



ReSPA

Regional School
of Public Administration

Third PPP/ PP Working Groups Meeting

**CAPACITY BUILDING ON
PUBLIC PRIVATE PARTNERSHIP
IN THE WESTERN BALKAN COUNTRIES**

1-2 June 2015

Danilovgrad, Montenegro

Discussion Paper and Draft Agenda

Background - Previous activities

Public-Private Partnership (PPP) model is beneficial to attract private investments into public infrastructure and services worldwide. However, it continues to remain occasional case rather than comprehensively planned systematic action in Western Balkans (hereinafter referred to as the “WB”) region. This inevitably results in high uncertainty to the private sector as well as financial institutions and exposes WB PPP market to the risk of PPP model being abandoned instead of progressing well.

One of the reasons being is limited and insufficient knowledge and experience to launch and implement public investment projects in PPP model. Still estimating infrastructure investment gap in value of around 110 billion over the next ten years, various forms of PPPs can be used as tools to help bridge the infrastructure gap and improve the overall efficiency of public spending¹. Necessary capacities and experience to develop PPP project pipelines, regional PPP projects can be delivered through technical assistance programmes aiming to improve the existing legal, regulatory and institutional framework for PPP.

In fulfilling its role, ReSPA has earlier recognized the needs of its member states in the PPP field and introduced the PPP workshops in 2011, 2012 and 2013, as well as a follow-up activities including site visit to PPP projects successfully implemented in Croatia.

Based on the feedback from the participants, and the recommendation from the 2012 and 2013 reports resulted from the WBIF activities in funding the infrastructure projects and providing the technical assistance program in strengthening PPP institutional capacity, ReSPA has initiated PPP expert’s network in June 2014.

By establishing the network of PPP experts, ReSPA creates and facilitates the platform for bringing together PPP trainers and practitioners. In a long run this can improve the existing learning methods and develop more innovative methodology to improve the knowledge, understanding and capabilities of the actors involved in the WB region.

In addition, by facilitating the PPP working group, ReSPA assists in implementing the EC Enlargement Strategy reflecting the need to support investment in infrastructure in the WB, continuing the development of the WB platform on education and training, and assists in enhancing capacities necessary for public investments using PPP model.

Up until now there were two events of PPP network. The first PPP network meeting took place in June 2014 in ReSPA dedicated to the novelties on concession directive of the EU and structuring of strategic framework for successful PPPs in the region. The participants expressed the following needs for networking: development of guidelines, permanent opportunity to discuss common problems and finding necessary solutions, possibility to participate in future similar meetings to clear the confusion about PPP and practicalities of PPP project’s implementation, to contribute to further competence building of local and regional authorities in order to manage political risks, to initiate task force or regional institution to promote PPP model, to initiate PPP project by several public authorities with contribution from IPA. As a conclusion, highly ranked participants have expressed the needs for further enhancement of competencies in PPP field through training program.

¹ Overview of the PPP Legal and Institutional Frameworks in the Western Balkans. EPEC. July 2014.

The second PPP network meeting took place on 19-20 November 2015 in Luxembourg. It was jointly organized with European PPP Expertise Centre (hereinafter referred to as the “EPEC”) in the premises of European Investment Bank. EPEC was identified as the most relevant stakeholder as the majority of PPP institutions in WB countries are already its members and EPEC was commissioned by WBIF to undertake implementation of technical assistance program contributing to PPP institutional strengthening in WB. As a result of the assignment from WBIF, EPEC issued a Publication “Overview of the PPP Legal and Institutional Frameworks in the Western Balkans” (hereinafter referred to as the “Publication”²). The Publication contains of comprehensive analysis and summary of the PPP legal and institutional frameworks in the WB region. Key part of the Publication comprises recommendations for strengthening PPP institutional arrangements which are intended primarily for public sector bodies responsible for promoting PPPs in the region. Also, under this program, EPEC has prepared and published analysis of PPP Units and related institutional framework for Croatia, Serbia, Montenegro and Kosovo^{*3}. This could contribute to future review and comparison of the national PPP systems and recommendation for necessary steps to be taken for improvement and harmonisation as well as for fostering homogeneous practice in PPP project implementation. Besides, EPEC has recently developed the most practical Project readiness tool (hereinafter referred to as the “Tool”) to be used for assessment of actual maturity status of any PPP project. The Tool was presented at the meeting as a helpful in strengthening the quality of project preparation and increase success rate of PPP projects in the region. With the Tool, WB practitioners will benefit from strengthening their understanding about maturity of each PPP project before launching private partner selection procedure. The second topic during the second PPP network meeting was dedicated to the existing approaches used to assess the Value-for-Money (hereinafter referred to as the “VfM”). The VfM assessment helps to enable decisions to be taken in a consistent, methodological and transparent way. Since the practices of VFM assessment differ in terms of quantitative and qualitative methods, EPEC presented their study on VfM assessment in the leading EU countries France, Germany, the Netherlands and the United Kingdom.

The representative of JASPERS presented its role in preparation of major infrastructure projects in new and pre-accession EU member states aiming to increase the quality of project. The representative of EIB has presented EIB’s lending activities in the WB region which help to catalyse investment in transport, IT, Education, health, knowledge economy, municipal infrastructure, communal services, production sectors as well as the loans for SMEs.

The content of the program regarding the working group activities was dedicated to introduce the comprehensive PPP training program, carrying out the regional comparative study on PPP, future working group activities in 2015 including 3-module training programme. It had provided open discussion on the main priorities in introducing the comprehensive PPP training program on the ground of the identified gaps on necessary expertise at national level and on assessment of administrative capacity and maturity in project planning, design and

² Available at

http://www.eib.org/epec/resources/publications/epec_wbif_overview_ppp_institutional_arrangements_institutional_frameworks

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procuring. The participants have also discussed the optimal method in introducing the comprehensive training programme.

Participants agreed that the advanced level of knowledge is a tool to reduce mortality rate of PPP projects which has been pointed out in the Publication. Participants shared their approach to the most challenging gaps in expertise at national level of each country. The finding from the meeting was the fact, that there were no comprehensive training needs assessment for PPP competencies carried out in their countries. The most preferable training model for participants is deemed to be lectures. Afterwards the participants were asked to identify 3 major gaps in competencies from 12 main competencies proposed. Among them, they prioritized the following 4 essential competencies:

1. **Investment management.** Scope of trainings should improve competencies to understand why the investments are needed, how to define the scope of investments, how to make cost and benefit analysis to any of investment project to facilitate in decision making process, what is important to assess PPP as an investment.
2. **Project management.** Trainings should provide participants with the answers to the questions: how to define proper project management structure, how to manage PPP project in each PPP project cycle, what are the stages of PPP project management and how to define relevant tasks for PPP team.
3. **Value for Money (VFM) and affordability.** Training objective is to introduce the concept of VFM, to train on assessment VFM in different stages of PPP project cycle.
4. **Structuring and Negotiating Legal PPP Agreements.** Scope of trainings should emphasis termination provisions, risk allocation, compensation events, relief events, step-in rights, direct agreements.

The participants have also discussed the issue of target groups versus specific topics and it was emphasised that not only PPP Units' staff need to be trained, but also their superior and high ranking officials.

The target of final discussion was further working group activities organized by ReSPA. Four training modules identified during the 1st day were discussed and introduced to the participants. They suggested that the most suitable model of future training programme delivery could be through 3-module training programme lasting 3-days for up to 20 participants.

Along with the 3-module training program, the roadmap for 2015 was presented and the following deliverables: case studies on success and failure in PPP project implementation (2); outline of practical guidelines and tools; template documents (tender documentation, risk matrix and/or draft contract); PPP Training programme; draft of Action plan for further interventions and joint initiatives.

The planned preparation of comparative study, which was postponed after the first PPP network meeting, was revised. Participants provided their renewed approach to the objectives of comparative study and stressed necessity to benefit from comparative study for promotion of PPP policy in their respective countries.

Objectives

The objective of this discussion paper is to provide with the topics and issues related to the outcome (findings and recommendations) of the comparative regional study on PPP, the topics to be discussed at the ministerial conference on launching the comparative study and the training programme covering the topics highlighted at the second network meeting. Considering the topics related to structuring and negotiating PPP agreements in line with the public procurement rules, it is suggested to combine the second day with the public procurement working group meeting. Both groups shall benefit from learning and discussing the specifics of public procurement procedures, which is an important stage in PPP project cycle.

The overall objective of the third PPP working group meeting is to further enhance capability of responsible institutions to carry out the tasks in designing and implementing PPP projects in an efficient manner, to contribute in fostering homogeneous good practice in WB and ensure sustainability of working group activities.

Content – how to enhance PPP market in WB

In the last two decades international interest to alternative arrangements for the provision of public infrastructure and services to traditional public procurement has broadened worldwide. In Europe the public private partnerships market decreased in 2009 comparing with significant growth since 2005 in value and number of transactions. However, the number of deals being closed in Europe in the first half of 2014 has grown steadily since 2012⁴. Also in the Western Balkan countries PPP model is considered as an attractive way to leverage the resources available from EU Funds (IPA) including WBIF and respective International Financial Institutions and bilateral donors. Although it is beneficial to attract private investment into public infrastructure and services traditionally procured by government (public sector) accelerating the implementation of the priority infrastructure, PPP is even now challenging governments in the WB region to improve national institutional and legal framework for efficient PPP model implementation. Besides, given that a significant number of projects funded from IPA have regional dimension (national – 36%, multi-beneficiary 43%) EC invigorates regional cooperation to foster homogeneous good practice. While estimating the total value of the current WBIF investment pipeline, “there remains a substantial financing gap of around €10.7 billion for WBIF projects”⁵. Besides the planned loans, the gap still stands as significant. Given the desirability of stimulating more private sector inflows for investment projects, WBIF is considering specific types of technical assistance aimed to promote the PPP approach as a delivery mechanism for selected priority projects included in the approved pipelines.⁶ One option is to provide training programme aimed at improving the legal, regulatory and institutional framework for PPP in particular enhancing institutional capacities to prepare, negotiate and monitor PPPs. For this ReSPA is identified as a

⁴ EPEC Market Update – Review of the European PPP market for the First Half of 2014

⁵ WBIF, Overview of Macroeconomic and Fiscal Challenges in the Western Balkans and Implications for the WBIF”, November 2013, available at: www.wbif.eu

⁶ WBIF: „Potential for Promoting PPPs under the WBIF“, Draft report for Task Force on Evolution of the WBIF, June, 2014, available at: www.wbif.eu. On the page 9 explicitly stated that ReSPA „could be provider of services“concerning technical assistance to promote PPPs in WB.

potential provider of services. Another option is to provide the assistance in supporting the identification and development of individual PPP investment project.

Further, based on the full analysis of the PPP environment in WB countries, in EIB's European PPP Expertise Centre's overview⁷ it is stated that there is a great heterogeneity in the type and size of PPP projects and although the Western Balkan countries have made serious progress in recent years towards setting up regulatory and institutional frameworks to implement PPPs, success in achieving actual PPPs has been so far limited if not elusive.

Although the experience in the Western Balkans is rather limited, a few PPPs success stories are encouraging as they suggest that well-designed PPPs can greatly improve project efficiency and achieve value for money in delivering of public services.

Since PPP preparation, evaluation and monitoring require specific skills which many Western Balkans countries do not possess, the regulatory framework for PPPs harmonised at the certain level with EU regulations still has to be complemented by the building of institutional capacities for undertaking investment projects.

By facilitating the PPP working group, ReSPA will assist in implementing the EC Enlargement Strategy reflecting its objective to support investment in infrastructure in the WB, continuing the development of WB platform on education and training, and assists in enhancing capacity building on PPP. Further, the PPP activities plan is fully in line with the following strategic priorities:

- IPA II addressing competitiveness and growth
- SEE Europe2020 for Jobs and Prosperity in European prospective
- WBIF recommendation for the possibility of introducing PPPs under WBIF⁸

Considering the outcome of the previously conducted activities, ReSPA has proposed roadmap on PPP for 2015 envisaging activities aiming to stimulate regional cooperation in the field of PPP. The activities will focus on PPP Institutional arrangements, PPP project related know-how and PPP Unit collaboration at the regional level. The modalities of the program will be aligned with ReSPA policy and complementary with the goals of other relevant stakeholders in WB. Taking into account the assessment on capability of national institutions to carry out the tasks in designing and implementing PPP projects in an efficient manner, it is therefore proposed to conduct regional comparative study and introduce 3-module training programme as the most appropriate method to meet these requirements.

In addition, on the ground of the recommendations from the participants attended the second PPP working group meeting it is proposed to discuss the following topics at the next meeting:

- The outcome of the regional comparative study.
- The topics of the ministerial conference on launching the regional comparative study such as, but not limited to: how to ensure and maintain political support in long-term investment policy, political risk management and mitigation, anticorruption in the construction industry, qualitative value for money assessment, non-financial benefits of PPP or socio-economics benefits, delivery of the equal service standard for future generations, transparency in the PPP procedure, long-term public partner obligations.

⁷ The report available at EPEC web page:

http://www.eib.europa.eu/epec/resources/publications/epec_wbif_overview_ppp_institutional_arrangements_institutional_frameworks See page 30, chapter 5.3. PPP Unit Collaboration at the Regional level.

⁸ WBIF: „Potential for Promoting PPPs under the WBIF“, Draft report for Task Force on Evolution of the WBIF, June, 2014, available at: www.wbif.eu.

- Training programme focussed on investment management and cos-benefit analysis, value for money and affordability assessment and structuring and negotiating legal PPP agreements.
- Presentation of the outcome of the survey on the future PPP working group topics
- Presentation of the initiative of regional eGov / PPP project
- Video presentation of prof.Robert Klitgaard on PPP

The draft agenda is providing the framework for open discussion in which the participants are invited to participate actively and provide suggestions for topics to be discussed at future meetings and ideas for the next steps in working group operations.

Target audience and participant's role

The third PPP working group meeting will gather 18 participants (three representatives from: Albania, Bosnia and Herzegovina, Macedonia, Montenegro, Serbia and Kosovo*), primarily PPP working group members who took part in the previous PPP Working group meetings held in June and November 2014 respectively, and who represents:

- *Policy makers* (Heads of the PPP units or high ranked representatives of the line ministry responsible for PPP); and
- *Senior managers responsible for PPP project preparation and implementation* in the PPP Units or line ministry responsible for PPP.

And who:

- Have at least 5 years of relevant work experience in the topic of the working group.
- Possess a clear and demonstrated interest in the working group topic and are motivated to participate in discussions and exchange of opinions/best practices with other colleagues from the WB countries.

The participants are invited:

- to actively participate in the discussion and practices exchange; and
- to provide the inputs for the further working grouping needs and steps to be taken.

Short Resume of the Experts- TBC

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DRAFT AGENDA – 3rd PPP/PP working groups meeting, 1-2 June, 2015

Day 1- PPP issues

9:00 – 9:15 **Opening session.**

Agenda overview and introducing objectives of the meeting

9.15 – 10.00 *Expected deliverables of the regional comparative study on PPP (tbc)*

10.00 – 10.45 *Topics of the ministerial conference on launching the regional comparative study (tbc)*

10:45 – 11:00 Coffee break

11:00 – 11.30 **Discussions**

11:30 – 12:30 **Investment management (I). – Jaspers representative**

The main definitions: Cost &Benefit Analysis and investment project;
The objectives of Cost &Benefit Analysis;
Traditions of carrying Cost &Benefit Analysis.

12:30 – 13:30 Lunch break

13:30 – 14.30 **Investment management (II).**

Guidance on the Methodology for Carrying out Cost &Benefit Analysis;
6 parts of Cost &Benefit Analysis: socio-economic context and project objectives; Identification of the Project; Alternative option analysis; Financial analysis; Economic analysis; Risk assessment.

14.30 – 14.45 Coffee break

14.45 - 17:00 **Value for Money Assessment - EPEC representative**

Concept of Value for Money assessment.
Main financial indicators from financial analysis of the project.
Public sector comparator
Private partner model
Quantitative and Qualitative Value for Money assessment.

17:00 – 17.30 **Question & answers session**

Day 2 – PPP/PP issues

9:00 – 9:10 **Opening session.** Exercise of topics from the Day 1

Part I – joint PPP and PP issues

9.10 – 9.30 **Practicalities for involvement of participants in PP Regional study**

9.30 – 10.30 **Private partner selection procedure.** (PPP Expert, Lithuania)

- Negotiated procedure, restricted procedure, competitive dialog

10:30 – 10.45 *Coffee break*

10.45 – 11.30 **Tendering PPP Project** (PPP Expert, Lithuania)

- Selection criteria
- PPP Contract award criteria
- The most *economically advantageous tender (MEAT)*

11.30 – 12.15 **The PPP contract content** (PPP Expert, Lithuania)

- Type of Agreements (Construction, Maintenance, Lease, and Financial, Direct)
 - Termination provisions (early termination, compensation events, relief events, step-in-right, and dispute resolution)

12.15 – 12.30 Discussion

Part II – PPP issues

12.30 – 13.00 **Outcome of the survey on the PPP working group topics** (PPP Expert, Croatia)

- Preferences in topics
- Preferences in methods
- Recommendation for follow-up activities

13.00 – 13.30 **Initiative of regional eGov / PPP project (ReSPA)**

13.30 – 14.30 Lunch break

14.30 – 15.45 Video clip

Prof. Robert Klitgaard lecturing on PPP at Lee Kuan Yew School of Public Policy, Singapore: “Combining Leadership, Entrepreneurship & Service”

15.45 – 16.00 Discussion and wrap – up of the meeting