

MANAGING PROJECTS & LESSONS FROM AUDIT

“Bridging the Gap”

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THEME OF PANEL DISCUSSION

PUBLIC PRIVATE PARTNERSHIP
PROJECTS (PPP) :

ACCOUNTABILTY CONCEPTS

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What is a PPP Project?

Innovative methods used by the Public Sector to contract with the Private Sector entities who:

- ❑ bring in their *capital* and
- ❑ their ability to deliver projects *on time and to budget*;
- ❑ the Public Sector retains the *responsibility* to provide services
- ❑ *of quality at reasonable cost*.
- ❑ The contracts will be of *long duration*, with
- ❑ *balanced sharing of risks* relating to financing, designing, construction and operation, between the parties to the contract.



CHARACTERISTICS OF PPPs

- ❑ Transfer of public assets to private sector.
- ❑ Delegation of Government's authority to recover user charges.
- ❑ Private control of monopolistic services.
- ❑ Sharing of risks and contingent liabilities by public sector / Government.

INGREDIENTS OF PPP PROJECTS

(i)

- ❑ Valid, legal contracts between parties.
- ❑ Aim to provide long-term public services of required quality.
- ❑ Transfer of responsibility to design, construct and operate the project to the private sector.
- ❑ Public sector to retain overall responsibility for the service.
- ❑ Private sector to bring in finances fully or substantially.

INGREDIENTS OF PPP PROJECTS

(ii)

- ❑ Public sector may:
- ❑ provide guarantee, gap funding, or annuity.
- ❑ Assigns the right to collect revenue for an assigned period, subject to conditions, based on the principle of sharing of risks and gains.
- ❑ Assign right for commercial development to augment revenue.
- ❑ Objective of PPP is value for money.



REQUISITES FOR THE SUCCESS OF PPP PROJECTS (I)

- Appropriate legal and institutional **framework**.
- Fair and transparent **selection process**.
- Assurance of **value for money**.
- Improvement of **essential public services**.
- Adequate **training** of all parties involved.



REQUISITES FOR THE SUCCESS OF PPP PROJECTS(II)

- ❑ Fair incentives to all parties, fair returns to the risk-takers, and overall commercial success of the project.
- ❑ Sensible negotiations, resolution of disputes to avoid disruption of public services.
- ❑ Public sector capability to design projects with a package of incentives to make the projects attractive to the private sector.
- ❑ Ability to assess the cost to the tax payer.
- ❑ Contract management skills.
- ❑ Advocacy and outreach skills to build consensus.

WHY TRANSPARENCY IN PPPs ?

- State takes several risks, and retains significant responsibility for public services. Problems may arise due to:
 - Lack of clarity about partnership objectives.
 - Inadequate definition of business model of the partnership.
 - Risk associated with negotiating an appropriate partnership.
 - Risk to the state's interests as a minority shareholder.
 - Risk associated with monitoring of state's interest in the partnership.
 - State's exposure in the event of difficulties.

EXISTING ACCOUNTABILITY DRIVERS(I)

- A reasonably well designed organizational set up for the approval process including:
 - >Special cell dedicated for PPP projects in DEA.
 - >Public private partnership appraisal unit (PPPAU) in planning commission.
 - >Public private partnership appraisal committee (PPPAC) for due diligence.
 - >Broad-based & high powered “committee on Infrastructure” (COI), under prime minister to approve major PPP projects.

EXISTING ACCOUNTABILITY DRIVERS(II)

- A detailed procedure in place for approval of PPP projects.
- Model Concession Agreements (MCA) in place for different project formulations.

Requirement for independent engineers and auditors to verify and report to the public sector partner on construction, operation, development and maintenance.

- **Performance audit by the CAG of India**

WHY IS PUBLIC AUDIT INTERVENTION NECESSARY? (I)

- ❑ Transfer of state's authority to provide services of required quality to the public at affordable costs.
- ❑ Transfer of the right to levy toll / user charges to the private sector.
- ❑ Cost of PPP are usually higher since government may be able to raise funds at cheaper cost.
- ❑ Need to ensure that there is no over-engineering / padding of total project cost.
- ❑ State's continuing responsibility to provide services to the public at reasonable cost.

WHY IS PUBLIC AUDIT INTERVENTION NECESSARY? (II)

- Contracts /concessions are of long-term and alienates statutory rights for a long period.
- Public assets remain with the private sector partner for long durations and needs oversight management.
- Need to ensure that established tendering process is followed.
- Need to ensure appropriate sharing of risks and gains.
- Essential to assess the *value for money* aspects in the arrangement in public interest.



OBJECTIVES OF PUBLIC AUDIT

- ❑ Ensure accountability; promote transparency.
- ❑ Provide unbiased, objective assessment whether public assets and resources are responsibly and effectively managed.
- ❑ Provide reasonable assurance to stakeholders regarding value for money.
- ❑ Verify aspects of safeguarding of public interest.
- ❑ Provide assurance that the PPP project has delivered the contracted end products and services of required quality at reasonable cost.

SPECIAL FEATURES OF PUBLIC AUDIT OF PPPs

- ❑ Auditors to appreciate the inherently conflicting or divergent interests of parties to PPP.
- ❑ Regulatory skill versus technical and management skills.
- ❑ Focus on end results and not the process and methodology.
- ❑ Focus on achievements and end products
- ❑ Careful to avoid causing inhibitions to innovations and risk-taking.
- ❑ Efforts to look at the big picture and not resort to nitpicking.



APPREHENSIONS ON PUBLIC AUDIT OF PPPs

- # CAG's audit will lead to risk averseness among managers.
- # Audit should be confined to selection process of partners and the final outputs / outcome.
- # Oversight of PPP should be left to sector regulators supported by professional audit firms.

APPROACH TO ACCOUNTABILITY

- Flexibility combined with a monitoring and evaluation framework to provide stakeholders with ability to monitor internal processes.
- Encourage transparency and accountability by including appropriate indicators and periodical reviews based on reliable data.
- A baseline assessment to measure effectiveness in order to evaluate achievement of goals over time and delivering the envisaged benefits.

(A toolkit for business environment reforms)



ISSUES FOR DISCUSSION

- ❑ Is there adequate transparency in managing PPP under the present dispensation?
- ❑ Is there a need for increased transparency and accountability in management of PPP?
- ❑ Does public audit of PPP demotivate private sector partners?
- ❑ What will be the best model to ensure accountability without infringing on private sector work culture ?
- ❑ Is the audit approach of PPP adequately balanced and positive?
- ❑ Should PPP be brought under the RTI Act?