** | PPP Unit | 19 | 44 | ZAR 21.9 billion (EUR 1.9 billion) | n/a |

1. Awarded projects refer to those that have completed the contract award (and any necessary approvals) and that may have begun construction/operation. Pipeline projects refer to those that have been initiated but have yet to award a contract. The recording of pipeline projects varies between countries. In Korea, pipeline projects include projects that have issued a request for proposal and commenced the tender process. In South Africa, pipeline projects also include those that have been initiated but may not have even undergone a feasibility assessment.

2. Exchange rates for the Korean won (KRW), the British pound (GBP), the Australian dollar (AUD), and the South African rand (ZAR) into euros (EUR) are calculated on spot rates as of 31 August 2009. These rates are: KRW 1 784.32 = EUR 1.00; GBP 0.883 = EUR 1.00; AUD 1.70687 = EUR 1.00; ZAR 11.1228 = EUR1.00.

3. Germany: figures as of June 2009.

4. Korea: No figure is available to distinguish between the value of awarded and estimated pipeline projects. Total awarded and pipeline projects approximated KRW 47.7 trillion as of September 2009, while there are 30 BTO pipeline projects as of September 2009 and 124 BTL pipeline projects as of December 2007.

5. United Kingdom: only refers to PFI projects and does not include other types of PPPs. Figures as of December 2009.

6. Victoria: only refers to public-private partnerships projects initiated since the establishment of the Partnerships Victoria Programme, *i.e.* since 2000.

7. South Africa: figures as of March 2009.

*Source:* Authors' notes.

**Table 2.2. Functions of government organisations, finance ministries and dedicated PPP units in the procurement cycle**

| | Korea | | | Germany | | | South Africa | | United Kingdom | | | Victoria, AUS | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Procuring govt organisation | Ministry of Strategy and Finance | PIMAC (dedicated PPP unit) | Procuring govt organisation | Federal Ministry of Finance | Partnerships Germany (dedicated PPP unit) | Procuring govt organisation | National Treasury PPP Unit (dedicated unit) | Procuring govt organisation | HM Treasury | PPP Policy Team (dedicated PPP unit) | Procuring govt organisation | Partnerships Victoria (dedicated PPP unit) |
| **Pre-tender** | | | | | | | | | | | | | |
| Project initiation | ●(1) | - | - | ● | - | - | ● | ● | ● | ● | ○ | ● | ● |
| Assess feasibility and value for money | ● | ○ | ●(2) | ● | - | ○ | ● | ● | ● | ○ | ● | ● | ● |
| Budgeting | ● | ● | - | ● | ● | ○ | ● | ○ | ● | ● | - | ● | ● |
| Project approval | ● | ● | ○ | - | ● | ○ | ● | ● | ● | ● | ● | ● | ● |
| **Tender** | | | | | | | | | | | | | |
| Invitation to tender | ● | ● | - | ● | - | ○ | ● | ○ | ● | - | - | ● | - |
| Bid evaluation | ● | - | ○ | ● | - | ○ | ● | ○ | ● | - | - | ● | - |
| Negotiation | ● | - | ○ | ● | - | ○ | ● | ○ | ● | - | - | ● | - |
| Bid approval | ● | - | - | ● | - | ○ | ● | ● | ● | - | - | ● | - |
| **Post-award** | | | | | | | | | | | | | |
| Contract management | ● | ○ | - | ● | ○ | ○ | ● | ○ | ● | - | ○ | ● | ○ |
| Payment oversight | ● | ○ | - | ● | ○ | ○ | ● | ○ | ● | ○ | ○ | ● | ○ |

● = direct responsibility, ○ = indirect responsibility, - = not applicable

1. May also come from private sector (unsolicited) public-private partnership.

2. Please see Table 2.10.

*Source:* Authors' notes.

### *Resources (staffing and funding) of dedicated PPP units*

To function well a dedicated PPP unit requires staff expertise: sector specific technical skills, economics and finance, regulation, procurement, communications and training. Units within government organisations that are involved in the provision of infrastructure may already have such expertise.[2] To attract people with the necessary experience, dedicated units have to be able to offer competitive pay and other benefits, which rigid public sector salary systems may make difficult. While the public sector might never be a market leader in terms of remuneration, a number of other attributes (*e.g.* large interesting projects, job security, family-friendly work-life balance) can make the public sector attractive to highly skilled staff.

Table 2.3 presents information on the staffing and budget of the dedicated PPP units in the five countries surveyed. The size of a dedicated PPP unit ranges from 12 people in Victoria, 13 in the United Kingdom PPP Policy Team and between 60 and 70 in Korea's PIMAC. In between are Partnerships Germany and South Africa's PPP Unit with 21 and 22 staff respectively. However, caution should be exercised in interpreting these figures for a number of reasons. The scope of the functions exercised by these units is different, as too are their jurisdictions. In Australia and Germany, the two federal countries surveyed, a number of dedicated PPP units exist in other jurisdictions. In Australia, dedicated units exist in other states (*e.g.* New South Wales and South Australia). In Germany, a large number of federal states also have dedicated units of their own and are not obliged to draw upon the services of Partnerships Germany. Importantly, there might also be a great variation in the use of consultants.

Dedicated PPP units may be funded either directly via the government budget and/or through user charges. User charges are levied on a government organisation to capture the cost, either in part or in full, of services provided to other government organisations. In Germany, user charges are the predominant form of funding of dedicated units.

Both South Africa and Victoria (Australia) fund their respective dedicated units through the government budget. Indeed, both constitute a regular organisational unit within the finance ministry (or equivalent). In Victoria, however, a precise budget total for the unit cannot be easily ascertained because of the appropriations structure of the Department of Treasury and Finance. The Partnerships Victoria budget constitutes part of the budget of the Commercial and Infrastructure Risk Management Group in which it is located. That user fees are not used in South Africa and Victoria also reflects their respective budget systems. Neither use internal charges more generally.[3] In Korea, PIMAC is funded by the Ministry of Strategy and

Finance and fees levied upon line ministry/local government for project support. However PIMAC must consult the Minister of Strategy and Finance on the fees levied.

**Table 2.3. Budget and staffing of dedicated PPP units in the five case studies, 2009**

| | Number of staff[1] | Approximate annual budget[2] | Funding source |
|---|---|---|---|
| **Partnerships Germany** | 21 | n/a | User charges |
| **PIMAC, Korea** | 77 | KRW 17 065 million (EUR 9.56 million) | Government budget and user charges |
| **PPP Policy Team, United Kingdom** | 13 | No discrete budget | Government budget |
| **Partnerships Victoria** | 12 | No discrete budget | Government budget |
| **National Treasury PPP Unit, South Africa** | 20 | ZAR 35 million (EUR 3.1 million) | Government budget |

1. Staff figures do not distinguish between management, specialists and support staff.

2. Exchange rates for the Korean won (KRW) and the South African rand (ZAR) into euros (EUR) are calculated on spot rates as of 31 August 2009. These rates are: KRW 1 784.32 = EUR 1.00; ZAR 11.1228 = EUR 1.00.

3. Staff and annual budget figures in PIMAC include not only PPP programmes but also government-financed programmes.

*Source*: Authors' notes.

## *Performance assessment of dedicated PPP units*

In many of the discussions of dedicated PPP units, there has been little discussion as to how to measure their performance. The World Bank and the Public-Private Infrastructure Advisory Facility (2007) have suggested defining the success of dedicated units by a proxy of the success of a public-private partnership programme in a country. In its discussion, a successful programme is one that provides services that the government needs, offers value for money as measured against public service provision and complies with general standards of good governance and specific government policy (*e.g.* transparent and competitive procurement, fiscally prudent, compliant with the government's legal and regulatory regime).

However, measuring the success of a dedicated unit based upon the success of a country's public-private partnership programme alone is a problematic measure. In many cases, a dedicated unit is only one actor involved in the project procurement cycle. This is not, however, to say that any less attention should be directed at examining the efficiency and effectiveness of projects. A dedicated unit may also be assessed by the quality of its advice, the quality of its risk analysis, and its ability to provide innovation in projects. Indeed, it can even be argued that where a PPP unit plays a gatekeeping regulatory role, its success should not only be measured in terms of the number of viable PPPs that it helped to create, but also in terms of the number non-viable PPPs that it prevented from being created. While the impact and quality of advisory services provided by these units can be difficult to measure, adopting both quantitative and qualitative measures may provide for a more balanced and context-specific evaluation.

For example, in Victoria, *Budget Paper 3 (Service Delivery)* focuses on output and service delivery by departments, including Partnerships Victoria. The output indicators of the Partnerships Victoria units within the Department of Treasury and Finance are not directly distinguishable because of its integration into the Commercial and Infrastructure Risk Management Group. In the 2009-10 budget, the output of the Commercial and Infrastructure Risk Management Group is to provide risk management advice, frameworks and information to ministers, departments, and private infrastructure partners to manage the government’s exposure to commercial and infrastructure project risks. Quantity, quality and cost performance measures are presented for the budgeted fiscal year together with the target and expected outcome for the current fiscal year, and the actual outcome for the previous fiscal year.

The remainder of this section discusses each of the five countries. The focus is on exploring the roles of the dedicated units *vis-à-vis* the finance ministry (or equivalent) and implementing agency, before discussing the organisation and resourcing (staffing and funding) of the dedicated units.

## Table 2.4. Non-financial performance information for the Commercial and Infrastructure Risk Management Group, Department of Treasury and Finance, State of Victoria, Australia

| **Major outputs/deliverables** *Performance measures* | **Unit of measure** | **2009-10 target** | **2008-09 expected outcome** | **2008-09 target** | **2007-08 actual measure** |
|---|---|---|---|---|---|
| Commercial and risk management advice on projects which facilitate infrastructure and which minimise the government's exposure to risk(1)(2) | Number | 300 | 310 | 189 | 365 |
| Promoting the Gateway process to minimise the government's exposure to project risks(3)(4) | Number | 70 | 112 | 90 | nm |
| Revenue from sale of surplus government land including Crown land (DTF portfolio)(5)(6) | AUD million | 40 | 35 | 30 | 38.9 |
| Services (including policy, procedures and training) which facilitate new infrastructure investment (7) | Number | 30 | 38 | 18 | 19 |
| Service provision rating (ministerial survey data) | Per cent | 80 | 80 | 80 | nm |

1. This performance measure replaces the 2008-09 performance measure "commercial and risk management advice on projects which facilitate new infrastructure and which minimise government's exposure to risk". The 2009-10 performance measure is the same as the 2008-09 measure except the omission of the word "new" to reflect measurement of commercial and risk management advice on new and existing infrastructure.

2. The 2008-09 expected outcome exceeds the 2008-09 target due to a greater than anticipated workload following the merging of the 2008-09 outputs "commercial and infrastructure project management" and "government land and property services".

3. The 2008-09 expected outcome exceeds the 2008-09 target due to an increase in the number of Gateway reviews, Gateway training and products provided by the Gateway Unit in 2008-09.

4. The 2009-10 target is below the 2008-09 expected outcome as it will incorporate measurement of Gateway reviews only. The performance measure "services (including policy, procedures and training) which facilitate new infrastructure investment" will include measurement of other Gateway services including training.

5. The 2008-09 expected outcome exceeds the 2008-09 target and is based on the number of properties expected to be sold in 2008-09.

6. The 2009-10 target reflects an increase in the number of estimated properties likely to be identified as surplus to requirements by departments and agencies.

7. The 2008-09 expected outcome exceeds the 2008-09 target due to a greater than anticipated workload following the merging of the 2008-09 outputs "commercial and infrastructure project management" and "government land and property services".

*Source:* Department of Treasury and Finance, *www.dtf.vic.gov.au*, accessed 31 August 2009.

## Germany

In Germany, 144 public-private partnership projects (132 building construction; 12 transport) worth EUR 5.6 billion have currently been awarded and a further 126 projects worth EUR 5.2 billion are in the preparation stage.[4] Build-transfer-operate models[5] are the most common type of public-private partnerships. Other types include build-renovate-operate-transfer and lease-develop-operate.[6] Germany distinguishes between three broad types of projects: building construction, transport and movables (*i.e.* vehicles, aircraft, information technology, and technical equipment). The majority of projects relate to building construction, a few to transport. A large proportion of the approved projects – approximately one-third (42 of the 144) – are geographically concentrated in the federal state of North-Rhine Westphalia. To date, public-private partnerships have accounted for 2-4% of total public sector investment. The government aims to increase the contribution of private partnership projects to 15% of total public sector investment (German Ministry of Finance, 2008).

### *Legal framework*

The PPP Acceleration Act (2005) adjusts the general legal, financial and technical framework for public-private partnership in Germany. The Act came into force in September 2005 and led to changes in a number of German laws – including those for procurement, tax, public road fees, budget and investment – to eliminate impediments related to PPPs. Although public-private partnerships were legally possible prior to the Act, they were considered legally disadvantaged relative to traditional public procurement. A number of policy goals were also outlined in the explanatory statement for the Act, including the provision of central guidance through manuals and standardised contracts and the establishment of centres of excellence.

To support the development of public-private partnerships, a number of guidelines have been developed by federal ministries and federal states since the 2005 PPP Acceleration Act. These cover the legal framework for public-private partnerships, project assessments and contract relationship management. Some also focus on particular sectors (*e.g.* education).

**Table 2.5. Public-private partnerships in public construction works in Germany, as of June 2009**

| | Projects awarded | | Projects in the pipeline | |
|---|---|---|---|---|
| | Number of projects | Project value (million euros) | Number of projects | Project value (million euros) |
| Schools/training centres | 54 | 1 375 | 42 | 1 260 |
| Sports/cultural facilities | 36 | 670 | 29 | 415 |
| Administrative buildings | 25 | 655 | 17 | 675 |
| Car parks/logistics centres/ miscellaneous | 8 | 115 | 18 | 280 |
| Hospitals | 4 | 490 | 17 | 1 860 |
| Federal buildings (barracks) | 2 | 315 | 11 | 565 |
| Prisons | 3 | 200 | 2 | 100 |
| Total | 132 | 3 820 | 136 | 5 155 |

*Sources:* Federal Ministry of Finance; Partnerships Germany.

Since the passage of the 2005 Act, a number of developments have indicated moves to further simplify Germany's institutional framework to better support public-private partnerships. A November 2005 coalition agreement stipulated a desire to facilitate participation of medium-size businesses in public-private partnerships. In April 2006, a working group was set up to study how to further simplify the legal framework including issues of sales tax, investment restrictions and project sponsorship.

Institutional responsibilities for public-private partnerships at the federal level in Germany are shared between the Federal Ministry of Finance and *Partnerschaften Deutschland-ÖPP Deutschland AG* (Partnerships Germany). The Federal Ministry of Finance is in charge of co-ordinating public-private partnerships within the federal government. The ministry co-operates closely in this matter with the Federal Ministry of Transport, Building and Urban Development. Within the Federal Ministry of Finance, Division II B6 has the lead role in policy issues, including the development of the government's public-private partnership strategy, legal framework and co-ordination between the federation, the federal states and the local authorities. A PDPT (*Partnerschaften Deutschland* project transfer) special unit is responsible for co-ordinating the federal government's public-private partnership activities with other countries and international organisations.

**Box 2.1. Supporting guidelines for public-private partnerships in Germany**

***A Guide to Efficiency Analysis for PPP Projects*** (2006) sets a minimum standard for conducting efficiency analysis of public-private partnership projects by ministries and local governments in all sectors. The guide was prepared by the conference of federal state finance ministers, in close co-operation with the federal government.

***PPP Good Practice Guide: Guidelines for Public-Private Partnerships*** (2008) contains insights into the know-how and practical experiences of professionals in public sector construction and members of the federal public-private partnerships expertise network. The guide was prepared by the Federal Ministry of Transport, Building and Urban Development together with the German Savings Bank Association and the central organisations representing local government.

***Guide to PPP and Legislation Governing Support*** (2006) is a user-oriented guide commissioned by the former federal PPP Task Force to determine whether or not planned projects are eligible as a public-private partnership.

***Study on PPP for Schools, with Procedural Guides and Model Contracts*** (2008) is a guide designed to facilitate the implementation of public-private partnership projects within the education sector. The study was commissioned by the PPP Task Force of the Federal Ministry of Transport, Building and Urban Development.

Partnerships Germany was established in January 2009 as a central unit to provide advisory services to public sector clients (*e.g.* the federal government, the federal states, the municipalities). It aims to provide general and project specific advice to the public sector on public-private partnerships. General advice includes the development of the legal and institutional framework and standards, knowledge transfer between all actors involved in public-private partnerships and identification of priority areas for government attention. On a project basis, Partnerships Germany may provide professional advice to government organisations when developing, tendering and managing the implementation of public-private partnership projects. During the project inception and preparation stages this may include structuring, contract preparation, negotiating with banks, regulatory bodies and bidders, and audit.

Partnerships Germany has replaced the Federal Public-Private Partnership Steering Committee and its Task Force established in the Federal Ministry of Transport, Building and Urban Development in 2002. This Task Force was established to develop a framework for the procurement cycle, standardised contracts, economic feasibility comparisons, and for knowledge transfer. The Committee included representatives from all the stakeholders engaged in public-private partnerships at the federal, federal states and municipal levels, as well as representatives from the construction and banking sectors. It was supported by a staff unit under the Federal Ministry of Transport, Building and Urban Development.

The decision to establish Partnerships Germany reflected a number of considerations including:

- the desirability of having a central consulting service for public-sector clients in all public-private partnership sectors;
- the need to bring together individuals from both the private and public sectors in the consulting process;
- the need to create a better understanding through access to individual, neutral and credible project advice.

A number of federal states have also established their own dedicated PPP units to support government organisations to procure and manage public-private partnerships projects. Beginning with North-Rhine Westphalia that created a PPP Task Force in 2001, many other federal states followed in 2004 and 2005. However, the structures and competencies of these centres are very heterogeneous, raising calls by the federal government for a more homogeneous approach. A number of federal states have not established dedicated PPP units to date, *e.g.* Brandenburg and Saarland. Connecting the various units at the federal state level, a federal PPP network (*Föderales PPP Netzwerk*) exists between the federal government, federal states and municipalities help to facilitate reciprocal knowledge transfers vertically between different levels of government and horizontally between federal states. The implementation of the recommendations that are worked out in this way occurs on a voluntary basis.

## Table 2.6. Institutional arrangements for public-private partnerships in Germany

| Level of government | Year | Unit(s) | Under the authority of | Sectors | Level of government | Steering Committee |
|---|---|---|---|---|---|---|
| **Federation** | 2008 | ÖPP Deutschland AG | Federal Ministry of Finance | Construction | F, FS, M | No |
| | 2008 | Transport Infrastructure Financing Corporation | Federal Ministry of Transport, Building and Urban Development | Transport | F | No |
| **Baden-Württemberg** | 2004 | PPP Task Force | FS Ministry of Economy | Construction[1] | FS[1] | Yes[1] |
| **Bavaria** | 2004 | PPP Working Group | Supreme Building Authority; FS Ministry of Home Affairs | Construction and transport | FS, M | Yes[2] |
| **Berlin** | | | Finance Administration | | FS, M | No |
| **Brandenburg** | 2004 | Department | FS Ministry of Finance | Construction and transport | FS | No |
| **Bremen** | 2004 | Department | Senator for Environment, Construction, Transport and Europe | Construction and transport | FS, M | No |
| **Hamburg** | 2004 | Department | Finance Authority | Construction and transport | FS, M | No |
| **Hessen** | 2005 | PPP Centre of Excellence | FS Ministry of Finance | Construction and transport | FS (building); M (consulting) | Yes[3] |
| **Mecklenburg-Western Pomerania** | 2008 | Department | FS Ministry for Transport, Building and Regional Development | Construction and transport | FS | No |
| | | Department | FS Ministry of the Interior | Construction | M (financial supervision of the municipalities) | No |
| **Lower Saxony** | 2005 | PPP Competence Network | FS Ministry of Economy, Employment and Transport | Construction | FS, M | Yes |
| **North-Rhine Westphalia** | 2001 | PPP Task Force | FS Ministry of Finance | Construction and transport | FS, M | No |

### Table 2.6. Institutional arrangements for public-private partnerships in Germany *(cont'd)*

| Level of government | Year | Unit(s) | Under the authority of | Sectors | Level of government | Steering Committee |
|---|---|---|---|---|---|---|
| **Rhineland-Palatinate** | 2001 | PPP Competence Network | FS Ministry of Finance | Construction and transport | FS, M | Yes[4] |
| **Saarland** | 2001 | Department | FS Ministry of Economy and Employment | Construction and transport | FS, M | No |
| **Saxony** | 2001 | Department | Saxon State Ministry of Finance | Construction and transport | FS, M | No |
| **Saxony-Anhalt** | 2005 | PPP Task Force | FS Ministry of Finance | Construction and transport | FS, M | No |
| **Schleswig-Holstein** | 2004 | PPP Team | FS Ministry of Finance | Construction and transport | FS, M | No |
| **Thuringia** | 2004 | PPP Working Group | FS Ministry of Construction and Transport | Construction and transport | FS, M | No |

F = Federal; FS = Federal State; M = Municipal

1. Baden-Württemberg: Transport projects are the responsibility of the FS Ministry of Home Affairs; state projects are the responsibility of the FS Ministry of Finance; steering committee established in November 2004.

2. Bavaria: Steering committee includes representation from Building Authority, FS Ministry of Finance, FS Ministry of Economy, FS Ministry of Home Affairs, municipal associations, association of building industry, audit institutions.

3. Hessen: Advisory Board, Group "PPP in Hessen".

4. Rhineland-Palatinate: Working group established in December 2005.

*Source*: Federal Ministry of Finance, Germany.

## *Procurement cycle*

Every ministry carries out its own procurement of public-private partnerships within the framework of procurement law. Ministries follow the *Guide to Efficiency Analysis for PPP Projects* to evaluate possible projects. A PPP helpdesk has been set up at Partnerships Germany to provide public sector representatives with access to expert, neutral and non-binding initial advice. Partnerships Germany may be contracted by public sector clients at any stage of the procurement process to provide advice on procurement as a public-private partnership project. As in most countries, the federal Ministry of Finance has final say – it verifies the project's underlying estimates and makes the budget appropriations for PPP procurement (see Table 2.2).

**Table 2.7. Responsibilities in the public-private partnership procurement cycle in Germany**

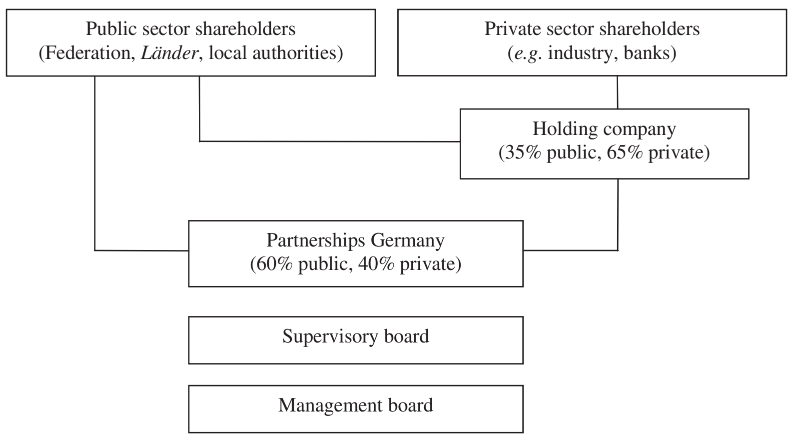
| **Stage** |
|---|
| Determining the needs financeability and profitability |
| PPP test for suitability |
| Preliminary decision for or against continuing to pursue various PPP options |
| Drawing up conventional comparative values (public sector comparator) |
| Provisional examination of profitability |
| Preliminary decision for or against call for tender |
| Determining the maximum amount to be appropriated in the budget (budget readiness) |
| Appropriation in budget and call for tender |
| Final profitability analysis |
| Final decision on awarding and signing of contract |
| Project controlling |

*Source*: Federal Ministry of Finance, Germany.

## *Organisation and resources*

Partnerships Germany currently has two executive directors and 21 members. It is funded solely by user charges paid by government organisations for advisory services. However, the public sector is free to hire any other consultancy and is not under any obligation to hire Partnerships Germany for project advice. Partnerships Germany has shareholding from both the public and the private sector, with the public sector having the majority holding. Sixty per cent of shares are held by public bodies and 40% are held by private companies via a holding company (with a distribution of shares to different economic sectors). At present, public shareholding within Partnerships Germany is by the federal government, by the federal states Schleswig-Holstein and North-Rhine Westphalia, and by the German Association of Towns and Municipalities (DStGB). The intention is that more federal states and municipal governments become shareholders in 2010.

**Figure 2.1. Organisation and ownership structure of Partnerships Germany**




*Source*: Federal Ministry of Finance, Germany.

## Korea

The Korean government defines a public-private partnership as an initiative that involves the public and private sectors to provide infrastructure and public services.[8] Build-transfer-operate (BTO) and build-transfer-lease (BTL) are the most common types of projects. Build-transfer-operate projects typically include transportation services (*e.g.* roads and railways). Build-transfer-lease projects, introduced through a legislative amendment in 2005, have been used to build and reconstruct schools, dorm facilities and military residences, as well as to expand and improve sewerage systems. As of September 2009, 569 projects were in various stages of review, construction and operation, including 203 BTO projects worth KRW 66.1 trillion and 366 BTL projects worth KRW 19.7 trillion. The government's medium-term expenditure plan for 2007-11 caps public-private partnership project expenditures to 2% of annual budget expenditure.

### Table 2.8. Characteristics of build-transfer-lease and build-transfer-operate projects in Korea

| | Build-transfer-lease projects | Build-transfer-operate projects |
|---|---|---|
| Investment/recovery | Lease payment (fixed revenue) | User fees<br>Construction subsidy<br>Minimum revenue guarantee[1] |
| Project risk | Little demand risk on concessionaire | Demand risk on concessionaire |
| Return | Low risk, low return | High risk, high return |
| Eligibility | Solicited projects only | Both solicited and unsolicited projects |

1. The minimum revenue guarantee (MRG) was abolished in October 2009.

*Source*: Ministry of Strategy and Finance and Korea Development Institute (2008), *Building a Better Future through Public-Private Partnerships in Infrastructure in Korea*, Ministry of Strategy and Finance, Seoul.

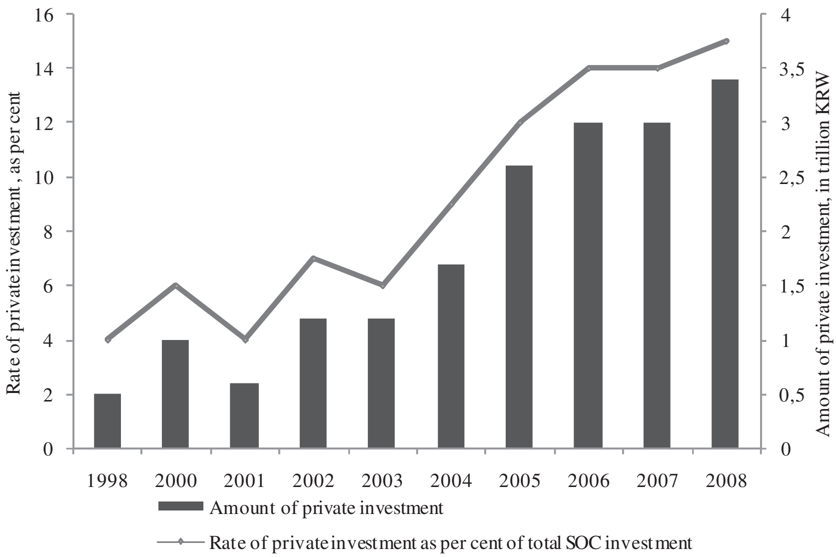
### Table 2.9. Status of Korean PPP projects, as of September 2009[1]

| | BTL | BTO | | | Total |
|---|---|---|---|---|---|
| | | National | Local | Sub-total | |
| Under operation | 142 | 29 | 81 | 110 | 252 |
| Under construction | 92 | 32 | 12 | 44 | 136 |
| Contract awarded | 8 | 10 | 9 | 19 | 27 |
| Under negotiation | 79 | 15 | 9 | 24 | 103 |
| Request for proposals (RFPs) announced | 45 | - | 6 | 6 | 51 |
| Sub-total | 366 | 86 | 117 | 203 | 569 |
| Total | 366 | 203 | 569 | | |

1. All BTO numbers and BTL numbers excluding the projects under negotiation and RFPs announced are calculated as of September 2009. The BTL projects under negotiation and RFPs announced are as of December 2007.

*Source*: Ministry of Strategy and Finance and Korea Development Institute (2008), *Building a Better Future through Public-Private Parterships in Infrastructure in Korea*, Ministry of Strategy and Finance, Seoul.

**Figure 2.2. Trends in private investment in Korea, 1998-2008**




SOC: Social Overhead Capital, *i.e.* infrastructure investment by the central government.

*Source*: Ministry of Strategy and Finance and Korea Development Institute (2008), *Building a Better Future through Public-Private Partnerships in Infrastructure in Korea*, Ministry of Strategy and Finance, Seoul.

## *Legal framework*

Korea introduced public-private partnerships with the enactment of the Promotion of Private Capital into Social Overhead Capital Investment Act (PPP Act) in August 1994. The PPP Act precedes the other related laws that regulate specific sectors such as the Toll Road Act, the Railroad Construction Act and the Harbor Act. The PPP Act defines the eligible infrastructure sectors, the roles of public and private entities, and the procurement process as well as procedures for conflict resolution/termination. The Act has since been amended twice, in December 1998 and January 2005. The changes introduced in both years have been a broadening of eligible sectors and investors. More importantly in the context of this report, the 1998 amendment established a dedicated PPP unit in the Private Investment Center of Korea (PICKO). Amendments in 2005 subsequently transferred authority of the functions of PICKO to its current location in the Public and Private Infrastructure Investment Management Center (PIMAC) at the Korea Development Institute (KDI).

The PPP Act is supported by an Enforcement Decree and the Basic Plan for PPPs. The Enforcement Decree regulates matters delegated by the PPP Act and those necessary for the enforcement of the Act, *e.g.* the Basic Plan, implementation procedures and management of project, the Infrastructure Credit Guarantee Fund. The Basic Plan articulates the government's policy directions on public-private partnerships, detailed project implementation procedures, financing and re-financing guidelines, risk-sharing arrangements and payments of government subsidies, support and incentives. Guidelines and standards have also been developed for specific sectors to support project implementation, including feasibility and value-for-money tests, requests for proposals and standard agreements for both build-transfer-operate and build-transfer-lease facilities, as well as for project refinancing. Output specifications have also been developed for a number of different sectors (*e.g.* education, defence, environment and culture).

**Box 2.2. Korea Infrastructure Credit Guarantee Fund**

The Korea Infrastructure Credit Guarantee Fund (ICGF) was established under the PPP Act 1994 to guarantee the credit of a private partner that intends to obtain loans from financial institutions for a public-private partnership project. The Fund is managed by the Korea Credit Guarantee Fund and funded by the Ministry of Strategy and Finance using government subsidies, guarantee fee and investment returns. It guarantees loans and borrowing from financial institutions by concessionaires as well as infrastructure bonds. This can be done up to KRW 100 billion for a single company (or where unavoidable, then KRW 200 billion). When the project guaranteed by the Fund defaults, the ICGF subrogates on behalf of the project company.

### *Institutional responsibilities*

Responsibility for public-private partnerships in Korea is shared between the procuring line ministries/local governments, the Ministry of Strategy and Finance and PIMAC. Within this division of responsibility, procuring line ministries/local governments develop and oversee sector-specific investment plans and policies which include public-private partnerships. Major procuring line ministries include the Ministry of Culture, Sports and Tourism; Ministry of Education, Science and Technology; Ministry of Environment; Ministry for Health, Welfare and

Family Affairs; Ministry of Land, Transport and Maritime Affairs; and Ministry of National Defence.

The Ministry of Strategy and Finance is responsible for developing and implementing public-private partnership policies – including the PPP Act and its Enforcement Decree – formulating national investment plans and the state budget. These functions are located within the Economic Budget Bureau of the Budget Office. The Bureau has two divisions that work on public-private partnerships. The Private Participation in Infrastructure Planning Division is responsible for investment planning of build-transfer-operate projects. The Private Participation in Infrastructure Project Management Division is responsible for investment planning of build-transfer-lease projects.

Importantly, the Ministry of Strategy and Finance chairs the high level PPP Review Committee that must give final approval to projects as in most countries (see Table 2.2). The rationale for the ministry having the final say obviously relates to PPP budget obligations (*e.g.* construction subsidy, revenue guarantee and/or government payment). This Committee is chaired by the Minister of Strategy and Finance and its members include the Vice Minister for procuring line ministries, as well as private sector experts. The Private Participation in Infrastructure Planning Division, discussed above, serves as a secretariat to the PPP Review Committee.

PIMAC is located within the Korea Development Institute, an autonomous policy-oriented research organisation that was established in 1971. PIMAC provides support to the government both for traditional procurement and public-private partnership projects. With respect to public-private partnerships, PIMAC has four major functions. First, it provides policy research and strategy, including the development of the Basic Plan for PPPs on behalf of the Ministry of Strategy and Finance. Second, it provides technical support to the Ministry of Strategy and Finance to review proposed public-private partnership projects using feasibility studies and value-for-money tests, as well as to formulate request for proposals and other necessary project documentation. Third, it promotes public-private partnership projects to foreign investors. Finally, it develops education programmes on public-private partnership systems to line ministries/local governments and private partners.

Three factors supported the original decision to establish a dedicated PPP unit in Korea. First, it was a response to a perceived lack of government expertise in the development and evaluation of public-private partnership projects following their establishment as a policy instrument in 1994. Second, concern had been raised over a lack of transparency, excessively complicated procedures, unattractive risk-sharing arrangements and insufficient incentives for private sector participation in public infrastructure. Third, concern existed over the level of public investment in the aftermath of the 1997 east Asian financial crisis – and raised the urgency to respond visibly to the two challenges raised above.

### *Procurement process*

Table 2.10 outlines the procurement cycle for public-private partnerships in Korea. It distinguishes between build-transfer-lease and build-transfer-operate projects, and between solicited and unsolicited build-transfer-operate projects. It identifies the responsibilities of the procuring line ministries/local governments (the competent authority), the Ministry of Strategy and Finance and PIMAC. Reference to the Ministry of Finance and Strategy in the table includes both the PPP Review Committee where decisions are required and the Economic Budget Bureau of the Budget Office to factor decisions into the state budget.

PIMAC is involved in the procurement process of all projects – build-transfer-lease and both solicited and unsolicited build-transfer-operate. It reviews the value-for-money tests prepared by competent authorities for all build-transfer-lease projects and solicited build-transfer-operate projects that exceed KRW 20 billion. Under the PPP Act, PIMAC is entitled to conduct value-for-money tests for all unsolicited projects. PIMAC submits the result of the test for the private proposal with its opinion to the concerned ministry/local government and the Ministry of Strategy and Finance. If the concerned ministry/local government decides to proceed with the project based on the result of the value-for-money test, it must notify a request for alternate proposals to invite other private parties for competitive bidding. The other steps in the procurement process are broadly similar to solicited projects. PIMAC is not, however, responsible for designation of a project as a public-private partnership.

## Table 2.10. Responsibility in the public-private partnership procurement cycle in Korea

| Stage | Build-transfer-lease projects | Build-transfer-operate projects | |
|---|---|---|---|
| | | Solicited | Unsolicited |
| Identification of proposed project | Competent authority[1] | Competent authority | Private sector |
| Preliminary feasibility study, if applicable[2] | PIMAC | PIMAC | PIMAC |
| Determination of aggregate investment ceiling for project | MoSF | n/a | n/a |
| Feasibility/value-for-money test | Competent authority reviewed by PIMAC | Competent authority reviewed by PIMAC (if more than KRW 20 bilion) | PIMAC |
| Approval by National Assembly | MoSF to National Assembly for approval | n/a | n/a |
| Designation as PPP project[3] | Competent authority | Competent authority | Competent authority |
| Announcement of request for proposals (for solicited projects) or alternative proposals (for unsolicited projects)[3] | Competent authority | Competent authority | Competent authority |
| Submission of project/alternative proposals (if applicable) | Private sector | | |
| Evaluation and selection of preferred bidder | Competent authority | | |
| Negotiation and contract award (designation of concessionaire)[4] | Competent authority with preferred bidder. Input may be solicited from PIMAC | | |
| Application for approval of detailed implementation plan | Concessionaire to the competent authority | | |
| Construction and operation | Concessionaire | | |

MoSF = Ministry of Strategy and Finance
PIMAC = Public and Private Infrastructure Investment Management Center

1. Competent authority refers to procuring line ministries/local governments.
2. A preliminary feasibility study is required under the National Fiscal Act for investment projects that exceed a certain threshold size. A preliminary feasibility study is required if the proposed public-private partnership project costs more than KRW 50 billion and requires a central government subsidy of more than KRW 30 billion.
3. Deliberation by the PPP Review Committee is required for build-transfer-lease projects that exceed KRW 100 billion and build-transfer-operate projects that exceed KRW 200 billion.
4. Deliberation by the PPP Review Committee on a concession agreement and designation of a concessionaire is required for build-transfer-lease projects that exceed KRW 100 billion and build-transfer-operate projects that exceed KRW 200 billion.

*Sources:* Authors' notes; Korean authorities.

### *Organisation and resources*

The mandated mission of PIMAC is twofold: the evaluation of publicly financed investment projects, and the administration and support of PPP projects in Korea. To function as the supporter of both the publicly financed projects and the PPP infrastructure projects, PIMAC is structured into three separate divisions: the Policy and Research Division, the Public Investment Evaluation Division and the Public-Private Partnership (PPP) Division. Efficient management of PPP projects requires that the market environment and changes in various circumstances be timely incorporated into policy. The Policy and Research Division conducts policy research and does so independently of actual project implementation to give feedback to and assist the government in deciding its policy direction and institutional arrangement. According to the National Finance Act, the Public Investment Evaluation Division is mandated to carry out the execution and management of publicly financed infrastructure projects. Preliminary feasibility studies are carried out at the planning stage of a project to examine the proposed project's objectives, economic feasibility, policy appropriateness and value for money. According to the PPP Act, the Public-Private Partnership Division is mandated to provide actual administrative and technical support in the process of PPP project preparation and implementation. The division develops guidelines for PPP procurement, conducts value-for-money tests and assists in formulation of requests for proposals (RFPs), tendering and negotiation.

Approximately 80 people staff PIMAC, of whom 42 work in the PPP Division. PIMAC is fully funded by the Ministry of Strategy and Finance, but its additional resource comes partly from fees levied upon line ministries/local governments for services provided. However, PIMAC must consult the Minister of Strategy and Finance about its fees. Overall the approximate annual budget of PIMAC amounts to KRW 17 065 million or EUR 9.56 million. The Managing Director of PIMAC reports annually to the Minister of Strategy and Finance.

## South Africa

The South African government defines a public-private partnership as a contract between a public sector institution/municipality and a private partner, in which the private partner assumes substantial financial, technical and operational risk in the design, financing, building and operation of a project. Three types of public-private partnerships are specifically defined: where the private partner performs an institutional/municipal function and the institution/municipality pays the private partner for the delivery of the service; where the private partner acquires the use of state/municipal property for its own commercial purposes and the private partner collects a fees or charges from users of the service; or a hybrid of these types. The system does not allow for unsolicited bids as they are considered difficult to manage and as having the potential to threaten a level playing field among firms.

Pioneering public-private partnership projects were undertaken between 1997 to 2000 by the South Africa National Roads Agency for two major toll roads; by the Departments of Public Works and Correctional Services for two maximum security prisons; by two municipalities for water services; and by South Africa National Parks for tourism concessions. As of February 2009, 63 projects were in various stages of the procurement cycle: inception, preparation, and construction/operation. There are currently 19 projects under construction/operation worth approximately ZAR 21.9 billion. Among these projects, design-finance-build-operate-transfer are the most common types. The view is held in the PPP unit that investment through PPPs in South Africa is unlikely to exceed 20% of the total public service investment in any given year (Dachs, 2006).

**Table 2.11. Status of public-private partnership projects in South Africa (as of February 2009)**

| | Under construction/ operation | Negotiations | Procurement | Feasibility | Inception | Total |
|---|---|---|---|---|---|---|
| **National** | 16 | 0 | 4 | 6 | 9 | 35 |
| **Provincial** | 0 | 1 | 2 | 5 | 1 | 9 |
| **Public entities** | 1 | 0 | 1 | 9 | 1 | 12 |
| **Municipalities** | 2 | 1 | 3 | 7 | 4 | 17 |
| **Total** | 19 | 2 | 10 | 27 | 15 | 63 |

*Source:* National Treasury PPP Unit website, *www.ppp.gov.za*.

## *Legal framework*

At a national and provincial level, and in public entities, PPP projects are governed by the Public Finance Management Act (Act 1/1999); Treasury Regulation 16 on Public-Private Partnerships (16 January 2004); and National Treasury Practice Notes. The legal framework at the national and provincial level is mirrored at the level of municipalities by the Municipal Finance Management Act (Act 56/2003); Municipal Treasury Regulations (2005); and National Treasury/Department of Provincial and Local Government Municipal Service Delivery and PPP Guidelines (2007). This section will focus on the procedures at the national and provincial level.

The Public Finance Management Act designates the heads of national and provincial departments (as "accounting officers") and the chief executive officers or boards of public entities (as "accounting authorities") as responsible for the effective and efficient management of their budgets to achieve their public mandates. Within this legislative framework, public-private partnerships represent one service delivery mechanism to ensure value for money. Treasury Regulation 16 defines the exclusive competency of accounting officers, the various stages of the public-private partnerships procurement cycle and associated National Treasury approvals, management and amendment of project agreements.

A Public-Private Partnership Manual and standardised project provisions are issued as by the National Treasury as "PPP Practice Notes". These notes outline the legal framework and different requirements of the procurement cycle. A Code of Good Practice for Black Economic Empowerment in Public-Private Partnerships is one of the Treasury PPP Practice Notes issued as part of the Manual in accordance with South Africa's Broad-Based Black Economic Empowerment Act (2003).

### *Institutional responsibilities*

Institutional responsibilities for public-private partnerships in South Africa are divided between national and provincial departments, public entities and municipalities, and the National Treasury's PPP Unit. National and provincial departments, as well as public entities, are directly responsible to the Parliament/elected legislature for the implementation of projects under the Public Finance Management Act. The accounting officer/authority establishes a project team to manage the project budget and handle communication about the project to all concerned parties. (S)he reviews and approves the documents needed for treasury approvals during various stages of project development. The project team comprises four key positions. The appointment of the project advisor creates the obligation upon the department/public entity to involve the National Treasury's PPP Unit from the first stage of the procurement process.

**Box 2.3. National Treasury PPP Practice Notes**

- Standardised PPP Provisions (National Treasury PPP Practice Note Number 01, 2004)
- Module 1: South African Regulations for PPPs (National Treasury PPP Practice Note Number 02, 2004)
- Module 2: Code of Good Practice for Broad-based Black Economic Empowerment in PPPs (National Treasury PPP Practice Note Number 03, 2004)
- Module 3: PPP Inception (National Treasury PPP Practice Note Number 04, 2004)
- Module 4: PPP Feasibility Study (National Treasury PPP Practice Note Number 05, 2004)
- Module 5: PPP Procurement (National Treasury PPP Practice Note Number 06, 2004)
- Module 6: Managing the PPP Agreement (National Treasury PPP Practice Note Number 07, 2004)
- Module 7: Auditing PPPs (National Treasury PPP Practice Note Number 08, 2004)
- Module 8: Accounting Treatment for PPPs (National Treasury PPP Practice Note Number 09, 2004)
- Module 9: An Introduction to Project Finance (National Treasury PPP Practice Note Number 10, 2004)

A dedicated PPP unit was set up in the South African National Treasury in 2000 to streamline the preparation, negotiation and post-award contract management of public-private partnerships. It was implemented following the recommendations of an inter-departmental task team set up in 1997 by the South African Cabinet to develop a package of policy, legislative and institutional reforms to support the development of public-private partnerships – and a Municipal Infrastructure Investment Unit in the Ministry of Provincial and Local Governments, to provide support to municipalities involved in public-private partnerships.[9] The PPP Unit issues detailed toolkits, policy manuals and standardisation tools for departments/public entities and oversees the projects from inception through contract conclusion. It also provides technical assistance and capacity building to public sector organisations and appoints a PPP Unit Project Advisor to projects to provide specific direct technical assistance.

**Box 2.4. Key positions with a PPP project team in South Africa**

- **The accounting officer/authority** provides overall direction to the project, obtains all necessary Treasury approvals and is the signatory of the project agreement with the private partner, as well as an anti-corruption policy for the project. During project implementation, the accounting officer/ authority is responsible for ensuring that the project agreement is appropriately enforced.

- **The project officer** manages the project agreement full-time from project preparation until at least the first few years of the delivery. This requirement is designed to ensure institutional memory and support the development of a durable relationship with the client. The project officer is a public servant within the relevant implementing department/public entity.

- **The transaction advisor** works on the legal, technical and financial aspects of the project agreement. This includes, among other things, preparing a project feasibility study, preparing the necessary documents for Treasury approval as well as providing support during the first few years of project construction/operation. The transaction advisor does not have to be a public servant; (s)he may be an external consultant hired specifically for the project.

- **The National Treasury (PPP Unit) project advisor** supports the relevant department/public entity throughout the procurement cycle including preparation and implementation throughout the full project term. The project advisor also helps the accounting officer/authority to apply for Project Development Funds available through the National Treasury, to establish a project team and other key project activities.

Finally, the National Treasury gives “Treasury Approvals” at various stages of the public-private partnerships procurement cycle: after the feasibility study, procurement, and value-for-money report, and when the project agreement management plan is finalised.

The move to establish the National Treasury's PPP Unit served as a filter to exclude fiscally irresponsible projects while reassuring investors of the government's interest in public-private partnership projects and the soundness of the domestic legal framework. The creation of the PPP Unit was driven primarily by Treasury's concerns over a specific project proposed by the Ministry of Public Works, a 30-year build-operate-transfer contract for two prisons. When it found out about the contract, a Treasury review found that while the prisons offered value for money (in the sense of being better value than a public sector alternative), there were affordability issues. It was decided to create a dedicated PPP unit in order to streamline project development and Treasury involvement.

The National Treasury's PPP Unit has also established and manages a Project Development Facility, a "single-function trading entity" to help government departments/public entities pay a part of the costs needed for the transaction advisors.[10] The funds are not grants. Rather, the funds are recovered from the successful private partner at the time of financial closure through a "success fee". Funding, however, is only provided after the approval of the feasibility study by the National Treasury to ensure that funding does not influence the results of the feasibility study. The facility has a limited life span, however. It is expected to close its operations in 2014 when it is hoped that public-private partnerships will be sufficiently well established and will be completely funded through the budget of the respective department/ public entity. Initial funds for the facility came from the South African government together with bilateral and multilateral donors. In this regard, donors are also able to fund specific projects based on pre-defined sectors and/or geographic areas.

### *Project procurement cycle*

The project procurement cycle is divided into six phases: inception, feasibility study, procurement, development, delivery and exit. According to the Public Finance Management Act, the heads of national and provincial departments (accounting officers) and the boards of public entities (accounting authorities) are responsible for implementing of public-private partnership projects. They are directly responsible to the Parliament/elected legislature and need to evaluate the value for money. During this process, the National Treasury gives "Treasury Approvals" at different stages of the public-private partnerships procurement cycle: after the feasibility study, procurement, and value-for-money report, and when the project agreement management plan is finalised. Typically procurement timelines range from 41 weeks (ten months) to 103 weeks (approximately two years).

## Table 2.12. Public-private partnership procurement cycle in South Africa

| Phase | Description |
|---|---|
| Phase 1: Inception | The accounting officer/authority registers the proposed project with the National Treasury PPP Unit. The accounting officer/authority appoints a project officer and the PPP Unit will appoint a project advisor. |
| Phase 2: Feasibility study | The accounting officer/authority conducts a project feasibility study including a needs analysis, a solutions options analysis, a project due diligence assessment and a value assessment. An economic valuation may also be required. |
| | The project team prepares a project procurement plan, including a project timetable, availability of funds, list of potential challenges, project stakeholders, project team, bid evaluation process, and list of required approvals. |
| Treasury Approval I (feasibility assessment) | The project team submits the feasibility report and project procurement plan to the National Treasury PPP Unit for approval prior to preparing the bid documents and draft project agreement. |
| Phase 3: Procurement | The project team and project officer must prepare the request for qualification documents. |
| Treasury Approval IIA (request for qualification documentation) | Request for proposal submitted by the project team to the National Treasury for approval. |
| Phase 3: Procurement *(cont'd.)* | The request for qualification is published and the submissions evaluated by the project team against the project documents to select a list of pre-qualified bidders to participate in a request for proposal. |
| Treasury Approval IIB (request for proposal documentation) | The request for proposal and the draft PPP agreement are submitted to the National Treasury for approval. |
| Phase 3: Procurement *(cont'd.)* | The request for proposal is sent to pre-qualified bidders to prepare their bids. Upon receipt of the bids, the project team evaluates them. This involves technical evaluation, evaluation by the Evaluation Co-ordination Committee and the Project Evaluation Committee. |
| Treasury Approval III | Once the PPP agreement is negotiated, legal due diligence is completed and approval is granted, the project team must request Treasury Approval III. |
| Phase 3: Procurement *(cont'd.)* | Proposal together with the draft PPP project agreement is published and the bids evaluated against the feasibility study to select a preferred bidder by the project team. |
| Phase 4: Development | Project is developed. |
| Phase 5: Delivery | The project team manages performance of the project to ensure that the project remains affordable and is in accordance with the project agreement. |
| Phase 6: Exit | The project team assesses the project deliverables, integrates lessons from the partnership and prepares a post-implementation review. |

*Source*: National Treasury PPP Unit, *www.ppp.gov.za*.

### *Organisation and resources*

The PPP Unit consists of six "desks". A project evaluation division (two professionals) is responsible for overall evaluation of national and provincial projects, and a municipal desk (three professionals and one consultant) provides a similar role for municipal projects. In addition, an IT desk (one professional) evaluates any information technology component within projects. A financial analysis desk (three professionals) reviews the value for money in all projects using a public sector comparator tool, and a performance monitoring and evaluation desk (two professionals) examines contract management during project implementation. Finally, a business development desk (two professionals) is responsible for media, publications and presentations. In total the PPP Unit has a staff of 20 people including 13 professional and six administrative staff. This can be compared to when the Unit was established in 2000 with only five professional staff. All employees are paid in accordance with government pay scales. The PPP Unit is funded similar to other divisions in the National Treasury.

The National Treasury acknowledges significant shortages of professional staff that have experience in a host of different disciplines required by the PPP Unit. The government must compete with the higher wages and the career development offered by the private sector. In response to these challenges the PPP Unit has taken an approach to attract talented recent university graduates and provide them with extensive on-the-job training.

## United Kingdom

According to HM Treasury, a Private Finance Initiative (PFI) is an arrangement whereby the public sector contracts to purchase services, usually derived from an investment in assets, from the private sector on a long-term basis (often between 15 to 30 years) so as to take advantage of private sector management skills incentivised by having private finance at risk. HM Treasury distinguishes PFIs from other forms of private sector involvement, some of which might be classified as PPPs in other countries. For instance, PFIs are distinguished from concessions, strategic infrastructure partnerships, integrators and alliances (HM Treasury, 2008). The government describes PFI as a small but important part of the government's strategy to deliver high quality public services. There are currently 668 Private Finance Initiative projects in operation with a total capital value of GBP 55.2 billion, constituting 10-15% of the total public investment in the United Kingdom (HM Treasury, 2009).

### *Legal framework*

There is no specific law governing the regulation of Public Finance Initiative projects. Three Private Finance Initiative policy documents have been issued by HM Treasury including: *Meeting the Investment Challenge* (2003); *Strengthening Long-Term Partnerships* (2006); and *Infrastructure Procurement: Delivering Long-Term Value* (2008).

### *Institutional responsibilities*

A number of organisations are involved in PPP/PFI policy and project management in the United Kingdom. In addition to the sponsoring government departments and local authorities, there are a number of bodies inside HM Treasury that play key roles in PPP review and approval (see Figure 2.3). HM Treasury's Corporate and Private Finance Unit is located within HM Treasury and within this unit is the PPP Policy Team. The PPP Policy Team is the PPP unit responsible for the approval of PPP/PFI deals in England, with PPP/PFI deals in Scotland, Wales and Ireland being the responsibility of the devolved administrations of Scotland, Wales and Ireland. The PPP Policy Team manages the PPP/PFI programme and market. The overall aim of its activities is to ensure that projects deliver value for money and that the PPP/PFI market develops. The PPP Policy Team is responsible for policy development and support to departments/local authorities developing PPP/PFI projects. It also scrutinises PPP/PFI business cases and provides input to the Major Projects Review Group (MPRG) and the Project Review Group (PRG). The MPRG operates within HM Treasury and scrutinises all major central government projects, not just PFI/PPP projects. The PRG oversees the approval process for local authority PFI projects receiving government support and is chaired by the head of the PPP Policy Team (see the following section on the role of the Treasury).

The government of the United Kingdom also developed a standardised PFI contract (referred to as SoPC4), and the PPP Policy Team is responsible for its updating and publication. The PPP Policy Team develops policy for the Operational Taskforce and the Infrastructure Finance Unit (see Figure 2.3). The latter will extend loans where PFI projects are unable to obtain loans. Created in 2009 amid the global financial crisis, this lending is intended to be temporary, until normal market conditions return. To ensure that no clash of interest occurs, the unit will operate at arm's length from the procuring departments. The Operational Taskforce was set up by Treasury in 2006 to provide help, support and guidance to the public sector managers of operational PFI/PPP projects. The Taskforce advises and provides guidance on a wide range of operational issues including the development of contract management strategies, benchmarking, market testing, managing variations, refinancing and other issues that occur during the operational phase of a contract.

In addition to HM Treasury and its PPP Policy Team, Partnerships UK also supports PFI projects. Established in 2000, Partnerships UK is a PPP that has operational independence and therefore operates at arm's length from HM Treasury. The private sector owns 51% of its equity, with HM Treasury and the Scottish Executive owning respectively 44% and 5%. Partnerships UK activities are limited to working with the public sector (*i.e.* it does not support or advise private sector companies). Its activities include the support of projects, the development of procurement and investment policies, and investment in projects and companies through Partnerships UK Ventures.

Chapter 1 highlighted the functions of PPP units. It noted that the functions of a dedicated unit may include policy guidance and green lighting of projects, and technical support to and capacity building in government organisations, as well as PPP promotion. In England the PPP Policy Team is responsible for all of these activities (with the devolved administrations being responsible for these in the case of Scotland, Wales and Ireland), while Partnerships UK's role is limited to technical support, capacity building and PPP promotion. Therefore, what in many countries is performed by a single PPP unit, is, in essence, in England performed by two entities; the PPP Policy Team and Partnerships UK (the same would be true for the devolved administrations).

However, this will change in the course of 2010. In December 2009, the Chancellor of the Exchequer announced the establishment of Infrastructure UK (IUK). According to HM Treasury, Infrastructure UK will:

- develop a strategy for the United Kingdom's infrastructure over the next 5 to 50 years, to be published at Budget 2010;
- identify and attract new sources of private sector investment in infrastructure;
- manage the government's investment in the 2020 European Fund for Energy, Climate Change and Infrastructure;
- support HM Treasury in prioritising the government's investment in infrastructure;

- support the delivery of major infrastructure projects and programmes and help build stronger infrastructure delivery capability across government.

Infrastructure UK will consolidate in one body the PPP Policy Team and the Infrastructure Finance Unit. It will also, subject to agreement, include in this body the capabilities within Partnerships UK that support the delivery of major projects and programmes.

### *Role of HM Treasury (and the PPP Policy Team) in the approval of PPPs*

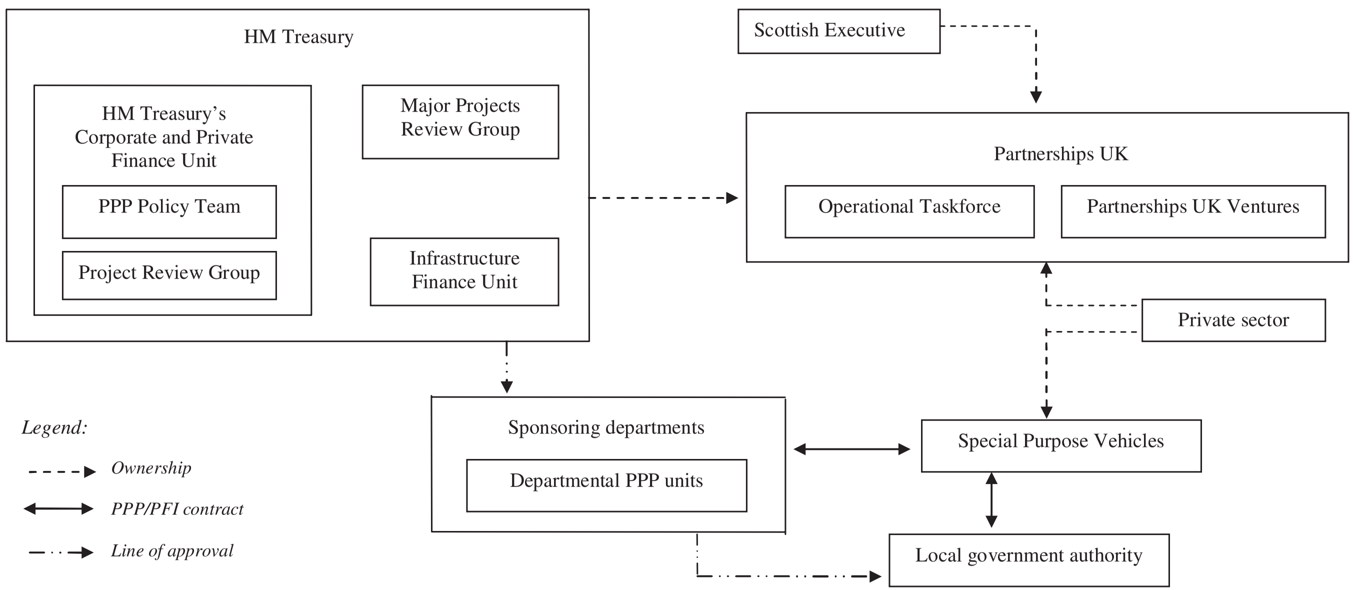
As discussed in HM Treasury (2008), all spending needs approval by the Treasury. However, in practice the Treasury allows departments to spend their budgets as they see fit (subject to the internal approval processes of the departments) if the expenditure is below a limit set by the Treasury. Above that limit, Treasury approval is required, *i.e.* the largest projects (be they procured through PFI or through another mode of procurement). PFI projects must have received all departmental approvals before the Treasury will consider the Outline Business Case for approval. Treasury approval is required before the project issues a notice in the *Official Journal of the European Union* (OJEU).

## Victoria, Australia

The State of Victoria, Australia defines a public-private partnership as the provision of infrastructure and any related ancillary service that involves private financing in which the present value of payments to be made by the government (and/or by consumers) exceed AUD 10 million over the partnership period. Under this definition, the procurement of services without public infrastructure is not considered to be a public-private partnership.

There are currently 18 public-private partnership projects worth approximately AUD 6 billion that have been prepared under the Partnerships Victoria programme.[11] This accounts for 10% of total public asset investment in Victoria. At the time of this publication, a further three projects worth approximately AUD 4 billion were under preparation. In comparison to other states and territories in Australia, Victoria has one of the largest public-private partnership programmes.

**Figure 2.3. Organisational structure of institutions involved in UK PPP/PFI ownership, management and approval**




*Sources*: Authors' notes; United Kingdom authorities.

**Table 2.13. Public-private partnership investment in infrastructure projects in Australia since 2000[1]**

| | Volume of projects | Value of projects, in AUD million (in EUR million) |
|---|---|---|
| Australian government | 2 | 706 (412.8) |
| Australian Capital Territory | 0 | 0 |
| New South Wales | 16 | 8 000 (4 677.8) |
| Northern Territory | 1 | 600 (350.8) |
| Queensland | 2 | 2 500 (1 462.1) |
| South Australia | 1 | 40 (23.4) |
| Tasmania | 1 | 90 (52.6) |
| Victoria | 18 | 6 000 (3 509.1) |
| Western Australia | 1 | 200 (117.0) |
| Total | 42 | 18 136 (10 603.5) |

1. Data for Victoria until 2009; data for federal and other state and territory governments until 2006.

*Source:* Australian Productivity Commission (2009), *Public Infrastructure Financing*, Australian Productivity Commission, Canberra.

## *Legal framework*

National Policy and Guidelines issued in November 2008 provide a common framework for Australian federal, state and territory governments for public-private partnerships. This is supplemented with state specific guidelines issued by their respective public-private partnership authorities. In Victoria, all public-private partnership projects entered into by state budget sector agencies are required to comply with both the National Policy and Guidelines and Partnerships Victoria specific guidelines. The application of national and state policies to the provision of infrastructure by a public enterprise is determined on a project by project basis. The National Policy and Guidelines are considered largely consistent with the previous public-private partnerships policy framework in Victoria prior to November 2008.[12] Both the national and Partnerships Victoria policies and guidelines are described as seeking value for money, innovation, market competition and good project governance. A number of state-specific objectives have also been identified in Victoria's policy framework. These include maximising social and economic returns from government expenditure, promoting growth and employment opportunities for the whole of Victoria and managing contracts in a proactive, practical and constructive manner.

## *Institutional responsibilities*

The management of public-private partnerships projects in Victoria is shared between the procuring relevant portfolio minister and Partnerships Victoria. Portfolio ministers have to appoint an appropriately skilled and resourced procurement team, led by a project director, responsible for project delivery. Senior representatives of the Department of Treasury and Finance and, where appropriate, other agencies, are represented on all project steering committees and project working groups.

The Department of Treasury and Finance is the public-private partnership authority in Victoria and is responsible for establishing the policy and regulatory framework, supporting and reviewing projects, monitoring and independently advising the Treasurer and Cabinet on significant public-private partnership policy and project issues. To assist the department in fulfilling its task, Partnerships Victoria was created in 2000 within its Commercial and Infrastructure Risk Management Group. Partnerships Victoria is responsible for policy guidance. In addition to the policy and regulatory functions of the Department of Treasury and Finance, Partnerships Victoria also provides technical support and capacity building to portfolio ministries.

## *Procurement process*

Table 2.14 outlines the procurement cycle for public-private partnerships in Victoria. It identifies the responsibility of procuring government agencies, Partnerships Victoria and the different gateway review teams.

The procurement process is conducted in line with the government's Gateway Initiative. The initiative is a government-wide project led by the Victoria Department of Treasury and Finance to improve the selection, management and delivery of infrastructure and ICT projects in the State of Victoria. A core element of the initiative is the "gateway reviews" to help government departments and agencies to align investment with the government's strategic and value-for-money objectives. Gateway reviews are conducted by a team of experts, independent of the project team. In total there are five gates, or key decision points, that are assessed by an independent gateway review team in the preparation of public-private partnership projects: strategic assessment, business case, readiness for market, readiness for service and benefits evaluation.

**Table 2.14. Key approval steps in PPP procurement for government agencies in the State of Victoria, Australia[1]**

| | Responsibility |
|---|---|
| Identification of proposed project | Government agency |
| Development of business case, procurement option analysis, together with preliminary public sector comparator and public interest test. | Government agency |
| Gate 1 (Strategic Assessment): review of initial project development, business case and procurement options analysis, preliminary public sector comparator and public interest test. | Gateway Review Team |
| Gate 2 (Business Case): review of business case and procurement options analysis, preliminary public sector comparator and public interest test. | Gateway Review Team |
| Government approval of project and procurement method based on the business case and public interest test and the procurement options analysis. | Government agency |
| Approval of release of expressions of interest. | Government agency |
| Gate 3 (Readiness for Market): approval of the public sector comparator (may be earlier than this point). | Gateway Review Team |
| Approval of release of request for proposals and evaluation of responses by project team. | Government agency |
| Approval of contract execution note and financial close (within three months of financial close). | Government agency |
| Approval of project contract summary (within three months of financial close). | Government agency |
| Gate 5 (Readiness for Service): the portfolio minister in consultation with the Treasurer approves the Contract Administration Plan (within three months of financial close). | Gateway Review Team |
| Ongoing requirement for material contract variations to be considered and approved. | Subject to existing delegation authority |
| Gate 6 (Benefits Evaluation): one or more benefits evaluation reviews should be conducted by the procuring agency, in consultation with the Department of Treasury and Finance. | Gateway Review Team |

1. Public-private partnership projects are not subject to Gate 4 reviews (tender decisions) in accordance with the Gateway Review Process.

*Source*: Victoria Department of Treasury and Finance (2009), *National PPP Guidelines: Partnerships Victoria Requirements*, Department of Treasury and Finance, Melbourne, Victoria, Australia.

### Box 2.5. Public-private partnership authorities in Australia

Owing to the country's federal structure, a multitude of authorities exist to procure public-private partnerships in Australia. At both state and federal levels it is typical for the government agency that will bear ultimate responsibility for operating a project to be the procuring authority. Each state and territory has, however, appointed a lead government agency to implement PPP-related policies. Among these, only three state/territory governments (New South Wales, South Australia and Victoria) have established dedicated units.

- Australian Capital Territory: Australian Capital Territory Department of Treasury;
- New South Wales: New South Wales Treasury (Private Projects Branch);
- Northern Territory: Northern Territory Department of the Chief Minister;
- Queensland: Queensland Treasury, in association with the Queensland Co-ordinator General and the Queensland Department of State Development, Trade and Innovation;
- South Australia: South Australian Department of Treasury and Finance (Projects and Government Enterprises Branch);
- Tasmania: Tasmanian Department of Treasury and Finance;
- Victoria: Victoria Department of Treasury and Finance (Partnerships Victoria);
- Western Australia: West Australian Department of Treasury and Finance;
- Federal: Department of Finance and Deregulation (as well as the Department of Defence for defence-related public-private partnerships).

In 2004, the National PPP Forum comprising Treasurers and Finance and Infrastructure Ministers was established to facilitate greater consistency and co-operation across jurisdictions in the delivery of PPPs. At officer level, the National PPP Forum Working Group has met regularly and has been an effective and co-operative inter-jurisdictional arrangement.

In 2008, Infrastructure Australia was established under the portfolio of the federal Minister for Infrastructure, Transportation, Regional Development and Local Government. Infrastructure Australia is an independent federal government agency responsible, among other things, for setting PPP policy and guidelines, through an intergovernmental PPP sub-group. The PPP subgroup members have been drawn from the National PPP Forum Working Group and are from the Australian federal government, as well as from each state and territory government.

The strategic assessment review examines whether or not proposed projects are the best value means of servicing the identified need and whether it aligns with government and relevant departmental or agency strategic plans. The business case review considers whether or not the project options have been fully canvassed and evaluated, whether or not the recommended option is the best value solution. The procurement strategy review questions whether or not the optimum method to deliver the project has been selected in consideration to budget and time constraints, as well as appropriate allocation of project risks to those best able to manage them. The readiness for service review assesses the state of readiness to commission the project and implement the change management required. All together, the procurement process, from project planning to the beginning of contract execution, can extend for two to two and a half years (Victoria Department of Treasury and Finance, 2006). The final gateway is a benefits evaluation to assess whether or not the expected benefits, as outlined in the business case, were achieved and the findings communicated to improve future projects.

During project preparation, the procuring government organisation prepares the business case and constructs a public sector comparator, including the development of output specifications and a reference project. The procuring agency is also responsible during contract management to establish and maintain a robust contract management framework throughout the contract term to successfully deliver the project objectives. This includes establishing appropriate governance structures and effective communication and reporting lines; ensuring that all relevant project staff undertake appropriate training within six months of their appointment; systems to ensure the continuity and retention of project knowledge over the life of the project; risk and dispute mitigation and their reporting; and regular ongoing review of its contract management practices to identify outstanding and emerging issues and take into account recent and anticipated future developments.

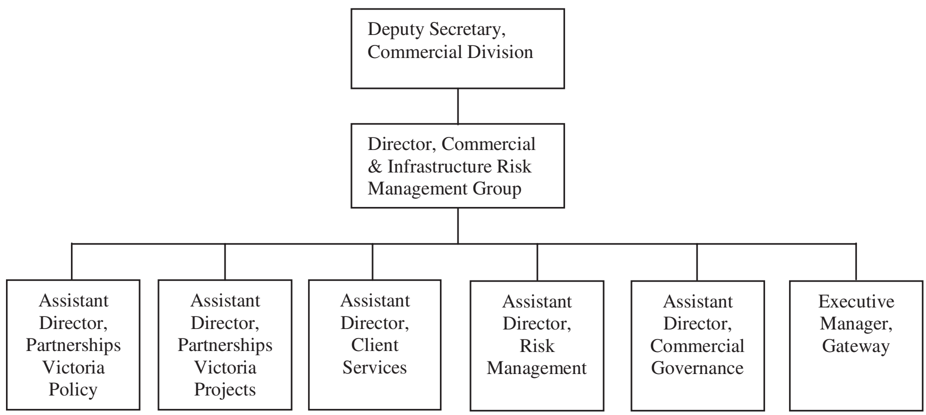
In addition, Partnerships Victoria assists procuring agencies to develop preliminary costings for the main public sector comparator components and review of the preliminary public sector comparator as part of the business case. Partnerships Victoria supports and reviews the contract management, including assisting in risk mitigation and dispute resolution; facilitating knowledge sharing of contract management, including conducting forums for contract managers to share lessons learned and networking with their peers; establishing and implementing professional training programmes for public sector contract directors/managers; and monitoring and independently advising the Treasurer and Cabinet on significant contract management issues.

Partnerships Victoria is, however, not responsible for the gateway reviews; this is done by an independent team, comprising three or four people, appointed by the Department of Treasury and Finance. The review team is selected according to each project's needs and to provide a mix of skills, knowledge and experience. The team should possess project-relevant skills and experience in its current phase in the procurement cycle, and knowledge and understanding of the project's industry sector as well as knowledge of government processes such as the gateway review. Gateway review teams are appointed to be independent from the project, and in the case of high-risk reviews, the independence of the review team from the department is the key to delivering objective, high-quality reviews and reports.

### *Staffing and funding*

Partnerships Victoria has 12 full-time employees including the director of the Commercial and Infrastructure Risk Management Group. Apart from Partnerships Victoria staff, the Commercial and Infrastructure Risk Management Group also includes other commercial advisory services involved in handling infrastructure projects in Victoria. These include executives working on client advisory services, commercial risk management, and commercial governance. In addition, key government departments also maintain experts in PPP policy, *e.g.* the Department of Primary Industries, Department of Human Services, Department of Infrastructure, and Department of Justice. Employees come from diverse backgrounds such as banking, law, economics, finance and engineering. While salaries do not match private sector pay scales, other benefits include job security and involvement in policy development and strategic project delivery. The government funds Partnerships Victoria through the government budget. Precise figures regarding the budget of Partnerships Victoria is not possible because it constitutes one of several units within the Commercial and Infrastructure Risk Management Group.

**Figure 2.4. Commercial and Infrastructure Risk Management Group, State of Victoria, Australia**




*Source*: Victoria Department of Treasury and Finance, Melbourne, Victoria, Australia.

# Notes

1. Chapter 2 draws on information obtained from government websites, as well as interviews with and inputs from relevant government officials.

2. For example, technical sector specific skills may be necessary to understand the nature of the projects that are being prepared. Economics expertise is necessary to conduct cost-benefit analysis of projects, analyse project construction forecasting, model demand for the service, model the true cost of subsidies and contingent liabilities. Financial analysis expertise is necessary to develop cash flow models, conduct sensitivity analysis, cost risk and develop cost recovery models. Corporate finance expertise is necessary to evaluate the financial proposals and to understand the exposure of a private partner to risk. Regulatory expertise is necessary to understand the statutory requirements that projects must meet. Procurement expertise is necessary to develop tender documents, assess firm's due diligence, as well as to manage the receipt and evaluation of bids. Legal expertise is necessary to understand the financial implications of various contractual clauses within contracts, as well as to draft and negotiate contracts.

3. See Q. 64 "Is there a system to charge a price for goods and services provided by one government organisation to another?" (OECD, n.d.)

4. See *www.ppp-projektdatenbank.de*. The database includes all projects that have been signed since 2002 and those that have been advertised since 2009.

5. *Inhaber-Modell* – the asset belongs to the government the entire time.

6. *Miet-Modell* – the private sector designs, builds, finances, operates and manages assets, model works like leasing model, government pays fixed rate for "rent" and facility management, asset may be purchased at the end of contract at market value.

7. The Korean government refers to public-private partnerships and private participation in infrastructure. This publication considers the terms public-private partnership and private participation in infrastructure as synonymous and adopts the former.

8. The Municipal Infrastructure Investment Unit was a non-profit private company which, in 2003, had a Board of Directors comprising 13 individual

representatives from a range of stakeholders but the majority from the private sector. The Unit was a five-year initiative to develop capacity in local markets for project preparation by providing technical assistance and matching grants for municipalities to hire consultants for technical, financial and legal advice.

9. During the first three years of the Project Development Facility, *i.e.* 2004-07, the facility was managed by a contracted financial management firm.

10. Partnerships Victoria was established in 2000. A number of public-private partnerships had been prepared and awarded prior to the Partnerships Victoria Programme.

11. The largest difference between the pre-existing framework in Victoria and the new national framework relates to the discount rate methodology applied when assessing a potential public-private partnership project. Under the pre-existing approach in Victoria, only large and unusual public-private partnership projects were subject to special discount rate rules. A general rule was applied to all other projects. Under the National Guidelines, special discount rules apply to all projects. The national government anticipates that the change in methodology will not have a large impact.

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# *Chapter 3*

# Dedicated PPP units: other OECD member countries[1]

Approximately two-thirds (18) of all OECD member countries report that they have established a dedicated PPP unit in one form or another. This chapter provides a snapshot of the institutional arrangements surrounding public-private partnerships in countries that report having such a unit – at national or sub-national level. But this chapter does not discuss the PPP units in Germany, Korea, the United Kingdom and Victoria (Australia), which are discussed in Chapter 2. The snapshot of each country has been constructed drawing on government websites, annual reports and other sources. That a country does not have a dedicated PPP unit does not necessarily mean that it does not have an active public-private partnership programme.

**Table 3.1. Do dedicated public-private partnership units exist in OECD countries?**

| | Number | Countries[1] |
|---|---|---|
| **Yes** | 17 | Australia, Belgium, Canada, Czech Republic, Denmark, France, Germany, Greece, Hungary, Ireland, Italy, Japan, Korea, Netherlands, Poland, Portugal, United Kingdom |
| **No** | 12 | Austria, Finland, Iceland, Luxembourg, Mexico, New Zealand, Norway, Slovak Republic,[2] Spain, Sweden, Switzerland, United States |

1. No data for Turkey.

2. The Slovak Republic originally reported that it has a dedicated PPP unit. It is the opinion of the OECD that the institutional arrangements do not constitute such a unit under the definition used in this publication. The Budgetary Policy Section and the State Accounts Reporting Section within the Slovak Ministry of Finance formulate regulations and guidelines and provide technical support and supervision of contracting authorities implementing public-private partnerships. The Section of Strategy manages the Operational Programme Technical Assistance funds (EUR 1.5 million). These funds are used, among other things, to finance the cost of advisors for public-private partnership projects. However, the Ministry of Transport, Post and Communication has established a PPP Implementation Unit to support the implementation of three project packages to finance and accelerate the construction of a number of key roads. The dedicated PPP unit carries out all the relevant functions for which the Ministry of Transport, Post and Communication is currently responsible, as well as invest in capacity building and knowledge enhancement.

**Box 3.1. Websites of dedicated PPP units in some OECD member countries**

- **Belgium, Flanders:** Flemish PPP Knowledge Centre, *www2.vlaanderen.be/pps*
- **Canada, Alberta:** Alternative Capital Financing Office, Treasury Board, Government of Alberta, *www.treasuryboard.gov.ab.ca/AlternativeCapitalFinancing.cfm*
- **Canada, British Columbia:** Partnerships British Columbia, *www.partnershipsbc.ca*
- **Canada, Ontario:** Infrastructure Ontario, *www.infrastructureontario.ca*
- **Canada, Québec:** Public-Private Partnerships Québec, *www.ppp.gouv.qc.ca*
- **Canada, federal:** Infrastructure Canada, *www.infc.gc.ca*
- **Czech Republic:** PPP Centre, *www.pppcentrum.cz*
- **Denmark:** Danish Enterprise and Construction Authority, *www.deaca.dk/publicprivatepartnership*
- **France:** *Mission d'appui à la réalisation des partenariats public-privé* (MAPPP), *www.ppp.bercy.gouv.fr*
- **Greece:** Inter-Ministerial Committee, and a Special PPP Secretariat, *www.sdit.mnec.gr*
- **Ireland:** Central PPP Policy Unit, *www.ppp.gov.ie*, and the National Development Finance Agency, *www.ndfa.ie*
- **Italy:** Project Finance Technical Unit, *www.utfp.it*
- **Poland:** PPP Task Force in the Ministry of Infrastructure, *www.centrum-ppp.pl*
- **Portugal:** Parpública SA, *www.parpublica.pt*

## Canada

The Canadian government has a federal character, and a number of provinces have established their own agency responsible for public-private partnerships. These include Alberta's Alternative Capital Financing Office, Partnerships BC (British Columbia), Ontario Infrastructure Projects

Corporation, and the *Agence des partenariats public-privé du Québec*. At the federal level, responsibility for public-private partnerships is shared between Infrastructure Canada and PPP Canada.

**Alberta's Alternative Capital Financing Office** was established as a dedicated PPP unit within the province's Treasury Board. The Office's main functions include: providing policy guidance on public-private partnerships; providing technical assistance to ministries to assess whether or not approved capital projects meet the necessary requirements: and providing oversight and guidance through planning, procurement and implementation. It may also negotiate a public-private partnership on behalf of a ministry. An Advisory Committee on Alternative Capital Financing is composed of private sector representatives and provides recommendations to the Treasury Board on alternative financing of projects and may evaluate projects and business cases referred to it by the Treasury Board.

**Partnerships British Columbia** (Partnerships BC) was established in 2002 under the province's Business Corporations Act as the lead agency in that province for long-term concessions. The British Columbia Ministry of Finance is its sole shareholder. The main functions of Partnerships BC include the provision of policy guidance and technical assistance to public organisations to evaluate, structure and implement public-private partnerships. Public sector agencies include ministries, Crown corporations, health authorities, post-secondary institutions, boards of education, local and federal governments.

Partnerships BC is structured into three units. A Partnerships Services Unit develops policies and practices, provides legal and procurement services, and is charged with knowledge management and research. A Partnerships Development and Delivery Unit focuses on business development, project governance and delivery, and market development. The Finance and Administration Unit is responsible for internal operations and contract management. In 2008-09, Partnerships BC employed 40 full-time staff, including contract staff. Partnerships BC is funded from user fees for services not directly related to milestone events specified in project plans and contracts (work fees), as well as successful achievement of pre-established milestones (milestone fees) and from an annual provincial government service contract.[2]

Partnerships BC is governed by a Board of Directors that reports to the British Columbia Ministry of Finance (its sole shareholder) on the operations of Partnerships BC. The Board is supported by two subcommittees. The Audit and Risk Management Committee provides oversight of key financial information and reviews the company's risk management, internal controls and information systems. The Human

Resources and Governance Committee assists the Board on human resource issues, compensation matters and the establishment of a plan of continuity and development for senior management.

The **Ontario Infrastructure Projects Corporation** (hereafter, Infrastructure Ontario) was established in 2005/06 as a Crown corporation, to manage the implementation of major infrastructure projects other than power supply. The Ontario Power Authority is responsible for the provision of major power supply contracts. Infrastructure Ontario's main functions include the provision of technical support to government ministries, the promotion of the provinces' public-private partnership market, and the financing of select projects.

Infrastructure Ontario is structured into five units. The Project Delivery Unit is responsible for managing the planning, design and delivery of major public infrastructure projects, including procurement, negotiation and project management. The Nuclear Procurement Project Team is a special purpose team that supports the government's plan to develop new nuclear power generation capacity. The Project Assessment Unit is responsible for developing and planning potential "alternative financing and procurement" projects. The Infrastructure Lending unit is responsible for Infrastructure Ontario's OSIFA Loan Programme, which provides Ontario municipalities, universities and other public sector entities with access to low cost loans to build and renew local public infrastructure. The Human Resources and Information Technology Unit is responsible for developing the internal strength to meet Infrastructure Ontario's needs in information technology and personnel, including the development of staff programmes. Infrastructure Ontario's expenses are financed through a grant from the Ministry of Public Infrastructure Renewal.

Infrastructure Ontario's corporate governance structure is set out in the Ontario Infrastructure Projects Corporation Act 2006. It is governed by a Board of Directors appointed by the Lieutenant Governor in Council. The Board is supported by three committees. The Audit Committee is responsible for overseeing Infrastructure Ontario's risk management and financial reporting. The Credit and Risk Management Committee has to ensure that Infrastructure Ontario adheres to the Credit Risk Policy and the Asset Liability Management Risk Policy approved by the Board of Directors, to recommend policies to the Board of Directors and to monitor Infrastructure Ontario's risk profile. The Governance and Compensation Committee has to make recommendations to the Board of Directors with respect to the composition of the Board of Directors and its committees, and promote a set of corporate governance principles aimed at fostering a healthy governance culture at Infrastructure Ontario.

The ***Agence des partenariats public-privé du Québec*** (Public-Private Partnerships Québec, hereafter "PPP Québec") was established in 2005 to advise the government on the implementation and structure of public-private partnerships. PPP Québec's main functions include the provision of technical assistance to the government on all public-private partnership matters including the evaluation, selection and negotiation of projects, as well as support in contract management.

PPP Québec is arranged into project teams covering various ministries and a unit for administration and communication. In March 2008, PPP Québec had 35 staff, 21 of whom were professionals working specifically on projects. It is financed from user fees received from government ministries, funds received through an agreement with the province's Treasury and transfers of government assistance. A code of ethics and conduct exists for the Board of Directors and its staff. A number of committees support the Board. Among them are an Audit Committee, a Credit and Risk Management Committee and a Governance and Compensation Committee.

**Infrastructure Canada** was set up as a separate department under the Transport, Infrastructure and Communities portfolio in August 2002. Infrastructure Canada acts as the main reference for the government on infrastructure, aids the government in meeting infrastructure needs and supports infrastructure initiatives throughout Canada. Infrastructure Canada also has the responsibility for overseeing and co-ordinating the Building Canada plan across participating federal departments and agencies. Infrastructure Canada has three funds that directly support the Building Canada plan: Public-Private Partnerships Fund (CAD 1.26 billion); the Building Canada Fund (CAD 8.8 billion), and Gateways and Border Crossing Fund (CAD 2.1 billion). While the PPP Fund specifically targets public-private partnership projects, recipients of the other two funds are required when planning infrastructure projects to give due consideration to whether projects may be delivered as a public-private partnership.

**PPP Canada Inc.** is a Crown corporation established in January 2009 and is tasked with identifying federal PPPs and assessing public-private partnership projects seeking federal infrastructure funding. It manages and invests the government's CAD 1.26 billion Public-Private Partnerships Fund (P3 Fund), advising the government on public-private partnership project execution and assessing public-private partnerships options for major projects seeking funding from federal infrastructure programmes.

## Czech Republic

The institutional responsibility for public-private partnerships in the Czech Republic is shared between individual ministries, regions and municipalities as project sponsors on one hand, and the Ministry of Finance – the Office for Regulation and Methodology of PPP Projects and the PPP Centre – on the other hand.

The **Office of Regulation and Methodology of PPP Projects** within the Ministry of Finance is responsible for the legislation framework and for co-ordinating the various approaches to public-private partnerships pursued by ministries and local government authorities. A public-private partnership secretariat has four staff members in the Ministry of Finance and co-ordinates between the project sponsors, the PPP Centre and the Cabinet. Authority to decide on a public-private partnership application, determine the expected outcome and to implement a project is the responsibility of the relevant state administration and self-administered bodies in charge of public services and/or infrastructure provision. The Cabinet gives final approval twice during the process – once for the feasibility study and once for the public-private partnership contract.

The **PPP Centre** was established as a joint-stock company by government decree in July 2004 to advise the Ministry of Finance and sponsoring agencies on public-private partnerships and to co-ordinate the preparation and implementation of public-private partnerships projects. Its functions include establishing procedures and manuals for public-private partnerships, providing technical support to ministries and local self-government authorities to prepare projects and serves as a knowledge centre for project implementation.[3] The Centre assists both local self-governing authorities and central state institutions. The PPP Centre was established following the recommendations of the World Bank and with the support of a European Commission Twinning Project (2006).[4]

In establishing the Centre, the government expressed an expectation that all government authorities would draw upon the resources of the PPP Centre and since 2007, guidance is mandatory for central state institutions. The Centrum is currently present at all Project Boards of pilot public-private partnerships projects except the D3 project of the Ministry of Transport. The Centre's role is advisory in nature; it does not have an authorisation or executing role. The Centre has a staff of 15 and an annual budget of approximately EUR 6 million. The Centre receives payment on a fee-paying basis. It has no budget to specifically provide assistance and support to public sector authorities on a reduced rate basis but is expected to compete in the commercial advisory market. The Centre is overseen by a supervisory board comprising representatives from the Ministry of Finance, the Ministry of Labour and Social Affairs and other central government institutions.

## Denmark

The Danish PPP Unit is situated in the Danish Enterprise and Construction Authority (which is part of the Ministry of Business and Economic Affairs). The Danish Enterprise and Construction Authority is broadly responsible for enterprise and construction policy. Its job is to develop a competitive, market-based growth environment for companies and it accomplishes this in co-operation with the corporate sector, business associations and other public sector actors. In accordance with a ministerial order of August 2004, the Danish Enterprise and Construction Authority changed its name from the National Agency for Enterprise and Housing. Activities associated with urban renewal and social housing were subsequently transferred to the Ministry of Social Affairs.

Its primary role is consulting and not managerial. The tasks of the unit are focused on consulting municipalities and regions involved in PPP projects. The task force is funded from the Government's Globalisation Strategy 2006 and started its work in 2007. Members of the PPP Task Force Unit work mainly within areas concerning construction. The Unit produces guidelines and acts as a key counterpart in valuable knowledge sharing in this field. The Unit can co-finance parts of the cost government organisations have in the initial research and tendering processes. It has a staff of five. The unit has supported three PPP projects in different municipalities and regions since the beginning of the Task Force Unit.

## Flanders, Belgium

Flanders, one of Belgium's three regions along with Brussels and Wallonia, established the PPP Knowledge Centre in 2002 within the Flemish Government Policy Service. The Centre is described in the Flemish Parliament Act on Public-Private Partnerships that was promulgated in July 2003. The Centre's main functions are to provide policy guidance on public-private partnerships; to provide technical support to the Flemish administration to design and evaluate public-private partnerships projects; to provide training courses, seminars and information on its internal government platform; and to promote public-private partnerships through dissemination of information policy and market possibilities. The Centre supports these functions by serving as a knowledge centre on public-private partnerships and good practice. The Centre is not responsible for co-ordinating public-private partnership projects. The core team consists of a manager, two senior advisors, two advisors and a management assistant.

## France

Public-private partnerships as discussed in this section largely refer to *contrats de partenariat* (partnership contracts) and excludes discussion of concessions. Partnership contracts are an administrative contract under which the granting authority grants to another entity the right to carry out the design, construction (or renovation/refurbishing), financing, operation, maintenance and/or management of public service assets. They may be applied to all sectors and sector-specific contracts, *e.g.* defence and health. Concessions or *bails emphytéotiques administratifs* are long-term leases granted by a local authority to entitle a private partner proprietary rights on public land used to perform a public service. These are widely used for sizeable infrastructure projects, including toll roads and waste or water treatment facilities. Moreover, concessions cannot be used for projects with little or no user-generated revenues.

The institutional framework for public-private partnerships in France includes:

- the *Mission d'appui à la réalisation des partenariats public-privé* (MAPPP) within the Ministry of the Economy, Industry and Employment;
- the *Agence de maîtrise d'ouvrage des travaux du ministère de la Justice* for public-private partnerships within the jurisdiction of the Ministry of Justice;
- the *Mission nationale d'appui à l'investissement hospitalier* for public-private partnerships within the jurisdiction of the Ministry of Health;
- the Ministry of Budget, Public Accounts and Civil Service;
- the *Institut de la gestion déléguée* (IGD); and
- the *Centre d'expertise français pour l'observation des partenariats public-privé* (CEF-O-PPP).

There is also a body in the Ministry of Defence.

The MAPPP was established in August 2005 as a dedicated PPP unit within the Ministry of the Economy, Industry and Employment to provide guidance on the feasibility and management of public-private partnerships.

It is responsible for the mandatory preliminary evaluation of all partnership contracts that are considered by the French national government. Local governments are not, however, required to consult with the MAPPP as part of the preliminary evaluation of partnership contracts. Public entities may also approach the MAPPP in the preparation, negotiation and follow-up of their partnership contracts. Moreover, it must report on the effective use of partnership contracts and can propose legislative changes to the government. In addition, the Ministry of Budget, Public Accounts and Civil Service is in charge of the affordability, budgeting and accountancy studies and it has issued guidelines on budgeting for public-private partnerships.[5] The final decision to establish a partnership contract, however, is delegated to the Ministry of the Economy, Industry and Employment.

The MAPPP regularly consults with a committee comprising stakeholders from local and central government as well as the private sector. Public authorities and local governments can access services of the MAPPP for free. Advice is provided at all levels of a PPP project formation. It is not compulsory for public authorities to engage the services of the MAPPP for a PPP project. The MAPPP is made up of ten people who are experts from the public and private sectors. It is headed by a president and a secretary-general.[6]

The *Institut de la gestion déléguée* (IGD) was established in April 1996 as an independent, non-profit, private organisation to promote different types of public-private partnerships. Its membership comprises representatives from both the public and private sectors. The IGD is headed by a president, who submits an annual report to the general assembly of the IGD (Martinand, 2006). The *Centre d'expertise français pour l'observation des partenariats public-privé* (CEF-O-PPP) was set up on 27 June 2006 by the IGD and the MAPPP to carry out analysis of public-private partnership projects, exchange ideas and experience, and issue recommendations. The CEF-O-PPP is currently situated within the official premises of the IGD and is operationally managed by the IGD.

## Greece

An Inter-Ministerial Committee and a special PPP Secretariat have been set up by virtue of the PPP Law (Law 3389/2005) to put into practice PPP schemes and to oversee their application. Greece's PPP Law also defines the procuring authority to be the public entity with competence in the relevant sector and includes local governmental authorities; legal entities under public law and *sociétés anonymes* (with share capital subscribed by the mentioned public entities). Under the PPP Law, any work or service belonging to the competence of the public entities may become the subject of a PPP Agreement. However, activities that under the Constitution fall exclusively and directly under the competency of the state are prohibited from becoming a subject of a PPP Agreement. Said activities are in particular defence, police patrolling, the award of justice and the execution of sanctions imposed by the competent courts. Since March 2006, 34 public-private partnership projects worth EUR 4 billion have been approved.

An Inter-Ministerial Committee for Public and Private Partnerships (IM PPP Committee) was set up in 2006 to formulate policies for the implementation of public-private partnership projects. This includes the approval process, the role of the government in the financing of public-private partnership projects, and payment mechanisms for the private partner from the State Investment Programme. The Committee consists of the Minister of Economy and Finance; the Minister of Development; the Minister of the Environment, Planning and Public Works; and ministers relevant to public authorities undertaking public-private partnership projects. The Committee is responsible for approving PPP projects, determines the participation of public bodies and takes other relevant decisions for the PPP sector. It takes decisions based on the recommendations of the Special PPP Secretariat.

A special PPP Secretariat in the Ministry of Economy and Finance provides assistance and support to the IM PPP Committee and to public administrative bodies that want to undertake public-private partnership projects. It identifies potential public-private partnership projects, evaluates projects, promotes public-private partnerships and monitors implementation of public-private partnership contracts. The Secretariat consists of legal, technical and financial advisors and is headed by a Special Secretary for Public and Private Partnerships who reports to the Minister of Economy and Finance. In particular, its objective is to conduct research aiming at identifying potential projects that may be implemented under the PPP structure and estimating the relevant technical, financial and legal parameters. In this respect, a non-binding list of works or services that may be implemented under the PPP structure is prepared by the Special Secretariat.

Afterwards, the Special Secretariat notifies the interested public entities and invites them to submit an application before the Inter-Ministerial Committee that expresses their consent to implementing the project under the PPP structure. The Inter-Ministerial Committee issues a decision approving or rejecting the application. Following the approval decision, the selected public entity undertakes the role of the Procuring Authority under the guidance of the Special Secretariat.

## Hungary

There is no statutory framework for public-private partnerships at the central level.[7] The Civil Code and Public Finance Act have been amended to establish the procedure for long-term financial undertakings by public entities.[8] Eighty-five projects were established between May 2003 and December 2007. PPP projects include road infrastructure (Ministry of Infrastructure), school dormitories (Ministry of Education), school gyms and swimming pools (National Sports Office), and prisons (Ministry of Justice) (Agg, 2007). The Hungarian rules of procedure are structured in a way that involves PPP project ideas into the decision-making process through the competent ministries and it is the competent ministry that is in charge of the project during the whole procedure (elaboration of the project plan, economic calculations, obtaining approval from the government, preparation of the dossier of the appropriate competitive procedure, launching the call for proposals, contract conclusion, etc.).

A PPP Inter-Ministerial Committee was also established in June 2003 under Decree 2098/2003 to manage and co-ordinate public-private partnership projects, to analyse tenders and feasibility reports, and to monitor the implementation of PPP projects. The Committee's members include representatives of the Ministry of Economy and Transport, the Ministry of Finance, the Ministry of Justice, the Prime Minister's Office and the Central Statistics Office. In February 2007, the Committee's responsibilities were changed to ensure better harmonisation with the government's strategy and the use of the funds provided by the European Union as well as broadening its membership to include the National Development Agency.[9]

The Committee is responsible for establishing the prerequisites for the penetration of the PPP structure and for disseminating information on PPP schemes within the public sector. Its core responsibilities include provision of expert opinion on PPP project plans before their presentation to the competent decision-making forum (*e.g.* the Economic Cabinet, or the Parliament); monitoring PPP projects under implementation (which is a priority task) and implementation assessment. Furthermore, the Committee is in charge of developing a methodology for the preparation of PPP projects, for elaborating project plans and the related public procurement procedures, and for contract conclusion as well as the monitoring of PPP projects and developing and communicating the knowledge base in the public sector. Every year an annual report is compiled on the work of the Committee.

A PPP Secretariat in charge of supporting the work of the Committee is located within the Ministry of Economy and Transport. The Secretariat is responsible for providing administrative support to the Committee's work (organisation and recording minutes, etc.), preparing documents to be submitted to the Committee for opinion, operative liaison with competent ministries and PPP project managers, and preparing discussions on the emerged legal and procedural issues to be reviewed by the Committee. The Chairman and members of the PPP Inter-ministerial Committee receive no remuneration for their work carried out in the Committee besides their basic pay.

## Ireland

The State Authorities (Public-Private Partnership Arrangements) Act 2002 regulates public-private partnerships in Ireland. As of May 2006, public-private partnerships had been pursued in a broad variety of sectors by the National Roads Authority, the Department of Education and Science, the Department of Environment Health and Local Government, the Department of Transport and the Rail Procurement Authority, and the Department of Health and the Health Services Executive, the Office of Public Works to name a few.

There are two main bodies set up to oversee public-private partnerships: the Central PPP Policy Unit within the Department of Finance, and the National Development Finance Agency. The key functions of the Central PPP Policy Unit are to develop the legislative framework and technical and policy guidance to support the PPP process, and to disseminate best practice in PPPs. Specific sectoral policy is developed by sectoral PPP units. The Central PPP Policy Unit also chairs an interdepartmental group on public-private partnerships and a public-private informal advisory group on PPPs. The advisory group monitors and reviews the government's national public-private partnership framework and maintains a database of potential private partners for different projects.

In 2003, the National Development Finance Agency (NDFA) was established under the National Development Finance Act 2002. The agency assists public organisations in determining the most efficient means of financing public investment projects. All public-private partnership projects and regular capital projects above EUR 30 million must be referred to the Agency. The NDFA (Amendment) Agency Act 2007 further increased the role of the Agency, allowing it to enter into an agreement on behalf of a public organisation and allowing it to act as an agent for public organisations.[10] The 2007 Act also allows, in certain circumstances, the Agency to raise funds to finance public investment projects and to form a special purpose vehicle for the purpose of securing financing. To date, however, the Agency has not exercised this power.

There are also dedicated PPP units in a number of key government departments such as transport, environment and local government, education and health. The Transport (Railway Infrastructure) Act 2001, for example, establishes the Railway Procurement Agency as an independent statutory public body to procure new metro and light rail infrastructure and services through public-private partnerships, joint ventures or other means, as determined by the Minister for Transport.

## Italy

The two main procuring authorities for public-private partnerships projects are ANAS S.p.A., a state-owned company entrusted with the management of national roads, and RFI, the ANAS equivalent for railroads. Other most frequently involved procurement authorities include the central, provincial and municipal governments; water authorities; and local health authorities. Some regions have incorporated special companies to act as awarding authorities for public-private partnerships in place of other local authorities (*e.g.* Lombardy).

The Project Finance Technical Unit (UTFP) was established within Italy's Inter-Ministerial Committee for Economic Planning in 1999 to provide policy guidance on public-private partnerships to the central government and technical support to government organisations during the course of the procurement cycle, as well as to promote the national public-private partnership market. In 2002, the work of the UTFP was expanded under the Framework Law for Infrastructures (Legislative Decree no. 190/2002) to include preliminary analysis of key infrastructure projects.

More recently, since 2006, the Unit has been integrated into the Department for Economic Policy Programming and Co-ordination within the Presidency of the Council of Ministers. The UTFP has no power to initiate projects, nor are public organisations bound to seek its assistance or to adopt its public-private partnership procurement methodologies that it has developed for a wide range of sectors including transport (road, rail, light rail, airports, ports), network infrastructures (*e.g.* gas and electricity), public parks, sports facilities, healthcare and housing.

The UTFP set up the "4P Council" (Promotion of Public-Private Partnership Council) in 2004. The Council has representatives from the public as well as the private sector and conducts research and conferences to facilitate greater dialogue between both the sectors. A Task Force Network has been set up by the UTFP to develop PPP skills among government personnel. The UTFP is made up of 15 professionals who have experience in the public and private sectors and have expertise in legal, financial and technical fields.

## Japan

The Committee for Promotion of PFI is established in the Cabinet Office. The Prime Minister appoints analysts, academics, experts and specialists to this Committee which deliberates on basic policy and other matters. The PFI Promotion Office is also set up in the Cabinet Office. It provides detailed policy frameworks and guidelines for ministries, departments and local governments.

## Netherlands

Each project is the responsibility of the respective ministry. The public partners in public-private partnership projects are primarily national, regional and local authorities, as well as public law bodies created to fulfil general interest tasks under government control. Public-private partnerships have been adopted in a number of sectors in the Netherlands including transport (road and rail), urban and rural development, utilities, schools and government housing.

A PPP Knowledge Centre was established in January 1999 within the Dutch Ministry of Finance to provide advice and guidance on public-private partnership policies and implementation. It has developed a public sector comparator to support project evaluation, checklists for the different contract types, standard tender documents and guidelines for project procurement and contract management. The Knowledge Centre consists of industry experts and policy makers appointed by the government. Other than those documents that have been published by the Knowledge Centre there is no specific legislation for public-private partnerships in the Netherlands.

The work of the Knowledge Centre is overseen by an Advisory Council and a Steering Group. The Advisory Council consists of private sector experts that meet informally two or three times a year in a personal capacity to discuss the working of the Knowledge Centre and formulate recommendations about the work of the Centre to the Steering Group. The Steering Group consists of representatives from government departments and is responsible for determining the work programme of the Centre. All policy documents and progress reports prepared by the Centre for the

Council of Ministers must be first approved by the Steering Group. It does not closely monitor the progress of individual projects.

## New South Wales, Australia

In New South Wales (NSW), the PPP unit is the Privately Financed Projects Branch within the Commercial Management Directorate of the NSW Treasury. Established in 2000, the PFP branch is responsible for policy guidance, technical support and promotion but has limited involvement in capacity building other than internal to Treasury and does not have direct investment in PPPs. The unit comprises eight people. Similar to the Victoria PPP unit, there is no separate budget allocated to the unit and the unit is funded through the general government budget. The legal framework under which the unit operates is the same as that for Victoria (see Chapter 2).

In terms of staffing and organisation, the New South Wales PPP unit is very similar to that of Victoria. Apart from the PFP Branch, the Commercial Management Directorate also includes the Property and Procurement Branch (comprising the Gateway Review Team) and the Commercial Business Branch. In addition, key government agencies also maintain experts in PPP, *e.g.* the Road and Traffic Authority, Department of Health, and Department of Education and Training.

The New South Wales government engages the private sector in public service delivery in many ways, which may be broadly termed public-private partnerships. Privately financed projects (PFPs) are one type of PPP. PFPs create new infrastructure assets and deliver associated services for a specified period through private sector financing and ownership control.

New South Wales (and Australia generally) as a rule only procure projects using PPPs following the allocation of capital within the relevant government budgetary cycle. Thus, the investment decision is to be made prior to the procurement decision. Generally, the procuring agency initially identifies service-related infrastructure needs, then defines specific projects and undertakes a thorough analysis of the expected net benefits of the investment. The latter will inform the investment decision of government. In addition, departments and agencies undertake an analysis of procurement methodologies to determine the most appropriate method, which in turn will inform the government's procurement decision.

The NSW Gateway Review consists of a series of structured reviews that examine procurements at six key decision points (or gates) in the procurement cycle. These "gates" are strategic, business case, procurement strategy, tender review, pre-commissioning and post implementation. For the purposes of capital expenditure reviewed by NSW Treasury, Gateway Reviews are mandatory only at the business case gate. However, as a matter of good business practice, agencies are encouraged to conduct Gateway Reviews at all six "gates" in the procurement process, independently of the procurement method.

In New South Wales an assessment of projects will not be limited to the pre-tender phase. The NSW Treasury and the agency initiating the project will also undertake post-implementation reviews of all PFPs. These will be a valuable tool in refining the processes used in developing private sector infrastructure projects. The reviews should include:

- project formulation;
- project objectives;
- brief appropriateness;
- design performance;
- approvals process;
- project delivery;
- risk exposure/risk sharing;
- delivery time;
- budget performance;
- project management/procedures;
- functional competence of infrastructure, including networking and interfacing;
- project operations, including service delivery and financing;
- industrial relations management;
- environmental management;
- community relations;
- industry development.

A review should generally be initiated 12 months after operations have commenced, although it may be undertaken earlier. Service delivery performance and contractual compliance will be reviewed regularly throughout the life of the contract by the agency and, at least initially, by the steering committee.

**Table 3.2. New South Wales projects (as of December 2009)[1]**

| | Before 1995 | From 1995 to 2000 | From 2000 |
|---|---|---|---|
| Number of awarded projects | 13 | 10 | 16 |
| Value of awarded projects (Capital costs on signing; sum of nominal costs) | AUD 3.1 billion | AUD 2.5 billion | AUD 9.9 billion |

1. The current PPP pipeline contains one project (value approximately AUD 2.5 billion).

## Poland

In 2001, a PPP Task Force was set up in the Ministry of Infrastructure to help establish a legal framework for public-private partnerships. The Act on Public-Private Partnership was passed in 2005 (Journal of Laws No. 169 item 1420).[11] Other key guidance is provided by regulations by the Minister of Finance regarding necessary elements of the project under PPP and detailed scope and framework of PPPs (Szymanski, 2006).

## Portugal

Parpública SA, a private limited company owned completely by the Treasury, was established as Portugal's dedicated PPP unit in 2003. Its functions include policy guidance and technical assistance to ministries at various stages of the public-private partnership procurement process. While it does not have a decision-making role over public-private partnerships, it makes recommendations regarding a project's feasibility and cost-effectiveness. Parpública SA may also be involved in project contract negotiation. Previously, in September 2001, the government had established a taskforce to develop public-private partnerships in the health sector.

Parpública SA has, however, existed since 2000 when it was established to support the government's privatisation programme, as well as to manage state assets and real estate. The PPP Unit is only one department within Parpública SA. The PPP Unit has seven full-time staff, most on long-term secondment from government audit bodies such as the Inspectoral General of Finance (*Inspecção-Geral de Finanças*). Staff report directly to the chief executive officer of Parpública SA and are publicly appointed by the Minister of Finance. Parpública SA is financed through the government budget.

# Notes

1. Chapter 3 draws on information obtained from government websites, as well as interviews with and inputs from relevant government officials.

2. The annual provincial government service contract is for: developing the public-private partnership market for British Columbia projects; assisting agencies in identifying and assessing public-private partnership opportunities; providing policy expertise; developing best practices for public-private partnerships and alternative procurement methods; exploring opportunities in other jurisdictions to expand the application of best practices across Canada; and providing other advisory and consulting services directly to the province and/or organisations on an ongoing basis whose costs are not attributable to a specific project. This revenue is recognised on a monthly basis.

3. Government Resolution No. 7 on Public-Private Partnerships in the Czech Republic (*Politika vlády České republiky v oblasti Partnerství veřejného a soukromého sektoru*). Unofficial translation accessed from *www.pppcentrum.cz/res/data/002/000312.pdf.*

4. The twinning project support was provided by a consortium of the Dutch Ministry of Transport, Public Works and Water Management and Partnerships UK. In addition, experts from the Scottish Executive and Portugal's Parpública SA were involved (European Commission, 2006).

5. Ministry of Budget, Public Accounts and Civil Service website: *www.comptes-publics.gouv.fr.*

6. MAPPP website: *www.ppp.bercy.gouv.fr/mission.php.*

7. Government Resolution No 2028/2007 defines the provision on the procedure of the Inter-Departmental PPP Committee, which is the only piece of legislation dedicated to regulating PPP specific matters. Act on Local Governments (Act 65/1999) for local PPPs.

8. For example, the Act on Public Procurement (Act 129/2003); the Act on Concessions (Act 16/1991); the Act on State Budget (Act 38/1992).

9. See Government Decree 2028/2007 (28 February) and Government Decree 24/2007 on the undertaking of long-term obligations with a specific view to the PPP concept to outline the role of the Inter-Ministerial PPP Committee in evaluating whether a PPP structure or pure state financing is appropriate.

10. Some public authorities are excluded in the law, such as local governments.

11. *www.business.gov.pl*

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# *Annex A*

# OECD principles for private sector participation in infrastructure

The OECD established principles covering five important sets of challenges for national authorities in private sector participation in infrastructure (OECD, 2007). First, the decision to involve the private sector has to be guided by an assessment of the relative long-term costs and benefits and availability of finance, taking into account the pricing of risks transferred to the private operators and prudent fiscal treatment of risks remaining in the public domain. Second, authorities need to ensure an enabling policy framework for investment. Third, the success of private involvement in infrastructure depends on public acceptance and on the capacities at all levels of government to implement agreed projects. A fourth challenge for public authorities and the private sector is to establish a working relationship toward the joint fulfilment of the general public's infrastructure needs. Fifth, insofar as they are not rooted in formal legal requirements, governments' expectations regarding responsible business conduct need to be clearly communicated by governments to their private partners.

## Deciding on public or private provision of infrastructure services

1. The choice by public authorities between public and private provision should be based on cost-benefit analysis taking into account all alternative modes of delivery, the full system of infrastructure provision, and the projected financial and non-financial costs and benefits over the project lifecycle.

2. No infrastructure project – regardless of the degree of private involvement – should be embarked upon without assessing the degree to which its costs can be recovered from end-users and, in case of shortfalls, what other sources of finance can be mobilised.

3. The allocation of risk between private parties and the public sector will be largely determined by the chosen model of private sector involvement, including the allocation of responsibilities. The selection of a particular model and an associated allocation of risk should be based upon an assessment of the public interest.

4. Fiscal discipline and transparency must be safeguarded, and the potential public finance implications of sharing responsibilities for infrastructure with the private sector fully understood.

## Enhancing the enabling institutional environment

5. A sound enabling environment for infrastructure investment, which implies high standards of public and corporate governance, transparency and the rule of law, including protection of property and contractual rights, is essential to attract the participation of the private sector.
6. Infrastructure projects should be free from corruption at all levels and in all project phases. Public authorities should take effective measures to ensure public and private sector integrity and accountability and establish appropriate procedures to deter, detect and sanction corruption.
7. The benefits of private sector participation in infrastructure are enhanced by efforts to create a competitive environment, including by subjecting activities to appropriate commercial pressures, dismantling unnecessary barriers to entry and implementing and enforcing adequate competition laws.
8. Access to capital markets to fund operations is essential to private sector participants. Restrictions in access to local markets and obstacles to international capital movements should, taking into account macroeconomic policy considerations, be phased out.

## Goals, strategies and capacities at all levels

9. Public authorities should ensure adequate consultation with end users and other stakeholders including prior to the initiation of an infrastructure project.
10. Authorities responsible for privately operated infrastructure projects should have the capacity to manage the commercial processes involved and to partner on an equal basis with their private sector counterparts.
11. Strategies for private sector participation in infrastructure need to be understood, and objectives shared, throughout all levels of government and in all relevant parts of the public administration.
12. Mechanisms for cross-jurisdictional co-operation, including at the regional level, may have to be established.

## Making the public-private co-operation work

13. To optimise the involvement of the private sector, public authorities should communicate clearly the objectives of their infrastructure policies and should put in place mechanisms for consultations between the public and private partners regarding these objectives as well as individual projects.

14. There should be full disclosure of all project-relevant information between public authorities and their private partners, including the state of pre-existing infrastructure, performance standards and penalties in the case of non-compliance. The principle of due diligence must be upheld.

15. The awarding of infrastructure contracts or concessions should be designed to guarantee procedural fairness, non-discrimination and transparency.

16. The formal agreement between authorities and private sector participants should be specified in terms of verifiable infrastructure services to be provided to the public on the basis of output or performance-based specifications. It should contain provisions regarding responsibilities and risk allocation in the case of unforeseen events.

17. Regulation of infrastructure services needs to be entrusted to specialised public authorities that are competent, well-resourced and shielded from undue influence by the parties to infrastructure contracts.

18. Occasional renegotiations are inevitable in long-term partnerships, but they should be conducted in good faith, in a transparent and non-discriminatory manner.

19. Dispute resolution mechanisms should be in place through which disputes arising at any point in the lifetime of an infrastructure project can be handled in a timely and impartial manner.

## Encouraging responsible business conduct

20. Private sector participants in infrastructure should observe commonly agreed principles and standards for responsible business conduct.

21. Private enterprises should participate in infrastructure projects in good faith and with a commitment to fulfil their commitments.

22. Private sector participants, their subcontractors and representatives should not resort to bribery and other irregular practices to obtain contracts, gain control over assets or win favours, nor should they accept to be party to such practices in the course of their infrastructure operations.

23. Private sector participants should contribute to strategies for communicating and consulting with the general public, including *vis-à-vis* consumers, affected communities and corporate stakeholders, with a view to developing mutual acceptance and understanding of the objectives of the parties involved.

24. Private sector participants in the provision of vital services to communities need to be mindful of the consequences of their actions for those communities and work, together with public authorities, to avoid and mitigate socially unacceptable outcomes.

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# Dedicated Public-Private Partnership Units

## A SURVEY OF INSTITUTIONAL AND GOVERNANCE STRUCTURES

Dedicated public-private partnership (PPP) units are organisations set up with full or partial aid of the government to ensure that the skills needed to handle third-party provision of goods and services are made available and clustered together within government. Such units enhance the capacity of government to successfully manage the risks associated with a growing number and value of PPPs. Although a relatively recent phenomenon, in 2009 more than half of all OECD countries reported the existence of a dedicated unit of some kind.

This book provides an overview of dedicated PPP units in OECD countries, including case studies covering: the State of Victoria (Australia), Germany, Korea, South Africa (an OECD enhanced engagement country), and the United Kingdom. What are the functions and locations of their dedicated PPP units? In exercising these functions, what role do these units play in the procurement process? What are the lessons for other countries that have already established or are considering establishing a dedicated PPP unit?

**Further reading**

*Public-Private Partnerships: In Pursuit of Risk Sharing and Value for Money* (OECD, 2008)



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