

Project proposal

Sustainable PPP procurement

PPPs have a potential to contribute to more than a half of the soon-in-force Sustainable Development Goals by increasing and improving access for all to a wide range of public services, such as water and sanitation, health, education, sustainable energy and transport. However, in spite of attractiveness of PPP model for more and more governments, still significant gaps remain between identifying desirable projects, turning them into realizable ones through PPPs and then its successful implementation. Unlike traditional procurement models used by governments, PPP models are more complex; they stimulate sharing of risks and responsibilities between the public and private sectors, and include long contract periods and create long term obligations. Tendering/ competitive phase is of utmost importance as it finally brings public and private sectors together, but all important ground work should be already thoroughly undertaken by the governments prior to the start of the procurement process, what requires a clear and coherent procurement strategy.

1. Project purpose

Governments with active PPP programs have often developed detailed guidance on PPP procurement processes while PPP emerging countries sometimes rush to start PPPs without clear and coherent PPP procurement strategy aligned with existing regulations. This project aims to identify the key ingredients of PPP procurement, those that shall lead to selection of the best bidder for the PPP project through neutral, transparent and non-discriminatory tender process and ensure smooth and competent implementation. However, it has to be noted that local laws and regulations usually designed for procurement across a wide range of activities, not just PPPs, will have an impact on the way the national PPP procurement processes shall be implemented and shall impose some limitations to what could be achieved by this project.

2. Project scope

The rapidly growing in a variety of countries PPP sector has demonstrated its efficiency. Multiple experience of implementation of PPP projects, at this point in time, could be utilised for provision of assistance to countries which have not enjoyed the benefits that contemporary PPP models can offer. The project will deal with issues related to the domain of PPP procurement and collect and analyze different models of PPP procurement systems in countries where the most successful practices have been used and and prepare a set of well-structured, comprehensive universal recommendations. The project will also have a particular focus on current deal-breakers and existing problems of the PPP procurement sector (elaborate on the problems).

The project will focus on procurement principles and processes in order to attempt to prepare a universal guiding standard/ recommendations that governments will voluntarily use as a framework for development of their national PPP procurement strategies.

Principles

This will address the selection of a bidder that should be selected by means of a transparent, neutral and non-discriminatory process that promotes competition and strikes a balance between the need to reduce the length of time and cost of the bidding process and acquisition of the best possible proposal.

- *Transparency* refers to the openness of procurement policies and practices. The basis for proposal evaluation should be made public.
- *Neutrality* refers to clear, specific and predictable rules that do not provide scope for discretion and prevent and conflict of interest and provide a means of compliant and monitoring the implementation of the rules.
- *Non-Discrimination* refers to all fair and equal treatment of all economic entities, public and private, foreign and domestic in the competition for PPP contract.

Such issues as transparent pre-selection of bidders, due diligence of bidders and governments, communication of results of selection both to winning and losing bidders (with a clear explanation of reasons), appointment of an independent observer for the selection process will be addressed. Along these lines, a proper consideration shall be given to anticorruption issues and measures (elaborated by the project team on zero tolerance to corruption in PPPs).

Checklist of issues/processes to be addressed

This section will attempt to examine PPP procurement as an integrated process of procuring goods and services through PPPs. It begins when a need has been identified and decision shall be made on procuring strategy. Afterwards the procurement continues with the process of risk assessments, evaluation of alternative solutions, preparation and undertaking of a competitive tender, award of a contract and its subsequent management. The guidance will be provided under the following segments:

- Overall legal and regulatory framework;
- Selecting and preparing projects for the market (needs analysis, cost-benefit analysis/ value for money, risk identification and allocation, market assessment, project documents, unsolicited proposals);
- Managing procurement (project launch, bidder conference, prequalification, competitive negotiation or dialogue, request for proposals, evaluation and value for money report, selection of final or preferred bidder, lender's due diligence, confirmation of the winning bid, financial closure);
- After contract award.

The following key challenges, inter alia, in PPP procurement will be properly addressed: the reasonable balance between reliability of the procurement process and the amount of necessary funds to cover its implementation, ways to avoid long bureaucratic timeframes for decision making and between stages of PPP procurement, cancelled or delayed procurements, and elimination of a possibility of too many over watching agencies with overlapping mandates.

3. Project deliverables

The project deliverables are:

- Inventory and analysis of existing PPP procurement processes and an objective assessment of their advantages and disadvantages, pros and cons;
- Identification of existing pitfalls in PPP procurement and ways to effectively address them;
- A universal guiding standard/ recommendations in PPP procurement.

A standard will cover such issues as: outline business (strategic) case, risk allocation, value for money assessment, project marketing/ marketing awareness, project document including PPP contract, market sounding, project launch, prequalification, competitive negotiation or dialogue, request for final proposals, award criteria, evaluation process, selection of the final or preferred bidder, and financial close.

4. Geographic focus

The focus is global

5. Project Team membership and required functional expertise

Membership is open to experts with extensive knowledge in PPP procurement from public and private sectors. Participation of Development Financial Institutions is also essential as, unlike commercial lenders, many DFIs have their own detailed procurement rules and cannot align themselves with a particular bidder or the procurement practices of a particular country.

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6. Resource requirements

Participants in the project shall provide resources for their own participation. The existence and functioning of the project shall not require any additional resources from the UNECE Secretariat.

7. Timetable

January 2015 – Project initiation and approval by the TOS PPP Bureau

April 2015 – First draft ready for review by key stakeholders

May – June 2015 – Publication of draft standard on the UNECE website for public review

July – August 2015 – Endorsement of draft standards by TOS PPP Bureau

September 2015 - Draft standard submitted to the CICPPP Bureau