



ReSPA

Regional School
of Public Administration



European Bank
for Reconstruction and Development

Joint Workshop of ReSPA and EBRD devoted to Public Private Partnership and Public Procurement Working Group

16th-17th November 2015

EBRD Headquarter, London (United Kingdom)

Discussion paper and draft agenda



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Background

Public Private Partnership (PPP) and Public Procurement (PP) are recognized as an important components of the priorities laid out in the European Commission strategy papers for the Western Balkans in terms of efficiency and sustainability of public finances. Therefore ReSPA is intending to implement study visit to the EBRD at its headquarters in London (UK), for further strengthening of the institutional capacity in the WB countries in the domain of important thematic areas PPP and PP.

Public Private Partnership (PPP)

The public private partnership (PPP) is a globally recognized model for the implementation of projects or provision of services traditionally provided by the public sector. In the Western Balkans countries, it is considered as an attractive way to leverage the resources available from EU Funds (IPA) including the Western Balkans Investment Framework (WBIF) and respective International Financial Institutions and bilateral donors. The estimated financial gap for infrastructure stands at 6.2 billion euros. In principle, for its successful implementation the countries have to establish sound legal and institutional framework, ensure effective inter sectoral cooperation and introduce multiyear strategic investment planning and subsequent multiyear budget planning.

The legal framework for such cooperation between public and private sector in Europe has continued to evolve over the past several years. The aim of all those entities involved in institutional development and practical implementation of PPP was to make PPP equivalent to the traditional methods of financing and implementation of public tasks. Still, the burden is on the central government and public sector to develop the necessary skills and competencies for the modern procurement techniques and methods as required for the long-term contract execution.

ReSPA has recognized the needs for improvements in the PP/PPP/Concessions in its respective member states early in 2011. In 2014 ReSPA has launched the PPP network after successful implementation of PPP training program started from 2011 to 2013. Last year ReSPA has organized two PPP network meetings – the first took a place in Danilovgrad (23 – 24 June 2014) and second took place in Luxembourg (19-20 November 2014). The third working group meeting has been held in ReSPA on 1-2 June 2015. Likewise the internal networking benefits for the participants, ReSPA ensured an opportunity to establish and maintain effective co-operation with European PPP Expertise Centre (EPEC) and JASPERS (Joint Assistance to Support Projects in European Regions).

Still, financing PPPs is witnessed as the weakest part of public entity in modelling the PPP infrastructure finance in contrast to the traditional infrastructure finance which is still widely in use in public sector in respective WB countries. The public sector exposure to the risks management is requiring competences which are insufficient and undeveloped given that experience and knowledge is acquired in traditional procurement whereas public sector bears majority of the risks identified in the procurement of the infrastructure for providing of

public services. Intermediary findings and recommendations of the recently conducted comparative regional study “Comparative analysis of lessons learned from recent development in implementation of PPP projects in Western Balkans region” has identified the major gaps in PPP project cycle management (project preparation, assessment, procurement, implementation and monitoring) while the regulatory framework is of good quality where exists. However, the enforcement of the law and standards application is not at the high level. Besides, in several countries the legal framework is not yet established (Bosnia and Herzegovina and Montenegro). The review of the operational projects and the projects in the tender phase has revealed that the readiness to procure the PPP projects among public sector is rather low. The cost benefit analysis and affordability assessment as prerequisites for successful PPP project implementation have not been developed before launching the tender. Neither good practice to determine project value has not been followed nor clear calculation for user-paid and authority-paid PPPs. For majority of projects only CAPEX has been estimated as project value.

Therefore, acquaintance of the knowledge on how to structure financial model and ensure its bankability and sustainability from the prospective of the financiers and sponsors would be of outmost importance. Although the necessity of the project from the public sector prospective could be justified solely on the ground of the legally justified reason stipulated in the sectoral law, it still has to be enough mature and financially viable to attract the private partner in competitive bidding procedure.

While considering the appropriate institution to provide assistance in strengthening competencies in financial aspects of PPP, EBRD is recognized as the most suitable financial institution which is playing significant role in WB countries in project finance together with other international finance institutions and since project investments are at the heart of EBRD operations. It offers a wide range of financial instruments and takes a flexible approach in structuring its financial products. The principal forms of direct financing that the EBRD may offer are loans, equity and guarantees. With significant project portfolio of more than 5 billion euros for more than 550 projects in all WB countries (Albania, Bosnia and Herzegovina, FYR Macedonia, Kosovo¹, Montenegro and Serbia) majority of which is in infrastructure, EBRD is one of the key players in municipal and environmental infrastructure development and enhancement of private sector and its competitiveness. In the recent years it is striving to boost PPP investment and has launched a new unit to help address countries’ PPP skills. The EBRD policy in project approval and environmental and social impact assessment would be of outmost interest for the participants in enhancement of their investment management competencies.

Therefore, it is reasonable to further seek to facilitate the appropriate PPP working group programme in bridging the gap between existing and desired skills and competences.

¹ This designation is without prejudice to positions on status, and it is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo Declaration of Independence

Public Procurement (PP)

Public procurement is a very important area with strong impact on a country's public service provision but also its overall economic and social development. Amounting to a significant percentage of national GDPs in all countries in the region, public procurement is directly related to the increasing competitiveness of the markets, improvement of electronic administration and business environment, promotion of environmental and social aspects and innovation. Due to its high total value public procurement also has significant influence on risk of corruption level, as well as enforcement of integrity aspects at various levels.

Under the auspices of ReSPA, Western Balkan countries have established a Public Procurement Working Group in the summer of 2014, with the aim to contribute in developing a sound and transparent public procurement system which will be harmonised with the *acquis communautaire* and the relevant EU standards.

The three network meetings held so far have paved the way for enhanced cooperation. In the first PP network event in Danilovgrad on July 2014, participants discussed new developments in public procurement at EU level, introduced by the 2014 directives, reviewed and analysed the existing national public procurement systems and key challenges in developing these systems within the framework of EU accession process.

The second PP working group meeting was organized in Warsaw in January 2015 with attention to two specific aspects of modern and flexible public procurement system: e-procurement and management of irregularities in PP (aside the review process). It combined the working group meeting with a study visit in order to identify tangible inputs and benchmarks for launching and development of the Regional Comparative Study in the selected topics.

The third meeting was organized jointly with the PPP working group in order to explore synergies between networks and to finalize the layout and anticipated results from the Comparative Study among the wider group of PP and PPP working group members. Additionally, a survey was prepared to confirm the topics for the regional comparative study to provide suggestions for topics to be discussed and agreed regarding the envisaged training needs derived from the anticipated recommendations from the comparative study and ideas for further development of work group operation.

The study is currently under way and will be tentatively finalized before the end of November 2015.

The EBRD promotes reform of public procurement and seeks to lead by example. It supports legal and institutional transition in public procurement and ensures that investments in the public sector contribute to the development of a market economy. The EBRD is dedicated to developing international procurement standards and guidelines for achieving fairer and better quality procurement. The EBRD also provides technical assistance to governments that are committed to undertake the reforms. The EBRD core principles of public procurement are a valuable source of information for assessing the

public procurement frameworks.

EBRD's public procurement sector assessments are also highly relevant. Presently, the EBRD is working on preparing a regional public procurement assessment, based on the new benchmark, reflecting latest public procurement policy developments and international best practice. Drawing on this experience will be highly beneficial for the PP working group members.

Objectives

Given that level of knowledge and experience in structuring and negotiating PPPs amongst public officials is still estimated low across all of the Western Balkan countries and that much of the institutional skills required is common, ReSPA intend to provide learning platform and facilitate the activities contributing in stimulating overall interest in PPPs in the region. By facilitating the PPP training programme, 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 for education and training, and assists in enhancing capacity building on PPP. Further, the PPP activity plan is fully in line with the following strategic priorities:

- IPA II addressing competitiveness and growth
- SEE Europe2020 for Jobs and Prosperity goals
- WBIF recommendation for the possibility of introducing PPPs under WBIF²

Similarly, public procurement is recognized as an important component of the priorities laid out in the European Commission strategy papers for the Western Balkans in terms of efficiency and sustainability of public finances.

In light of the above, ReSPA is intending to implement study visit to the EBRD at its headquarters in London, UK for further strengthening the institutional capacity in WB countries in the domain of two important thematic areas PPP and PP.

It is designed to achieve the following objectives:

- To enhance capability of institutions responsible for PPP and PP to carry out the tasks in designing and implementing PPP projects in an efficient manner;
- To elaborate lesson learned approach in both areas;
- To equip the participants with the required project oriented know-how;
- To maintain the continued learning process for PP and PPP practitioners.

The specific objectives of this workshop are as follows:

² 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.

- To upgrade competences in the PPP project cycle with emphasis to the project identification, Public Procurement process, the project proposal development and development and application of the justification criteria, funding and financial impacts and financial modelling;
- To improve understanding of various PPP aspects and the PP process (bottlenecks);
- To improve understanding of various stakeholders prospective;
- To enhance the quality of the project proposals and decrease the project mortality rate and improve PP process as a whole and in domain of PPP projects.

Content

The structure of the study visit is designed as to match the expressed priorities and to deliver other related topics in order to obtain the comprehensive program compiling the most important PPP and PP related topics.

The target group

This 2 day study visit is designed for PPP and PP expert working group senior professionals in public administration responsible for investment planning and policy, sectorial regulatory agencies, public services delivery, development of public infrastructure with at least 5 years' experience of working on project preparation and implementation or development of public investment strategies at national, regional and municipal levels. Preferably, the participants are required to have direct responsibility for implementation of public infrastructure investment projects. As preconditions the following are desirable: understanding PPPs and PP principles, pros and contra PPPs; the role of PP in PPP, EU PP and PPP policy requirements from the prospective of EU accession countries; the importance of the strategic planning from the prospective of the public sector in line with EU requirements.

Event speakers

Matthew Jordan-Tank, Head, Infrastructure Policy, EBRD

Matthew is the Head of Infrastructure Policy at EBRD, providing advice and structuring for the Municipal Infrastructure and Transport sectors. Previously, he was Senior Urban Transport Specialist at EBRD from 2007-2013, where he focused on both private and public sector urban transport project structures in line with the Bank's mandate, involving over 50 individual projects across some 20 countries in Eastern Europe, Russia and the CIS and Turkey. His active project portfolio includes Belgrade, Istanbul, Warsaw, Wroclaw, Budapest, Sofia, Kiev, Sofia, Almaty, Bursa, and Izmir, amongst others.

The focus of his policy work covers transport sector funding, urban public transport regulation and commercialisation, public service contracting, performance-based contracting for roads, automated fare collection projects, ITS/traffic management, parking concessions, road safety, rail sector reforms, delegated management contracting and social infrastructure PPP

development.

Prior to joining EBRD in 2007, he worked as a Transport Specialist for Inter-American Development Bank in Washington, DC from 1999-2007. He holds a Masters in Planning from the University of Maryland, USA.

Alexei Zverev, EBRD Senior Counsel

Alexei Zverev, a Russian national, graduated from Moscow State University. Prior to joining EBRD, he engaged in private practice first in Russia and then with a major international law firm. Since 1996, he has worked in the Office of the General Counsel, European Bank for Reconstruction and Development, London, first as Counsel and then as Senior Counsel.

His responsibilities at the EBRD include leading public private partnership/concessions legislative and regulatory advisory projects throughout Central and Eastern Europe and the former Soviet Union and also supervising on behalf of the EBRD law reform in Russia. Recent undertakings include leadership of EBRD project teams advising on PPP/concession law and policy upgrade in the Czech Republic, Latvia, Hungary, Lithuania, Slovenia, Ukraine, Kazakhstan and the Russian Federation. Alexei has contributed to the drafting of the UNCITRAL Model Legislative Provisions on Privately Financed Infrastructure Projects, approved by the United Nations Commission in 2003. He is actively involved in the legal working group of the United Nations Economic Commission for Europe on Public Private Partnerships and in the activities of the PPP Alliance.

Veljko Sikirica, Senior Adviser, EBRD Procurement Policy Department

Veljko is responsible for EBRD client's procurement assessment and capacity building, policy dialogue and policy review, training of trainers, outreach to private sector, EBRD staff capacity building, Nuclear Safety projects procurement guidance and review, as well as, for procurement for sustainable development, independent procurement reviews and internal audit reports. He is responsible for all EBRD procurement related learning programmes in the Bank, as well as, externally with the clients. He teaches at the International Master in Public Procurement Management, University of Rome Tor Vergata and is a member of the Executive Committee.

Before joining EBRD in 2008, he worked in the Inter-American Development Bank from 1984, as team leader, procurement and engineering expert for energy and infrastructure projects, including work in the field (Bahamas and most of LA and Caribbean countries) responsible for project execution. Responsibilities in procurement included a wide range of tasks from conducting and reviewing procurement processes, documentation, audits, training and institutional capacity assessment and building, supervision, systems development and advisory services, to complaints review and resolution.

Prior to 1984, he worked in EXIM Bank of Yugoslavia. Veljko holds a Graduate degree in Electrical and Mechanical Engineering from "Universidad Nacional Autonoma de Mexico" and a Masters degree in Finance from the University of Maryland, USA. He has accumulated more than twenty years of teaching experience as a practitioner.

Methodology

The event will be delivered by utilizing:

- Presentations,
- Discussion,
- Review of case studies,
- Presentation of ReSPA regional studies in domain of PPP and PP.



DRAFT AGENDA – 16th -17th November, 2015

Day 1 – Monday, 16th November

- 9.15 Registration
- 9.30 PPP EBRD's Lessons Learned on PPP
(20 minutes presentation + 5 min commentary by each participating country)
Presented by: Matthew Jordan-Tank (EBRD, Head of Infrastructure Policy and Infrastructure Project Preparation Facility IPPF)
- * Each country should prepare verbal interventions that cover their country's 2-3 main lessons learned from PPPs to date (what has worked, what has not, and why)*
- 11.00 **Coffee break**
- 11.15 PPP Laws
Case study on Serbia
(20 minutes presentation +5 min commentary by each participating country)
Presented by: Alexei Zverev (EBRD, Senior Counsel, Legal Transition Programme)
**Each country should prepare verbal interventions that cover their country's legal framework status (specific PPP Law or not, needed amendments or reforms)*
- 12.45 **Lunch + LOGO**
- 14.00 Presentation of the findings and recommendations for the follow up evolved from PPP ReSPA analysis
Presented by : Goran Pastrovic, Programme Manager, ReSPA
**Each country should prepare verbal interventions reacting to the report's findings*
- 15.00 Case studies on Western Balkans Region and PPPs
(2 case studies: Tirana Airport)
resented by: tbc
- 16.00 **Coffee break**
- 16.15 IPPF presentation
Presented by: tbc
- 17.15 Wrap-up

Day 2 – Tuesday, 17th November, 2015

- 9.30 Introduction: EBRD's Work on Procurement Harmonisation
(20 minutes, following by 5 minute commentary by each participating country)
Presented by: Richard Gargrave (EBRD, Senior Procurement Specialist)
** Each country should prepare verbal interventions that describes briefly the current approach to any initiatives in e-procurement in their respective country*
- 10.30 Presentation of the findings and recommendations for the follow up on Public Procurement report by ReSPA analysis
Presented by : Nand Shani, Programme Manager, ReSPA
- 11.30 Telling a PPP story - Representative of P3 Bulletin (tbc)
Speaker - TBC
- 12.30 **Lunch**
- 14.00 Innovative Procurement and Project Design: Budapest's Automated Fare Collection System

Presented by : Levante Nagy, consultant, former Budapest Municipality Transport Authority
- 15.00 **Coffee break**
- 15.15 Building a collaborative relationship between all fields of the PPP community in the public sector– Representative of Infrastructure UK (tbc)
- 16.15 Wrap – up and closure of the workshop
Goran Pastrovic, Nand Shani and Matthew Jordan-Tank