

public private partnership

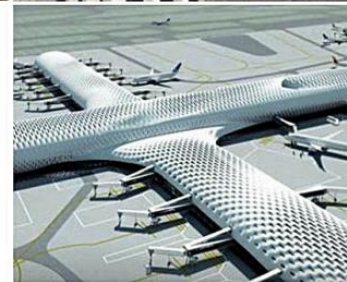
**guidance**

**PPP Policy's**  
**chapter**  
(2<sup>nd</sup> edition)



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### *what it is*

A **Policy** could be a guiding or a governing principle which makes explicit the willingness and commitment for a plan, or an obligation to undertake actions towards a specified direction for maintaining, improving or enhancing a specific status/reality of a well-defined context. A policy is the highest expression of the executive power and usually takes the name of the principal context/sector/topic towards addressing its major intents/efforts.

A **PPP Policy** could be seen as the policy describing the adoption of PPP schemes within the infrastructure implementation process and the public services provision, reflecting and explicating its different phases along the whole implementation cycle

### *what it is for*

From a legal perspective, a Policy development it's not mandatory and its content is not compulsory but aimed to strongly affect in time (e.g. Administrative mandate duration) institutional levels of the Government, Public Administration and the governed territories in order to steer, coordinate and legitimise their future activities and decision making processes over their ordinary and project/temporary activities.

Generally, a PPP Policy comes after a decision is made to implement a development/growth policy, and should pursue ✓a public finance saving on the investments initiatives; ✓an improvement of the public services provision; ✓through ✓an optimal infrastructure endowment, considering quantity, quality and synergy ✓better shared/allocated risks within the public-private partnership.

A Policy implementation has to be performed by the public sector throughout the overall implementation cycle. It has to be promoted in both the public sector as well as within the private market, at central level as well as at local level and even beyond into the international domain to attract foreign financiers and investors. Implementing a policy means introducing it within an existing context (e.g. social, legal, economic) and allowing it to mature within a defined context.

Its scope is to exploit to the full and attract potential stakeholders for pursuing the chosen objectives set out in the national development strategy through PPP policy implementation and project initiatives to the maximum possible effect. Moreover, it requires keeping the emerging needs and criticalities of the nation monitored, measured and analysed in order to develop amendments and involve the role of policy makers along the whole implementation cycle (introduction, growth and maturity) for accelerating the PPP development and avoiding its decline.

## how to do it

A policy making activity aims to steer and lead the actual situation, as it results from its past, towards a desired and planned future direction. Depending on the objective of the superior framework (e.g. economic growth), it implies channelling and coordinating the activities of public administrations and departments which are involved in the PPP, in order to make it effective and accomplish the PPP Policy implementation on the territory. In order to be more effective the policy could be sustained by a legal intervention (e.g. a specific PPP Law) and defined by a strategic action plan including resources, tactics and procedures to be utilised to achieve the objectives (e.g. a National Development Plan).

For that which concerns the development of a national PPP Policy, being a matter well known at international level within the developing as well as the most advanced economies, it might be opportune to conduct a benchmark analysis for collecting the best and worst experiences already matured abroad, or in similar context, not to waste time and resources. The wealth of information collected must be analysed and adjusted to the actual domestic situation and future needs. Therefore, once verified, their applicability to the actual national context, the major lessons learnt have to be incorporated within a policy.

The core of a PPP Policy, to be credible, is the description of the next future role of this procurement process within Government's and administration's activities, defining sectors involved and estimating the potential percentage of resources coming from the private concerns for the whole infrastructure programme.

In addition to the implementation of a national PPP Policy, which must be tailored to the specific needs of the country and to the objectives of the existing PPP international framework policies, it becomes necessary conducting an institutional and legal assessment of the existing regulatory framework. This activity should be aimed to identify weaknesses and gaps to be addressed, remove potential bottlenecks, barriers and thus ensure an effective implementation process.

To be acknowledged the PPP Policy has to be communicated by public official statements or speeches, proving to all stakeholders the public commitment behind the Policy. Then it should be incorporated and described in detail in official papers or programmes with the power to steer its on-going activities along the explicit requirements, drivers and objectives.

To be effective, Government decisions have to be coordinated with public administrations and the private markets involved. This could be through a specific institution set up for this coordination purpose but the ultimate aim is to achieve decisions which meet the highest level of public interest or concern whilst meeting the Government's overall objectives within national constraints notwithstanding the fact that PPP Policy implementation has to be carried out by the public sector with a genuine, long-term commitment to the process throughout the entire PPP cycle.

### *skills required*

The minimum skills set required to develop it may be summarised as follows:

- Global vision and knowledge of the socio-economic phenomena and of national and regional district economies;
- Knowledge of institutional (e.g. Public Administration, Government) role, legal, environmental, economic and financial aspects affecting PPP initiatives;
- Economic and financial understanding of roles and interrelations among services, infrastructures and the nation's system development and growth.

For its implementation is required to communicate and coordinate the activities among public and private actors, from the central level (e.g. ministries and agencies, sectorial national associations) to the entire territory, but also skills and expertise in communication and media planning and the ability to disseminate PPP know-how and providing technical assistance to administrations. Political and economic analytical capacity is also needed for developing amendments and fine tuning for improving the policy over the years.

Knowledge of the history, vocation and potential of the territory where the Policy will impact is required in order to harmonise its development towards future aims, recording and analysing its emerging need so as to be able to give valuable answers to concerns where necessary.

The abovementioned expertise has to be supported and enriched by a sustainable vision<sup>1</sup> and governance capacities for planning the future, leading and exploiting the territory potentials and, in addition, media communication knowledge to pursue measuring and building consensus<sup>2</sup>, through negotiation and the making decision process.

## actors involved

A new policy is always the result of a political will and idea belonging to the competence of the executive power of a government body (central, local, by sector), even when representing the public will and need. In order to develop a sustainable, feasible and effective PPP policy, the public administrations potentially involved in its implementation and the private market, as counterparts and investors, might be involved in an open consultation (e.g. constructors, banks, services providers, insurance companies).

To manage and monitor long-term contracts the key actors are the Government (central, local or by sector) and the Public administration departments and offices in charge of public investments (every kind of public and private co-financing, domestic public and international donors), specific sector policy (e.g. transport, environment, healthcare), and public procurement (of services, goods and supplies).

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<sup>1</sup> See at chapter 1: "a PPP suitable environment", pag 11.

<sup>2</sup> The international worst practices includes a lot of examples of useful projects, financial sustainable but without the initial or final required consensus, for which they failed or obliged to re-plan the whole infrastructure policy.

**PPP unit / agency's role** | According to the institutional mandate of a country, region or municipal area, a PPP unit/agency (central, local or by sector) may act:

- as a provider of technical assistance to the making of policy and contribute to the decision making process of the Government body in charge of its development or
- to develop, by itself, the PPP policy (in this case the final version will be approved by the Government after its review). Main purpose is to monitor the PPP implementation in order to refine and improve it over the years. To promote and disseminate the PPP policy among the public and the private actors (e.g. developing guidance/papers, conducting seminars and training activities; to support its principles and objectives converted into new infrastructure plans; monitoring and steering the projects in progress towards the best Value for Money and the objectives stated by the central Government or Ministry of Finance and/or Economy.

### *outputs*

We can have an implied PPP policy, deduced from the actions undertaken by a Government or recorded from its politicians' public statements. The best would be to have an explicit policy defined and sustained publicly by the Government, even sector by sector, in a public official plan, programme and/or in law (e.g. National Development Plan, public investments co-financing rules). Due to the complexity of a PPP project, it is advisable to define a general policy or, in case of sector policy, to coordinate with all the others who may be affected (e.g. a PPP transport policy will affect the environmental and financial sectors).

Best international practices suggest the development of specific documents or to incorporate them in major official Government document publications (e.g. Official Journal of the Government, a National Development Plan). It may also be most appropriate to promulgate a specific Law regulating new, effective and transparent procedures. Periodically these documents have to be clarified and refined to deliver improved directives and objectives.

## criticalities

It has to be remarked, among the major criticalities, the necessity for clear leadership (power, responsibility, roles, competencies and no overlapping) supported by a vision aimed at developing a sufficiently effective policy to foster Government and administrative activities towards unified intents. A policy must be a realistic result from the socio-economic analysis of the past, the actual conditions and those of the future scenario to be achieved in terms of resources, objectives and time.

Policy implementation is the main test of its application in reality and its sphere of influence. Even the best PPP Policy benefiting from inculcating best international practices and aiming to achieve the highest objectives must be feasible and drawn up from firm foundations based on the in the country or sector and the availability of suitable resources (financial and human).

## Best practices

In order to create the most suitable and sustainable<sup>3</sup> PPP environment, from initial development up to implementation of the Policy, it is worthwhile considering the following thematic areas: ✓ anti-corruption system, ✓ decision making process techniques, ✓ consensus measuring and building, ✓ corporate governance, ✓ independent authorities, ✓ corporate social responsibility and codes of ethics, ✓ communication and cultural break-through strategy, ✓ performance measurement systems.

These areas have been previously considered internationally so this approach is not a new concept. Therefore it should prove very helpful to conduct a benchmark analysis of existing PPP policies of most advanced PPP models and markets (e.g. UK, Australia, Italy), and of other countries characterised by similar realities (e.g. developing or transition economies). For the effective development of a specific policy in a new PPP market, it would be helpful to have local economic/financial experts who have been trained by counterpart PPP international and local experts.

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<sup>3</sup> The concept of Sustainability, implying a development which meets the needs of the present without compromising the ability of future generation, has been adopted by the European Union since the 1992, at the United nations Earth Summit in Rio de Janeiro, and become a core objective of the EU policies with the Amsterdam Treaty in 1997 and in the following EU Councils. Nowadays, the Union has a sustainable development strategy concerning its policies and actions, taking a proactive approach to turn environmental protection and social cohesion into opportunities for innovation, growth and jobs.

According to the best international practices, a PPP Policy has to be periodically refined for coping better with emerging phenomena and needs arising from the evolution of the market and the public sector.

Setting up a PPP Observatory on the territory is also advisable enabling the Government or PPP Unit to monitor: ■ the effectiveness of the policy; ■ the decision and policy makers; ■ all sector operators; ■ the period verification of the quantitative and qualitative features of the evolution of the PPP market and measure the public finance savings.

## tools

It is advisable to consider the methodologies and procedures described by the following papers:

- **“Regulatory Impact Assessments (RIAs)”**<sup>4</sup>, developed and applied by the UK’s National Audit Office, which identifies the costs and benefits of a policy proposal and the risks of not acting accordingly in order to increase the transparency of the process viz. informing the policy decision makers; communicating clearly the objectives, options, costs, benefits and risks of proposals to the public;
- **“Strategy Survival Guide”**<sup>5</sup>, developed by the Prime Minister’s Strategy Unit of the UK Government, in order to steer the policy development towards the creation of public value;
- **“Progress in improving Government efficiency”**<sup>6</sup> developed by the UK National Accounting Office, in order to evaluate their implemented method to monitor and measure the Government action efficiency.

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<sup>4</sup> Source: the UK National Audit Office (<http://www.nao.org.uk/>), on the Internet at [http://www.nao.org.uk/publications/nao\\_reports/04-05/0405341.pdf](http://www.nao.org.uk/publications/nao_reports/04-05/0405341.pdf) (issued on March 2005).

<sup>5</sup> Source: Prime Minister’s Strategy Unit (<http://www.strategy.gov.uk>), on the Internet at [http://www.strategy.gov.uk/downloads/survivalguide/downloads/ssg\\_v2.1.pdf](http://www.strategy.gov.uk/downloads/survivalguide/downloads/ssg_v2.1.pdf) (issued on May 2004)

<sup>6</sup> Source: the UK National Audit Office (<http://www.nao.org.uk/>), on the Internet at [http://www.nao.org.uk/publications/nao\\_reports/05-06/0506802i.pdf](http://www.nao.org.uk/publications/nao_reports/05-06/0506802i.pdf) (issued on March 2006).



## sector tips

Broadly speaking, different initial backgrounds and the project/programme parameters to be pursued vary sector to sector. In almost every country, in terms of affordability, sustainability, efficiency and effectiveness, thematic PPP policies have to face up to and solve the same common criticalities and exploit the same opportunities.

The implementation of monitoring systems in different sectors for reviewing and refining objectives must be set and tuned to different parameters and standard levels (quality, quantity), not only infrastructures and facilities (delivery, maintenance and operation) but also public services provision.



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- ❖ A Policy makes explicit the willingness and commitment for a plan.
- ❖ A Policy is aimed to strongly affect and steer institutional levels of the Government, Public Administration and the governed territories.
- ❖ A policy must be a realistic result from the socio-economic analysis of the past, the actual conditions and those of the future scenario to be achieved in terms of resources, objectives and time.
- ❖ A PPP Policy should be incorporated in official papers or programmes with the power to steer its on-going activities along the explicit requirements, drivers and objectives.
- ❖ A PPP Policy implementation should be monitored by a specialized 'observatory' to measure its effectiveness and efficiency, to allow its necessary refining, for coping better with emerging phenomena and needs arising from the evolution of the market and the public sector.