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**European Union Delegation in Uzbekistan**

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**Ministry of Justice of the Republic of Uzbekistan**

**Public Services Agency under the Ministry Justice of the Republic of Uzbekistan**

## Concept Note

on implementation of applicable PPP mechanisms in  
Uzbekistan based on foreign best practice and local  
circumstances

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## Executive Summary

This Concept Note was prepared within the framework of the joint project “Improved public service delivery and enhanced governance in rural Uzbekistan”. The project is implemented by the Public Services Agency under the Ministry of Justice of the Republic of Uzbekistan and United Nations Development Programme and is financed by European Union. The Concept Note proposes several ideas to pilot or test private sector involvement in Public Service Delivery in Uzbekistan. The analysis builds on the findings and recommendations of the related paper – “Summary of Best Practices of Public Private Partnerships in Public Service Delivery” – created under the same project.

The involvement of the private sector in delivering public services has various definitions and approaches, across themes and sectors. The goal is to optimize the value for money through efficient allocation of risks, whole life service approach, private sector management skills, as well as synergies from inter-linking the design, finance, construction and operations.

Any public-private partnership has two parties (the public and the private partner(s), but always involves also the third party: the beneficiaries. When assessing criteria and modalities to implement a PPP Project, all three sides has to be consulted and take in consideration. Hence, one of the popular indicators in assessing the suitability of a PPP is “Benefit-Cost Analysis (BCA).

According to extensive analysis of World Bank (through the PPP Knowledge Lab), there are only few topics suitable for PPP, besides (big) infrastructure:

- energy (power generation and distribution, regional heat supply);
- environment (sewage, waste treatment);
- healthcare (medical equipment renewal, and introduction of advanced equipment);
- education.

The Public Service Centers in rural areas of Uzbekistan deliver 143 public services representing 32 public structures. Following first discussions, representants from the regions suggested o list of services considered as suitable for involving private partners and delivering added value to the population. However, two main limitations in externalizing public services to the private operators exclude many services from becoming subjects of public-private

partnerships: security/confidentiality issues, and the small size of the projects – not delivering a profitable “business-case” for the private operators.

Potentially suitable areas for partnerships could be:

- “soft” public services (e.g. digital services or e-Services);
- public utilities (sewage, water supply, waste management, street lighting);
- (green) energy – energy and distribution (power generation and distribution, regional heat supply);
- health Services (medical equipment renewal, and introduction of advanced equipment);
- education services (especially Early Childhood Education).

More concrete details of the proposals will be discussed with all stakeholders, and consider criteria like utility, added-value for beneficiaries and economic feasibility.

The PPP Development Agency (PPP DA) in Uzbekistan is the central agency coordinating PPP proposals. The PPP DA receives and performs the first suitability assessment of first proposal received either from public institutions or from private partners. In case of approval, the next is to invite key stakeholders to negotiate the terms of a potential PPP project. Besides the benefits for the public sector and for the private investors, also the interests of the final beneficiaries (people) should be regarded. Here, the principles of the UNECE-coined principle of “People-First PPPs” must also be considered.

## 1. Demand side: Public Services suitable for private sector involvement in Uzbekistan

In the pursuit of reforming and modernizing the public services in Uzbekistan with the support of UNDP, the Public Services Agency under the Ministry Justice of the Republic of Uzbekistan focused on a list of 134 public services offered to its citizens, grouped by 32 institutions responsible for their delivery. Most of the services are basic services delivered by public authorities, and are not suitable for delegating responsibilities, with two main reasons:

- *Security reasons*: services related to identity and property (e.g. services provided by the Ministry of Interior Affairs, registration of business entities, intellectual property). These services will remain mostly under the full responsibility of the public authorities, and only some non-sensitive parts might be externalized through public procurement or outsourcing;
- *Business-size*: while infrastructure PPPs are large enough to provide a solid profit opportunity for the private investors, the “soft” projects involving private capital (service related to non-transport infrastructure provision, digital services offered to the population) are too small to accommodate a profit margin attractive for the private capital.

From the other public services delivered in Uzbekistan, based on the analysis presented in the correlated study created under the same project - “Summary of Best Practices of Public Private Partnerships in Public Service Delivery”, the following economic sectors might be suitable to involve private participation: e-Services, water supply and waste management, green energy and distribution, and health services.

## 2. Private sector interest in involving with PSD

The investment in the economy is growing in Uzbekistan, following the two major economic shock in the last 20 years: the Asian financial crisis (1997) followed immediately by the Russian ruble crisis, and the global financial crisis 2007 – 2008. Currently, the gross capital formation of Uzbekistan represents almost 40% of GDP, one of the highest values in the region (Kazakhstan – 27%, Azerbaijan – 20%, Russian Federation – 23%).



Fig. 1: Gross capital formation (% of GDP) – Uzbekistan; Source: World Bank Data

This sound trend is reflected by the rising level of crediting to private sector, increasing from 10% in 2012 to 30% of GDP in 2019. This level of crediting private companies indicates not only a healthy entrepreneurship growth, but also a higher need of capital to fuel investments and growth. However, the main risk to macroeconomic stability is that a prolonged credit boom could aggravate inflationary pressures and feed into a higher external deficit. This would severely limit the capital available for investment on the domestic market.

Until recently in Uzbekistan, PPPs were not a popular instrument for a number of reasons: lack of legal framework, under-capitalized financial market, lack of knowledge and institutional capacity, a.o. According to the World Bank's Public-Private Infrastructure Advisory Fund (PPIAF) database, between 1990 and 2019, 7 public-private partnership infrastructure projects with private investment were financed in the Republic of Uzbekistan for a total of US \$ 370 million.

The World Bank's statistics on Private Participation in Infrastructure (PPI)<sup>1</sup> presents details on seven PPP projects (tentatively) implemented in Uzbekistan. The World Bank's PPP Knowledge Lab only lists three PPP projects implemented so far. Three projects were into mobile communications industry (Uzmacom, MTS Uzbekistan and Buztel) and one related to railway operation (Uzbek Yolref Trans Railway Operator). Three projects addressed improvements in public services:

- "Udinet" (1996), Information and communication technology (ICT), 320 mill USD, 49% private participation through Build-Operate-Transfer (BOT) modality, proposed through direct negotiation;
- Bukhara & Samarkand water supply project - BSWSP (2004), 100% private investment, unknown budget, cancelled. It was proposed as a management agreement contract.
- Muinak-1 Solar Plant (2019), electricity generation, 12 mill USD.

<sup>1</sup> <https://ppi.worldbank.org/en/snapshots/country/uzbekistan>

Among the lessons learnt from the previous PPP projects, the World Bank lists as the most important the following: “the project designs should be sensitive to the borrowing country’s institutional capacity. In a low-capacity context, a complex project design with a heavy reform agenda may not be feasible because of the steep learning curve. Despite the reasonable scope of the BSWSP, improving Samarkand City VodoKanal/Bukhara City VodoKanal (SVK/BVK) operations through a performance-based management contract proved infeasible and lacked borrower buy-in”.

The PPP Law has been adopted in October 2019, and the Regulation for Implementation in July 2020. The Regulation establishes the procedure for initiating, developing, and reviewing all PPPs; selecting a private partner; maintaining a registry of PPP projects; and reporting on their implementation. The next steps are to increase capacities of the responsible institutions, mandated to implement the policies and procedures.

A relatively recent study on the market conditions related to PPPs was conducted by the Japan International Cooperation Agency (JICA)<sup>2</sup> in 2018 and published in May 2019. Background research in Uzbekistan was carried, as well as interest and opportunities seen by the private sector from Japan. Besides transport infrastructure, traffic and urban development, only a few other topics were as relevant to be researched for suitability:

- energy (power generation and distribution, regional heat supply);
- environment (sewage, waste treatment);
- healthcare (medical equipment renewal, and introduction of advanced equipment);
- education.

In implementing PPPs in general, there are several challenges to be overcome by partners to achieve a successful project. They are to be assessed during Due Diligence stage, and addressed during negotiations between the two parties.

- *Policy, legal and institutional frameworks*: to ensure this, a stable and transparent political commitment is necessary, in order to guarantee predictability. This is besides a clear PPP Law and the relevant implementation regulation which Uzbekistan already has in place. Additionally, the institutional framework needs to be established – achieved in the country through the establishment of the PPP Development Agency.
- *Public sector capacity for project preparation*: In addition to having the right institutional frameworks in place to support PPPs, a major source of constraint can be weaknesses in the capacity and processes to deliver PPPs within these frameworks. This can affect PPPs at all stages of the project cycle from initial analysis through to long-term management of the contract. PPPs require a wide range of skills some of which may be new to both the public and private sector.

Preparation, procurement and management of PPP contracts, can be a complex and resource-intensive undertaking for a procuring authority, especially those new to PPPs. A range of different skills are also needed throughout the project cycle. Even when the need for external advisers is accepted, these may not be affordable, may be limited in their availability, or may be poorly managed once recruited. The problem can be further compounded by resistance or inertia within the public sector to new

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<sup>2</sup> <https://openjicareport.jica.go.jp/pdf/12345369.pdf>

and unfamiliar processes and approaches (such as developing contracts on an output rather than input basis). Finally, there is often political pressure to deliver projects more quickly than is feasible, without recognizing the time and skills required adequately to prepare and procure them as PPPs.

A first step to tackle this challenge is to appoint specialist external advisers for financial, legal and technical issues should be expected, for which budgets for good quality advice need to be realistic.

Developing standardized approaches to PPP contracts and other key documentation at a national or sub-national/sector level can help to ensure the quality of project documentation, as well as reducing preparation times and costs. Other areas where the public sector needs to strengthen capacities are in managing the PPP preparation process, addressing the relative lengthy process of preparing the PPP, facing a better informed and skilled private sector, assessing ex-ante the value for money.

- *Project operation*: PPPs have also face constraints during their operational phase. This may be the result of the underlying project itself turning out to be inappropriate or subsequent difficulties with paying for the project. This can reflect poor project selection and preparation (concerning both PPP and non-PPP issues). At the same time, the management of the PPP contract may turn out to be beyond the capacity of the procuring authority that is managing the day-to-day aspects of the contract.

*Market supply and financing*: A particular capacity constraint may be the availability of domestic financiers that can support PPP projects with long-term limited-recourse (project) finance. Additionally, it is challenging to justify the higher cost of private finance, as the public sector might mobilize cheaper funding. While the legal and institutional capacities are public sector's obligation to settle, the project operation and financing should be clarified through transparent and fair dialogue between the public and private sector.

### 3. Enabling Factors for successful PPPs

For the private business operators, PPPs resemble any other investment, measuring the time, human and financial resources invested on one hand, and the margin and return on investment. Ultimately, the final question is – “What benefit is in this for me?”.

Nevertheless, the private sector has some basic requirements which can affect their interest in and level of commitment to the partnership. The following are sometimes essential:

- A stable policy environment;
- A transparent regulatory framework applied consistently throughout relevant sectors;
- Openness and embrace of innovation and technology within relevant sectors;
- Predictable and reliable engagement with the public sector;
- Application of a Win-Win-Win philosophy for each of the participating groups (society, public and private sectors).



In order to increase effectiveness of PPPs and achieve wider acceptance, the US-based National Council for Public-Private Partnerships (2016)<sup>3</sup> lists seven success factors:

- 1) Recognized public figures should serve as the spokespersons and advocate for the project and the use of PPP modality (“public sector champion”);
- 2) There should be a statutory foundation (environment) for the implementation of each partnership;
- 3) The public sector should have a dedicated team for PPP projects or programs (dedicated structures – such as the PPP Development Agency);
- 4) The PPP contract should include a detailed description of the responsibilities, risks and benefits of both the public and private partners (in a detailed contract / business plan);
- 5) While the private partner may provide a portion or all of the funding for capital improvements, there must be an identifiable revenue stream sufficient to retire this investment and provide an acceptable rate of return over the term of the partnership;
- 6) It is important to communicate openly and candidly with all stakeholders to minimize potential resistance to establishing a partnership;
- 7) Pick your partner carefully: a candidate’s experience in the specific area of partnerships being considered is an important factor in identifying the right partner. Equally, the financial capacity of the private partner should be considered in the final selection process.

#### 4. Proposals for PPP pilot projects

Based on the list of public services provided by public authorities in Uzbekistan, and on the discussion carried on 20<sup>th</sup> of November 2020 with various representatives of local and regional public administration, a list of potential projects for PPP-similar initiatives was created. Additionally, findings of best practices in involving private capital and experience in delivery of public services are considered and the following areas are proposed for pilot-testing, to check their suitability in the Uzbek socio-economic context:

##### **e-Services**

In introducing modern public services for citizens and achieving “whole-of-government approach in public service delivery”, there is a standard pattern followed by countries with developed modern systems in developing the e-Services:

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<sup>3</sup> <https://www.ncppp.org/>

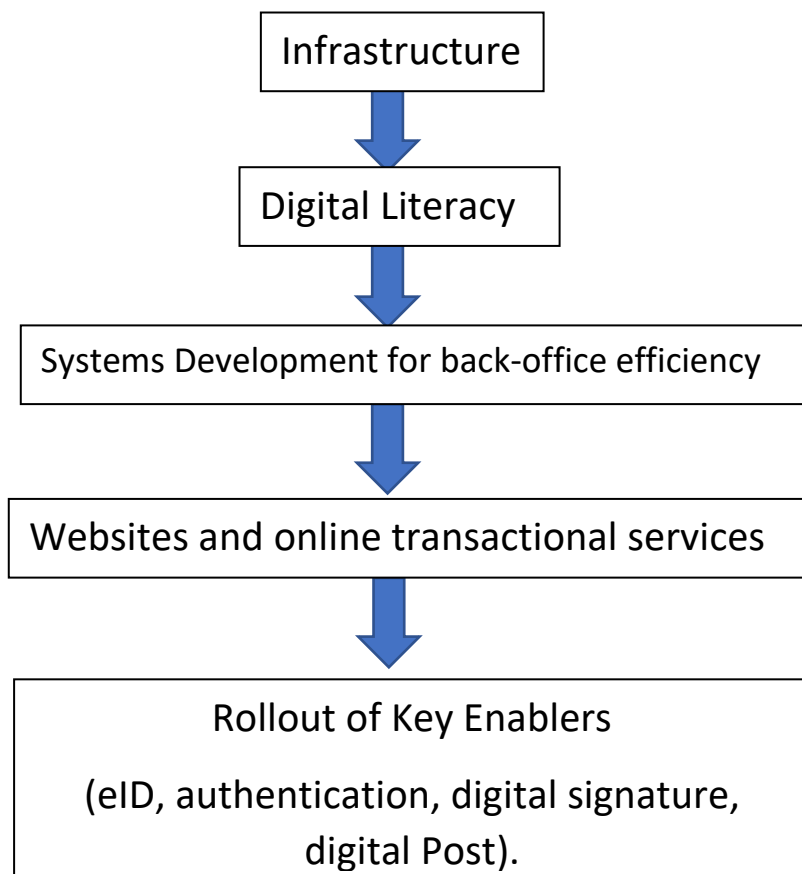


Fig. 4: established steps in creating “whole-of-the-government” approach for public services delivery

From the Key Enablers, examples of private sector involvement in providing services refer to:

- Infrastructure upgrade or development (see the examples from France and Spain; use also the experience gained with the "Udinet" project implemented in 1996 in Uzbekistan);
- online identification (example from UK) and eID services (Latvia);
- online car registration services (Netherlands).

In considering potential pilot projects relevant to Uzbekistan, the Ministry of Justice (through the Public Services Agency), Ministry of Interior, The Ministry for Development of Information Technologies and Communications would be the key stakeholders.

This area might support under the Pillar 1 of the current project (“Digitalization of Public Services Delivery”) the *Activity 3.2* “Streamline provision of at least 10 public services through PSCs in five pilot regions”, and – at local level – *Activity 4.1* “Digital transformation of selected public services of the khokimiyats & integration them with PSCs”.

The Government of Uzbekistan passed already in 2003 the Law No. 562 regulating the electronic digital signature, amended in April 2018. It regulates the specialized responsible body and center of registration. One of the usages of the e-signature is in form of digital signatures for signing documents implemented by the Ministry of Finance with support from

the OOO "UNICON-SOFT", a Uzbek software company<sup>4</sup>. The platform "mf.ijro.uz" is effectively used by about 5,000 employees of all organizations within the ministry's system. It creates additional conveniences in ensuring effective functioning in the telework (remote work) mode during the quarantine period associated with the coronavirus pandemic.

The e-signature is just one component of the complete platform design for e-Services (see the analysis in the previous report). Private sector operators could be involved in various forms (outsourcing, public procurement) for other components: Systems Development for back-office efficiency gains, eID, authentication, digital Post.

## **Water supply and waste management**

In providing services related to water supply, involvement of private capital and knowledge can take place either in improving infrastructure (by building or renewing water plants and renewing water distribution systems) or by delivering services (management of operations such as consumption meters, billing or maintenance/repairing services).

Related to waste management, following services are suitable to private involvement: waste collection, waste treatment, incineration, landfilling, and recycling.

These services are feasible in large municipalities, with critical size – offering a larger consumer base and business size, to become appealing to private investors by providing a certain profitability.

The PPP Development Agency presents on its website several projects, potentially suitable for partnerships with the private sector:

- Water Supply and Sewage System in four major cities of Uzbekistan: Samarkand, Bukhara, Karshi and Namangan;
- A project to renew Tashkent's water supply and sewage infrastructure is estimated to a value of USD 450 million;
- the project for the transfer of the pump station "YAZYOVON" under the Department of Pumping Stations and Energy under the Syrdarya-Sokh IDHB;
- The project of operation of pumping stations "Istiqlol-1K" and "Istiqlol-2K" in Andijan district (Naryn-Karadarya Irrigation Basin Department) on the basis of public-private partnership is under analysis.

Other potential ideas are:

- Improving waste landfill sites, introducing collection and recycling facilities, and purchasing garbage trucks;
- Introducing sorted municipal waste collection in urban areas. This component needs a very strong awareness campaign among the population;

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<sup>4</sup>UNICON-SOFT, OOO has 1 total employees across all of its locations and generates \$126,501 in sales (USD).

For any project proposal under these topics, the Committee on Ecology and Environment Protection should be also involved, in order to ensure the conformity with latest standards on ecological and environmental protection.

### **(Green) Energy – energy and distribution**

The need for providing modern services is reflected by the fact that the supply of renewable energy is equivalent to less than 11% of the demand for it, and most of this energy is in the form of hydroelectric power, and 89% of the total produced energy is generated by deteriorated thermal power plants, many of which were constructed in the 1960s and 1970s and have therefore been in operation for around 50 years (International Energy Agency). No solar, wind or biogas generated energy projects are currently functional in Uzbekistan.

In providing services related to energy production and distribution, the current standards related to green energy and environmental protection should be considered. The main partners on the public side are Uzbekenergo, Uzbekhydroenergo, and the Coordinating Dispatch Center “Energiya”. The estimations are that renewal of 7,000 kilometers of power transmission lines per year and modernizing 2,500 substations are needed<sup>5</sup>.

Following proposal concepts are possible to be considered for a partnership between public and private sector:

- design, construction, and operation of a 200-MW solar power plant in Samarkand region;
- design, construction, and operation of a 100-MW solar power plant in Navoi region;
- Psken hydroelectric power plant (400 MW);
- Supplying heat for schools and kindergartens using solar thermal technology;
- Development of a high-efficiency cogeneration and combined-cycle system through private-power dedicated small and medium-sized gas turbines and heat supply-network modernization;

Except for local projects, the energy projects in Uzbekistan should be linked and synchronized to the regional projects agreed with the neighboring countries. Also, the projects might be designed in cooperation with other economic sectors in mind (e.g. solar power facilities and solar water heaters for agricultural needs).

A component discussed with representants from the regions of Uzbekistan highlighted the possibility to include the private capital in renewing/modernizing the meters installed in households for electricity, water and gas supply.

A brief analysis highlights the following situation: in Uzbekistan, in 2019 there were 6,6 mill households (National Statistical Office). The average price for a modern electricity meter is estimated to 30-50 USD. In the hypothetical case the national electricity company (“National Power Grid of Uzbekistan” JSC) would need to improve its services delivered to the population

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<sup>5</sup> Enactment of measures to accelerate the development and ensure the financial sustainability of the electricity industry. [www.lex.uz](http://www.lex.uz). №ПП-3981 23.10.2018

though renewing the meters, only the material cost would range to 200 to 330 mill USD. A potential private investor would probably have to mobilize a loan around 500-700 mill USD to cover the material costs, labor costs, maintenance for 10-20 years, PPP arrangements costs and financing cost. These figures might represent a value of 75 – 110 USD per household to be paid, a value that might not be justified for the new services provided. A pre-feasibility study should analyze in depth the model and provide for more accurate values.

The latest example of large-scale creation of a smart metering of electricity is the Saudi Arabia's Smart Metering project with an estimated value of 2,6 billion USD and entails installing and commissioning 10 million smart meters for consumers across the country (similar to Uzbekistan). The project is funded by own resources of the Saudi Electricity Company.

The existing experience on involving private partners in energy distribution sector is mixed. The WB's PPP Knowledge Lab mentions<sup>6</sup> that "distributing electricity from the transmission system into consumers' homes, schools and businesses, is often cited as the weakest link in the power sector given its high susceptibility to disruptions and technical and commercial losses." PPPs in distribution frequently operate through a *concession framework*, encompassing all functions and obligations relating to distribution of electricity in a designated area. The concessionaire is responsible for maintenance, operation and upgradation of the distribution network and for the supply of electricity to the regulated consumers. Under a typical distribution concession, the private entity takes over management of a power distribution utility, rehabilitates and extends the assets, manages the distribution of power to customers, and recover its investments via user fees.

Distribution PPPs managed under concession have proven challenging to implement in developing countries with underperforming or financially unsustainable utilities. Such utilities are often too dysfunctional to structure any type of transaction where the private sector assumes investment risk. Under these circumstances, performance-based management contracts are an option to rehabilitate the utility and provide the necessary capacity building and skills and technology transfer.

An example of this kind of contract would be a management contract, under which a private entity would manage (but not invest in) a government-owned power distribution company in exchange for compensation through annual payments from the government (rather than by selling power to customers).

## **Health Services**

In providing health services, involvement of private capital and knowledge can take place either in improving infrastructure (by building or renovating hospitals) or by delivering services (medical or administrative).

Ideas potentially suitable for Uzbekistan are

- the e-Records model of the population (see the example from France);

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<sup>6</sup> <https://pppknowledgelab.org/sectors/distribution>

- one hospital built/modernized and operated by a private partner (see examples from Spain and Ireland);
- other needs are related to introduction of modern equipment and treatment modalities; a Children Oncological Center; Kidney Center modernization/enhancement.

In considering potential pilot projects relevant to Uzbekistan, the Ministry of Justice (through the Public Services Agency) and the Ministry of Public Health would be the key stakeholders.

### **Education Services**

From the services with potential for involving private sector resources in education sector, the “kindergarten” topic has been mentioned. As the government (through the Ministry of Education) has limited funds to renovate existing facilities or to build new kindergartens, the involvement of the private capital would deliver improved services to the population. A potential partnership will have to consider a feasible model: a renovation and endowment might be a project too small to justify a PPP; on the other hand, building a new kindergarten will have to be for this purpose, and in case the PPP agreement fails, the usability of the building will decrease and redesign costs might prove prohibitive to the private financier.

According to studies and research<sup>7</sup>, public-private partnerships where the public sector provides financing for a privately-operated school could result in expanded access to high-quality education, with efficient use of the budget.

Examples of public funding of privately-operated kindergartens are in Germany. Publicly-maintained day-care centers for children (maintained by the local authorities) are financed by the local authority (“Kommune”), by the Land (subsidies to cover personnel and material costs etc.) and through parental contributions. Meanwhile, day-care centers that are privately maintained (by churches, parents' initiatives etc.) are also financed by the local authority (“Kommune”), by the Land and through parental contributions, and, in addition, by the maintaining body's own resources. Financing by the Länder may include subsidies to cover investment, personnel and material costs etc.

A pilot test in Uzbekistan should be based on a strong commitment from the local community, besides a private partner ready to operate the kindergarten. The Ministry of Education should be in charge in funding the facility, based on clear indicators' achievement.

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<sup>7</sup> Public Private Partnerships in Education, Susan L. Robertson, Karen Mundy, Antoni Verger and Francine Menashy, Edward Elgar Publishing, 2020 apud Barrera-Osorio, F., J. Guaqueta, and H.A. Patrinos (2012). The Role of Public-Private Partnerships in Education. In Public Private Partnerships in Education. Eds. S.L. Robertson, K. Mundy, A. Verger, F. Menashy. Cheltenham and Northampton: Edward Elgar.

## 5. Responsibilities on the potentially involved parties

The main stakeholder would be the Ministry of Justice (through the Public Services Agency), together with the line Ministries depending on the topic.

Additionally, the Ministry of Economic Development and Poverty Reduction and the Ministry of Finance would also be important stakeholders, due to the importance of such a project and the economic and fiscal implications of a large PPP (or similar) project. Another structure with potential role in analyzing PPP projects is the State Committee for Investment / Investment Promotion Agency under the Ministry of Investments and Foreign Trade of the Republic of Uzbekistan<sup>8</sup>. The newly created PPP Development Agency<sup>9</sup> is also mandated to provide guidance and facilitate contacts with potential private investors interested in investing in PSD.

Besides technical input, the Ministries should provide for strong legal advice, as any contract between the public sector and the private sector has particularities on a case-by-case situation. A potential private partner would always bring in the best juridical expertise, in order to cover the private player against any risk in the contract. The private actors are responsible with providing a business plan, based on worst-case, best-case and realistic scenarios. They would also be responsible to ensure the financing and operating the project.

According to the PPP Law, the PPP Projects can be initiated both by public authorities and private investors. If the competent authority accepts a proposal from private actors, the authority must then transfer the proposal to the PPP Development Agency (PPP DA). If the project scale is USD 10 million or more, the approval from the Cabinet of Ministers is required. After the PPP Development Agency provides its consent, the competent authority must publish the PPP project proposal on its website and provide an opportunity for third parties to submit expressions of interest. If there are no expressions of interest within the term, the proposal process shifts to the final negotiation with the proposer.

The PPPDA should invite key stakeholders to negotiate the terms of a potential PPP project. The key roles are played by the public institution and the private partner as follows:

The public institution(s) will act as contract manager (with responsibilities of its contract management team), with primary and secondary roles<sup>10</sup>:

Primary roles:

- To act as the contractual representative of the government (to protect governmental interests) in performing obligations and enforcing the rights of the government in the PPP contract;
- To monitor the performance of the private partner in providing the services specified in the PPP contract, and to enforce the payment or penalty mechanism associated with the performance monitoring;
- To liaise with the private partner in achieving the project objectives;

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<sup>8</sup><https://invest.gov.uz/partnery/native-organizations/gosudarstvennyj-komitet-respubliki-uzbekistan-po-sodejstviyu-privatizirovannym-predpriyatiyam-i-razvitiyu-konkurentsii/>

<sup>9</sup> <https://www.pppda.uz/>

<sup>10</sup> After "A Guide to Contract Management for PFI and PPP Projects", 4ps in collaboration with Mott MacDonald, Public Private Partnerships Programme (2007).

- To ensure that financial instruments such as securities and insurances are properly maintained;
- To manage any disputes that arises under the PPP contract;
- To manage the changes (variations and amendments) to the PPP contract in accordance with public policy and law, so as to achieve VfM through such changes;
- To oversee the management of the project assets and to ensure that these are correctly maintained, accounted for, and reported on;
- To ensure that user charges are amended in accordance with the PPP contract and public policy and law (if relevant);
- To report on the financial performance of the project in accordance with generally accepted accounting practices applicable in the jurisdiction;
- To report on the contingent fiscal obligations accruing to the government from the project and any changes thereto;
- To monitor, evaluate and report on the progress of the project, and identify lessons learned for the project and for future PPPs.

#### Secondary roles:

- To liaise with and promote cooperation between governmental structures in all spheres of government in relation to the project;
- To monitor the policy and legislative environment of the project;
- To enhance the integration of the project with other public services, programs, and projects.

The secondary roles could be played by the PPPDA, while the primary role will be a result of negotiations between the partners.

The private sector partners are required to comply to several requirements, which differ in the *pre-contracting phase*, and *during the project implementation*.

In the qualification stage, the partner has to comply with the government's requirements on transparency and reporting on its activities. Thus, the private partner should set up a Quality Management System (QMS) through which the process and procedure of documentation issuing, and monitoring of service and performance is recorded.

A Management Information Systems (MIS) will form a great part of the QMS. The importance of the MIS is to aid the reporting and monitoring of the private partner by the government, reduce time and costs in providing necessary documentation, and use for record keeping and safety.

During the implementation, there are some stricter formal conditions private partners has to fulfill: changes in shareholding; ensure ability of the private partner to perform its obligations with suitable experienced and qualified personnel; declare any changes in the financial structure of the private partner; and comply to requirements in terms of timing and contents of such reports.

Another key role might be played by Advisers. For public procuring authorities (Authorities), the expertise required to undertake PPP projects is both diverse and specific. The expertise commonly needed spreads over various fields such as *technical, finance, legal, market/demand, tax accounting and insurance*. The "theoretical" knowledge required also needs to be complemented with practical deal-making experience in areas such as project management or contract negotiation.



In this context, hiring advisers is often indispensable to an Authority undertaking a PPP project. Advisers will not only bring skills and practical experience to the Authority but also additional capacity to face the unusual, intensive and nonrecurrent workload that inevitably arises from implementing complex projects such as PPPs. The Authority may otherwise be exposed to significant risks in delivering the right project on the right terms. If they are managed efficiently, advisers will work shoulder-to-shoulder with the Authority, to enable, foster and implement the best outcome for the project.

The European Investment Bank's "European PPP Expertise Centre" created a very well-detailed guide on the roles of advisers in delivering PPPs<sup>11</sup>, which can be used in case the public authority considers necessary.

In designing, negotiating and implementing a PPP project, the following steps might be envisaged:

- PPP strategy development
- Create pre-feasibility and feasibility studies
- PPP funding and due diligence
- Contract negotiation
- Manage the PPP project, including Monitoring and Evaluation;
- Risk management
- Procurement
- PPP capacity development

## 6. Conclusions and Recommendations for piloting PPP in PSD in Uzbekistan

The market for public and private investments in Uzbekistan is constantly growing in the last years. Similarly, the need for investment in modernizing the Public Services Delivery is growing, as a result of the new reforms initiated by the Uzbek President, Government and the alignment to the Sustainable Development Goals. The private partnerships are desired as the private investors can bring needed financing and expertise in streamlining efficiency and effectiveness of projects.

Most of the 134 public services offered by the public authorities in Uzbekistan are not suitable for involving the private partners due to two reasons: privacy/confidentiality issues, and the small size, not giving the projects a sufficient volume to create enough profitability.

PPP projects in Uzbekistan were very few (maximum seven recorded by the World Bank), and with questionable success. The PPP Law and its Regulations were passed in 2019-2020, and several institutions were created to support the development of successful PPP Projects. Most notably, the PPP Development Agency plays a central role by analyzing and supporting PPP Proposals.

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<sup>11</sup>[https://ppp.worldbank.org/public-private-partnership/sites/ppp.worldbank.org/files/documents/role\\_and\\_use\\_of\\_advisers\\_en.pdf](https://ppp.worldbank.org/public-private-partnership/sites/ppp.worldbank.org/files/documents/role_and_use_of_advisers_en.pdf)

An analysis on best practices in the world and in the European Union show that, besides transport infrastructure, a few more sectors are suitable for involving private capital and experience under various forms:

- energy (power generation and distribution, regional heat supply);
- public utilities (sewage, waste treatment, street lighting);
- healthcare (medical equipment renewal, and introduction of advanced equipment);
- education (especially Early Childhood Education);
- “soft” public services (e.g. digital services).

Based on the provisions of the PPP Law, in order to test a possible involvement of private investors, the PPP Development Agency plays a central role. Along the PPPDA, the line Ministries are also responsible to provide guidance in selecting the most appropriate partners and contracting modalities.

The right formula to involve the private sector in providing public services is a matter of negotiation between the partners, depending on the topic, market conditions, organizational and financial capacity of the partners. So far, analysis on appropriateness of involving one or other contracting modality exists for large infrastructure projects. In the case of health and educational systems, the evidence indicates a working model is where the public system is paying for services delivered by the private sector. In other areas (energy production and distribution, water and waste management), concessions or outright privatization are the most common approaches.

In considering factors influencing the partnership, one of the popular criteria is “Benefit-Cost Analysis” (BCA). BCA assesses the social cost-benefit equation, in which the benefits for society have to be higher than the costs to the public for the project to be worthy of proceeding. It is an exercise that aims to include all relevant costs and benefits. This is done with a long-term perspective, projecting both costs and benefits through the analysis period. The period considered has to be in line with the useful economic life of the infrastructure asset.

With all the considerations above, as the next step, the UNDP Project Team should organize a round table with the relevant participation both from the public sector and private sector representatives, to assess both the interest and availability of the private investors, and make first proposals on the most appropriate contracting modality.

Based on the findings from the round-table and recommendations from the PPPDA, the Project Team – together with the Public Services Agency under the Ministry Justice of the Republic of Uzbekistan – can proceed with selecting one-two project proposals to be tested as pilot projects. The pilot projects will then be assessed on their success, and the international consultant will provide a report with a set of recommendations on scaling up / adjust the suitable models to involve private partners in delivering effective Public Services in Uzbekistan.