Chapter 2

Dedicated PPP units: five case studies[1]

Comparing dedicated PPP units

Whereas the previous chapter introduced dedicated PPP units and their general functions across OECD member countries, this chapter examines the institutional architecture surrounding the procurement of public-private partnership projects in five case studies: Germany, Korea, the United Kingdom, the State of Victoria (Australia) and South Africa. These countries have been selected based on their respective experience with public-private partnerships and different country characteristics. All five countries have over ten years of experience with public-private partnerships. The volume and value of their projects range from 19 worth EUR 1.9 billion in South Africa to 450 projects worth EUR 43.3 billion in the United Kingdom (see Table 2.1). The sample includes four OECD member countries and one non-member country; three unitary and two federal countries; as well as four central and one sub-national/state governments.

Involvement of the dedicated unit in the procurement cycle

Table 2.2 presents an overview of the different actors involved in the procurement cycle. The overall picture emerging from the case studies is that the procuring government organisation is directly responsible for each phase of the procurement process, sharing indirect or direct responsibility with the PPP unit in selected stages. The important exception to this is the project approval stage, which in Germany and Korea is the responsibility of the Ministry of Finance, not the PPP unit, and in the United Kingdom, Victoria (Australia) and South Africa is the responsibility of the PPP Unit which is also part of the Department of Finance/Treasury. In South Africa, the National Treasury gives "Treasury Approvals" at various stages of the public-private partnerships procurement cycle: after the feasibility study, procurement, and value-for-money report, and when the project agreement management plan is finalised. In other words, when deciding on whether or not the project is deemed to be affordable and to provide value for money, the final decision rests with the Ministry of Finance. After project approval, the tendering stage and post-award stage is handled by the procuring government organisation assisted by the PPP unit (and in some cases the Ministry of Finance), assuming that the results of the tendering process adhere to the project approval parameters.

Table 2.1. Overview of dedicated PPP units in the five case studies

	Dedicated PPP unit	Volume of projects[1]		Value of projects[2]	
		Awarded	Pipeline	Awarded	Pipeline (estimate)
Germany[3]	Partnerships Germany	123	153	EUR 3.5 billion	EUR 5.2 billion
Korea[4]	PIMAC	415	154	KRW47.7 trillion (EUR 26.7 billion)	n/a
United Kingdom[5]	PPP Policy Team	668	117	GBP 55.2 billion (EUR 62.5 billion)	GBP 19.01 billion (EUR 21.5 billion)
Victoria (Australia)[6]	Partnerships Victoria	18	3	AUD 6 billion (EUR 3.5 billion)	AUD 4 billion (EUR 2.3 billion)
South Africa[7]	PPP Unit	19	44	ZAR 21.9 billion (EUR 1.9 billion)	n/a

1. Awarded projects refer to those that have completed the contract award (and any necessary approvals) and that may have begun construction/operation. Pipeline projects refer to those that have been initiated but have yet to award a contract. The recording of pipeline projects varies between countries. In Korea, pipeline projects include projects that have issued a request for proposal and commenced the tender process. In South Africa, pipeline projects also include those that have been initiated but may not have even undergone a feasibility assessment.

2. Exchange rates for the Korean won (KRW), the British pound (GBP), the Australian dollar (AUD), and the South African rand (ZAR) into euros (EUR) are calculated on spot rates as of 31 August 2009. These rates are: KRW 1 784.32 = EUR 1.00; GBP 0.883 = EUR 1.00; AUD 1.70687 = EUR 1.00; ZAR 11.1228 = EUR1.00.

3. Germany: figures as of June 2009.

4. Korea: No figure is available to distinguish between the value of awarded and estimated pipeline projects. Total awarded and pipeline projects approximated KRW 47.7 trillion as of September 2009, while there are 30 BTO pipeline projects as of September 2009 and 124 BTL pipeline projects as of December 2007.

5. United Kingdom: only refers to PFI projects and does not include other types of PPPs. Figures as of December 2009.

6. Victoria: only refers to public-private partnerships projects initiated since the establishment of the Partnerships Victoria Programme, *i.e.* since 2000.

7. South Africa: figures as of March 2009.

Source: Authors' notes.

Table 2.2. Functions of government organisations, finance ministries and dedicated PPP units in the procurement cycle

	Korea			Germany			South Africa		United Kingdom			Victoria, AUS	
	Procuring govt organisation	Ministry of Strategy and Finance	PIMAC (dedicated PPP unit)	Procuring govt organisation	Federal Ministry of Finance	Partnerships Germany (dedicated PPP unit)	Procuring govt organisation	National Treasury PPP Unit (dedicated unit)	Procuring govt organisation	HM Treasury	PPP Policy Team (dedicated PPP unit)	Procuring govt organisation	Partnerships Victoria (dedicated PPP unit)
Pre-tender													
Project initiation	●(1)	-	-	●	-	-	●	●	●	●	○	●	●
Assess feasibility and value for money	●	○	●(2)	●	-	○	●	●	●	○	●	●	●
Budgeting	●	●	-	●	●	○	●	○	●	●	-	●	●
Project approval	●	●	○	-	●	○	●	●	●	●	●	●	●
Tender													
Invitation to tender	●	●	-	●	-	○	●	○	●	-	-	●	-
Bid evaluation	●	-	○	●	-	○	●	○	●	-	-	●	-
Negotiation	●	-	○	●	-	○	●	○	●	-	-	●	-
Bid approval	●	-	-	●	-	○	●	●	●	-	-	●	-
Post-award													
Contract management	●	○	-	●	○	○	●	○	●	-	○	●	○
Payment oversight	●	○	-	●	○	○	●	○	●	○	○	●	○

● = direct responsibility, ○ = indirect responsibility, - = not applicable

1. May also come from private sector (unsolicited) public-private partnership.

2. Please see Table 2.10.

Source: Authors' notes.

Resources (staffing and funding) of dedicated PPP units

To function well a dedicated PPP unit requires staff expertise: sector specific technical skills, economics and finance, regulation, procurement, communications and training. Units within government organisations that are involved in the provision of infrastructure may already have such expertise.[2] To attract people with the necessary experience, dedicated units have to be able to offer competitive pay and other benefits, which rigid public sector salary systems may make difficult. While the public sector might never be a market leader in terms of remuneration, a number of other attributes (*e.g.* large interesting projects, job security, family-friendly work-life balance) can make the public sector attractive to highly skilled staff.

Table 2.3 presents information on the staffing and budget of the dedicated PPP units in the five countries surveyed. The size of a dedicated PPP unit ranges from 12 people in Victoria, 13 in the United Kingdom PPP Policy Team and between 60 and 70 in Korea’s PIMAC. In between are Partnerships Germany and South Africa’s PPP Unit with 21 and 22 staff respectively. However, caution should be exercised in interpreting these figures for a number of reasons. The scope of the functions exercised by these units is different, as too are their jurisdictions. In Australia and Germany, the two federal countries surveyed, a number of dedicated PPP units exist in other jurisdictions. In Australia, dedicated units exist in other states (*e.g.* New South Wales and South Australia). In Germany, a large number of federal states also have dedicated units of their own and are not obliged to draw upon the services of Partnerships Germany. Importantly, there might also be a great variation in the use of consultants.

Dedicated PPP units may be funded either directly via the government budget and/or through user charges. User charges are levied on a government organisation to capture the cost, either in part or in full, of services provided to other government organisations. In Germany, user charges are the predominant form of funding of dedicated units.

Both South Africa and Victoria (Australia) fund their respective dedicated units through the government budget. Indeed, both constitute a regular organisational unit within the finance ministry (or equivalent). In Victoria, however, a precise budget total for the unit cannot be easily ascertained because of the appropriations structure of the Department of Treasury and Finance. The Partnerships Victoria budget constitutes part of the budget of the Commercial and Infrastructure Risk Management Group in which it is located. That user fees are not used in South Africa and Victoria also reflects their respective budget systems. Neither use internal charges more generally.[3] In Korea, PIMAC is funded by the Ministry of Strategy and

Finance and fees levied upon line ministry/local government for project support. However PIMAC must consult the Minister of Strategy and Finance on the fees levied.

Table 2.3. Budget and staffing of dedicated PPP units in the five case studies, 2009

	Number of staff[1]	Approximate annual budget[2]	Funding source
Partnerships Germany	21	n/a	User charges
PIMAC, Korea	77	KRW 17 065 million (EUR 9.56 million)	Government budget and user charges
PPP Policy Team, United Kingdom	13	No discrete budget	Government budget
Partnerships Victoria	12	No discrete budget	Government budget
National Treasury PPP Unit, South Africa	20	ZAR 35 million (EUR 3.1 million)	Government budget

1. Staff figures do not distinguish between management, specialists and support staff.

2. Exchange rates for the Korean won (KRW) and the South African rand (ZAR) into euros (EUR) are calculated on spot rates as of 31 August 2009. These rates are: KRW 1 784.32 = EUR 1.00; ZAR 11.1228 = EUR 1.00.

3. Staff and annual budget figures in PIMAC include not only PPP programmes but also government-financed programmes.

Source: Authors' notes.

Performance assessment of dedicated PPP units

In many of the discussions of dedicated PPP units, there has been little discussion as to how to measure their performance. The World Bank and the Public-Private Infrastructure Advisory Facility (2007) have suggested defining the success of dedicated units by a proxy of the success of a public-private partnership programme in a country. In its discussion, a successful programme is one that provides services that the government needs, offers value for money as measured against public service provision and complies with general standards of good governance and specific government policy (*e.g.* transparent and competitive procurement, fiscally prudent, compliant with the government's legal and regulatory regime).

However, measuring the success of a dedicated unit based upon the success of a country's public-private partnership programme alone is a problematic measure. In many cases, a dedicated unit is only one actor involved in the project procurement cycle. This is not, however, to say that any less attention should be directed at examining the efficiency and effectiveness of projects. A dedicated unit may also be assessed by the quality of its advice, the quality of its risk analysis, and its ability to provide innovation in projects. Indeed, it can even be argued that where a PPP unit plays a gatekeeping regulatory role, its success should not only be measured in terms of the number of viable PPPs that it helped to create, but also in terms of the number non-viable PPPs that it prevented from being created. While the impact and quality of advisory services provided by these units can be difficult to measure, adopting both quantitative and qualitative measures may provide for a more balanced and context-specific evaluation.

For example, in Victoria, *Budget Paper 3 (Service Delivery)* focuses on output and service delivery by departments, including Partnerships Victoria. The output indicators of the Partnerships Victoria units within the Department of Treasury and Finance are not directly distinguishable because of its integration into the Commercial and Infrastructure Risk Management Group. In the 2009-10 budget, the output of the Commercial and Infrastructure Risk Management Group is to provide risk management advice, frameworks and information to ministers, departments, and private infrastructure partners to manage the government's exposure to commercial and infrastructure project risks. Quantity, quality and cost performance measures are presented for the budgeted fiscal year together with the target and expected outcome for the current fiscal year, and the actual outcome for the previous fiscal year.

The remainder of this section discusses each of the five countries. The focus is on exploring the roles of the dedicated units *vis-à-vis* the finance ministry (or equivalent) and implementing agency, before discussing the organisation and resourcing (staffing and funding) of the dedicated units.

Table 2.4. Non-financial performance information for the Commercial and Infrastructure Risk Management Group, Department of Treasury and Finance, State of Victoria, Australia

Major outputs/deliverables *Performance measures*	Unit of measure	2009-10 target	2008-09 expected outcome	2008-09 target	2007-08 actual measure
Commercial and risk management advice on projects which facilitate infrastructure and which minimise the government's exposure to risk(1)(2)	Number	300	310	189	365
Promoting the Gateway process to minimise the government's exposure to project risks(3)(4)	Number	70	112	90	nm
Revenue from sale of surplus government land including Crown land (DTF portfolio)(5)(6)	AUD million	40	35	30	38.9
Services (including policy, procedures and training) which facilitate new infrastructure investment (7)	Number	30	38	18	19
Service provision rating (ministerial survey data)	Per cent	80	80	80	nm

1. This performance measure replaces the 2008-09 performance measure "commercial and risk management advice on projects which facilitate new infrastructure and which minimise government's exposure to risk". The 2009-10 performance measure is the same as the 2008-09 measure except the omission of the word "new" to reflect measurement of commercial and risk management advice on new and existing infrastructure.

2. The 2008-09 expected outcome exceeds the 2008-09 target due to a greater than anticipated workload following the merging of the 2008-09 outputs "commercial and infrastructure project management" and "government land and property services".

3. The 2008-09 expected outcome exceeds the 2008-09 target due to an increase in the number of Gateway reviews, Gateway training and products provided by the Gateway Unit in 2008-09.

4. The 2009-10 target is below the 2008-09 expected outcome as it will incorporate measurement of Gateway reviews only. The performance measure "services (including policy, procedures and training) which facilitate new infrastructure investment" will include measurement of other Gateway services including training.

5. The 2008-09 expected outcome exceeds the 2008-09 target and is based on the number of properties expected to be sold in 2008-09.

6. The 2009-10 target reflects an increase in the number of estimated properties likely to be identified as surplus to requirements by departments and agencies.

7. The 2008-09 expected outcome exceeds the 2008-09 target due to a greater than anticipated workload following the merging of the 2008-09 outputs "commercial and infrastructure project management" and "government land and property services".

Source: Department of Treasury and Finance, *www.dtf.vic.gov.au*, accessed 31 August 2009.

Germany

In Germany, 144 public-private partnership projects (132 building construction; 12 transport) worth EUR 5.6 billion have currently been awarded and a further 126 projects worth EUR 5.2 billion are in the preparation stage.[4] Build-transfer-operate models[5] are the most common type of public-private partnerships. Other types include build-renovate-operate-transfer and lease-develop-operate.[6] Germany distinguishes between three broad types of projects: building construction, transport and movables (*i.e.* vehicles, aircraft, information technology, and technical equipment). The majority of projects relate to building construction, a few to transport. A large proportion of the approved projects – approximately one-third (42 of the 144) – are geographically concentrated in the federal state of North-Rhine Westphalia. To date, public-private partnerships have accounted for 2-4% of total public sector investment. The government aims to increase the contribution of private partnership projects to 15% of total public sector investment (German Ministry of Finance, 2008).

Legal framework

The PPP Acceleration Act (2005) adjusts the general legal, financial and technical framework for public-private partnership in Germany. The Act came into force in September 2005 and led to changes in a number of German laws – including those for procurement, tax, public road fees, budget and investment – to eliminate impediments related to PPPs. Although public-private partnerships were legally possible prior to the Act, they were considered legally disadvantaged relative to traditional public procurement. A number of policy goals were also outlined in the explanatory statement for the Act, including the provision of central guidance through manuals and standardised contracts and the establishment of centres of excellence.

To support the development of public-private partnerships, a number of guidelines have been developed by federal ministries and federal states since the 2005 PPP Acceleration Act. These cover the legal framework for public-private partnerships, project assessments and contract relationship management. Some also focus on particular sectors (*e.g.* education).

Table 2.5. Public-private partnerships in public construction works in Germany, as of June 2009

	Projects awarded		Projects in the pipeline	
	Number of projects	Project value (million euros)	Number of projects	Project value (million euros)
Schools/training centres	54	1 375	42	1 260
Sports/cultural facilities	36	670	29	415
Administrative buildings	25	655	17	675
Car parks/logistics centres/ miscellaneous	8	115	18	280
Hospitals	4	490	17	1 860
Federal buildings (barracks)	2	315	11	565
Prisons	3	200	2	100
Total	132	3 820	136	5 155

Sources: Federal Ministry of Finance; Partnerships Germany.

Since the passage of the 2005 Act, a number of developments have indicated moves to further simplify Germany's institutional framework to better support public-private partnerships. A November 2005 coalition agreement stipulated a desire to facilitate participation of medium-size businesses in public-private partnerships. In April 2006, a working group was set up to study how to further simplify the legal framework including issues of sales tax, investment restrictions and project sponsorship.

Institutional responsibilities for public-private partnerships at the federal level in Germany are shared between the Federal Ministry of Finance and *Partnerschaften Deutschland-ÖPP Deutschland AG* (Partnerships Germany). The Federal Ministry of Finance is in charge of co-ordinating public-private partnerships within the federal government. The ministry co-operates closely in this matter with the Federal Ministry of Transport, Building and Urban Development. Within the Federal Ministry of Finance, Division II B6 has the lead role in policy issues, including the development of the government's public-private partnership strategy, legal framework and co-ordination between the federation, the federal states and the local authorities. A PDPT (*Partnerschaften Deutschland* project transfer) special unit is responsible for co-ordinating the federal government's public-private partnership activities with other countries and international organisations.

Box 2.1. Supporting guidelines for public-private partnerships in Germany

A Guide to Efficiency Analysis for PPP Projects (2006) sets a minimum standard for conducting efficiency analysis of public-private partnership projects by ministries and local governments in all sectors. The guide was prepared by the conference of federal state finance ministers, in close co-operation with the federal government.

PPP Good Practice Guide: Guidelines for Public-Private Partnerships (2008) contains insights into the know-how and practical experiences of professionals in public sector construction and members of the federal public-private partnerships expertise network. The guide was prepared by the Federal Ministry of Transport, Building and Urban Development together with the German Savings Bank Association and the central organisations representing local government.

Guide to PPP and Legislation Governing Support (2006) is a user-oriented guide commissioned by the former federal PPP Task Force to determine whether or not planned projects are eligible as a public-private partnership.

Study on PPP for Schools, with Procedural Guides and Model Contracts (2008) is a guide designed to facilitate the implementation of public-private partnership projects within the education sector. The study was commissioned by the PPP Task Force of the Federal Ministry of Transport, Building and Urban Development.

Partnerships Germany was established in January 2009 as a central unit to provide advisory services to public sector clients (*e.g.* the federal government, the federal states, the municipalities). It aims to provide general and project specific advice to the public sector on public-private partnerships. General advice includes the development of the legal and institutional framework and standards, knowledge transfer between all actors involved in public-private partnerships and identification of priority areas for government attention. On a project basis, Partnerships Germany may provide professional advice to government organisations when developing, tendering and managing the implementation of public-private partnership projects. During the project inception and preparation stages this may include structuring, contract preparation, negotiating with banks, regulatory bodies and bidders, and audit.

Partnerships Germany has replaced the Federal Public-Private Partnership Steering Committee and its Task Force established in the Federal Ministry of Transport, Building and Urban Development in 2002. This Task Force was established to develop a framework for the procurement cycle, standardised contracts, economic feasibility comparisons, and for knowledge transfer. The Committee included representatives from all the stakeholders engaged in public-private partnerships at the federal, federal states and municipal levels, as well as representatives from the construction and banking sectors. It was supported by a staff unit under the Federal Ministry of Transport, Building and Urban Development.

The decision to establish Partnerships Germany reflected a number of considerations including:

- the desirability of having a central consulting service for public-sector clients in all public-private partnership sectors;
- the need to bring together individuals from both the private and public sectors in the consulting process;
- the need to create a better understanding through access to individual, neutral and credible project advice.

A number of federal states have also established their own dedicated PPP units to support government organisations to procure and manage public-private partnerships projects. Beginning with North-Rhine Westphalia that created a PPP Task Force in 2001, many other federal states followed in 2004 and 2005. However, the structures and competencies of these centres are very heterogeneous, raising calls by the federal government for a more homogeneous approach. A number of federal states have not established dedicated PPP units to date, *e.g.* Brandenburg and Saarland. Connecting the various units at the federal state level, a federal PPP network (*Föderales PPP Netzwerk*) exists between the federal government, federal states and municipalities help to facilitate reciprocal knowledge transfers vertically between different levels of government and horizontally between federal states. The implementation of the recommendations that are worked out in this way occurs on a voluntary basis.

Table 2.6. Institutional arrangements for public-private partnerships in Germany

Level of government	Year	Unit(s)	Under the authority of	Sectors	Level of government	Steering Committee
Federation	2008	ÖPP Deutschland AG	Federal Ministry of Finance	Construction	F, FS, M	No
	2008	Transport Infrastructure Financing Corporation	Federal Ministry of Transport, Building and Urban Development	Transport	F	No
Baden-Württemberg	2004	PPP Task Force	FS Ministry of Economy	Construction[1]	FS[1]	Yes[1]
Bavaria	2004	PPP Working Group	Supreme Building Authority; FS Ministry of Home Affairs	Construction and transport	FS, M	Yes[2]
Berlin			Finance Administration		FS, M	No
Brandenburg	2004	Department	FS Ministry of Finance	Construction and transport	FS	No
Bremen	2004	Department	Senator for Environment, Construction, Transport and Europe	Construction and transport	FS, M	No
Hamburg	2004	Department	Finance Authority	Construction and transport	FS, M	No
Hessen	2005	PPP Centre of Excellence	FS Ministry of Finance	Construction and transport	FS (building); M (consulting)	Yes[3]
Mecklenburg-Western Pomerania	2008	Department	FS Ministry for Transport, Building and Regional Development	Construction and transport	FS	No
		Department	FS Ministry of the Interior	Construction	M (financial supervision of the municipalities)	No
Lower Saxony	2005	PPP Competence Network	FS Ministry of Economy, Employment and Transport	Construction	FS, M	Yes
North-Rhine Westphalia	2001	PPP Task Force	FS Ministry of Finance	Construction and transport	FS, M	No

Table 2.6. Institutional arrangements for public-private partnerships in Germany *(cont'd)*

Level of government	Year	Unit(s)	Under the authority of	Sectors	Level of government	Steering Committee
Rhineland-Palatinate	2001	PPP Competence Network	FS Ministry of Finance	Construction and transport	FS, M	Yes[4]
Saarland	2001	Department	FS Ministry of Economy and Employment	Construction and transport	FS, M	No
Saxony	2001	Department	Saxon State Ministry of Finance	Construction and transport	FS, M	No
Saxony-Anhalt	2005	PPP Task Force	FS Ministry of Finance	Construction and transport	FS, M	No
Schleswig-Holstein	2004	PPP Team	FS Ministry of Finance	Construction and transport	FS, M	No
Thuringia	2004	PPP Working Group	FS Ministry of Construction and Transport	Construction and transport	FS, M	No

F = Federal; FS = Federal State; M = Municipal

1. Baden-Württemberg: Transport projects are the responsibility of the FS Ministry of Home Affairs; state projects are the responsibility of the FS Ministry of Finance; steering committee established in November 2004.

2. Bavaria: Steering committee includes representation from Building Authority, FS Ministry of Finance, FS Ministry of Economy, FS Ministry of Home Affairs, municipal associations, association of building industry, audit institutions.

3. Hessen: Advisory Board, Group "PPP in Hessen".

4. Rhineland-Palatinate: Working group established in December 2005.

Source: Federal Ministry of Finance, Germany.

Procurement cycle

Every ministry carries out its own procurement of public-private partnerships within the framework of procurement law. Ministries follow the *Guide to Efficiency Analysis for PPP Projects* to evaluate possible projects. A PPP helpdesk has been set up at Partnerships Germany to provide public sector representatives with access to expert, neutral and non-binding initial advice. Partnerships Germany may be contracted by public sector clients at any stage of the procurement process to provide advice on procurement as a public-private partnership project. As in most countries, the federal Ministry of Finance has final say – it verifies the project's underlying estimates and makes the budget appropriations for PPP procurement (see Table 2.2).

Table 2.7. Responsibilities in the public-private partnership procurement cycle in Germany

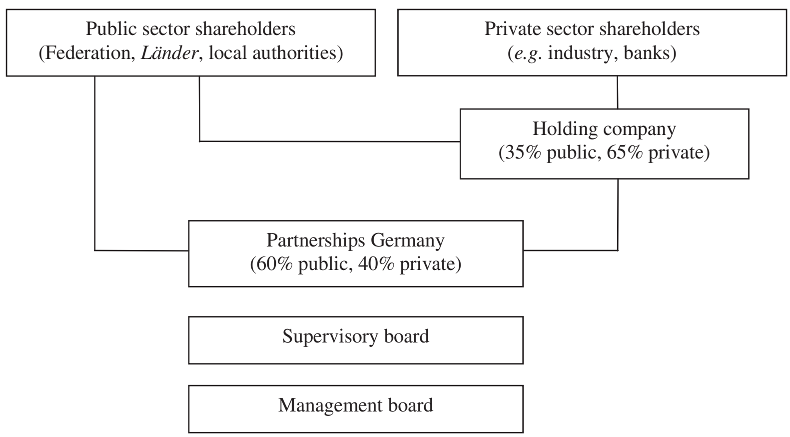
Stage
Determining the needs financeability and profitability
PPP test for suitability
Preliminary decision for or against continuing to pursue various PPP options
Drawing up conventional comparative values (public sector comparator)
Provisional examination of profitability
Preliminary decision for or against call for tender
Determining the maximum amount to be appropriated in the budget (budget readiness)
Appropriation in budget and call for tender
Final profitability analysis
Final decision on awarding and signing of contract
Project controlling

Source: Federal Ministry of Finance, Germany.

Organisation and resources

Partnerships Germany currently has two executive directors and 21 members. It is funded solely by user charges paid by government organisations for advisory services. However, the public sector is free to hire any other consultancy and is not under any obligation to hire Partnerships Germany for project advice. Partnerships Germany has shareholding from both the public and the private sector, with the public sector having the majority holding. Sixty per cent of shares are held by public bodies and 40% are held by private companies via a holding company (with a distribution of shares to different economic sectors). At present, public shareholding within Partnerships Germany is by the federal government, by the federal states Schleswig-Holstein and North-Rhine Westphalia, and by the German Association of Towns and Municipalities (DStGB). The intention is that more federal states and municipal governments become shareholders in 2010.

Figure 2.1. Organisation and ownership structure of Partnerships Germany



Source: Federal Ministry of Finance, Germany.

Korea

The Korean government defines a public-private partnership as an initiative that involves the public and private sectors to provide infrastructure and public services.[8] Build-transfer-operate (BTO) and build-transfer-lease (BTL) are the most common types of projects. Build-transfer-operate projects typically include transportation services (*e.g.* roads and railways). Build-transfer-lease projects, introduced through a legislative amendment in 2005, have been used to build and reconstruct schools, dorm facilities and military residences, as well as to expand and improve sewerage systems. As of September 2009, 569 projects were in various stages of review, construction and operation, including 203 BTO projects worth KRW 66.1 trillion and 366 BTL projects worth KRW 19.7 trillion. The government's mediumterm expenditure plan for 2007-11 caps public-private partnership project expenditures to 2% of annual budget expenditure.

Table 2.8. Characteristics of build-transfer-lease and build-transfer-operate projects in Korea

	Build-transfer-lease projects	Build-transfer-operate projects
Investment/recovery	Lease payment (fixed revenue)	User fees Construction subsidy Minimum revenue guarantee[1]
Project risk	Little demand risk on concessionaire	Demand risk on concessionaire
Return	Low risk, low return	High risk, high return
Eligibility	Solicited projects only	Both solicited and unsolicited projects

1. The minimum revenue guarantee (MRG) was abolished in October 2009.

Source: Ministry of Strategy and Finance and Korea Development Institute (2008), *Building a Better Future through Public-Private Partnerships in Infrastructure in Korea*, Ministry of Strategy and Finance, Seoul.

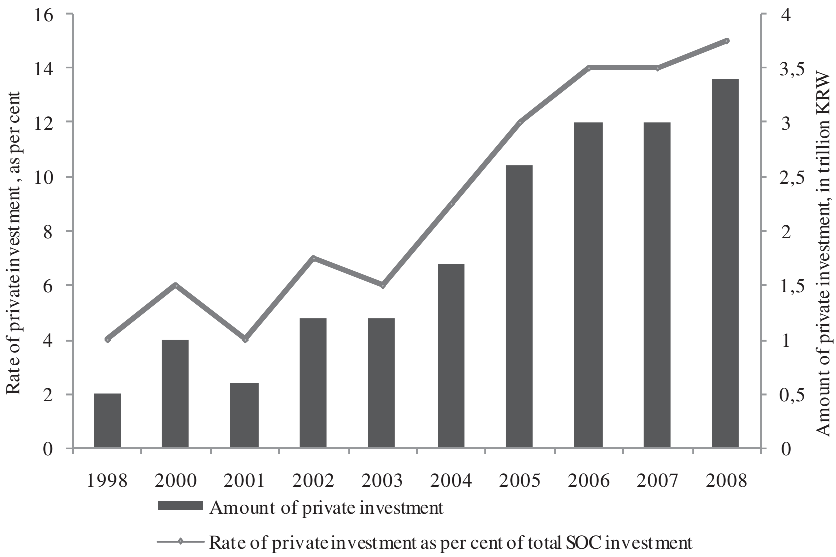
Table 2.9. Status of Korean PPP projects, as of September 2009[1]

	BTL	BTO			Total
		National	Local	Sub-total	
Under operation	142	29	81	110	252
Under construction	92	32	12	44	136
Contract awarded	8	10	9	19	27
Under negotiation	79	15	9	24	103
Request for proposals (RFPs) announced	45	-	6	6	51
Sub-total	366	86	117	203	569
Total	366	203	569		

1. All BTO numbers and BTL numbers excluding the projects under negotiation and RFPs announced are calculated as of September 2009. The BTL projects under negotiation and RFPs announced are as of December 2007.

Source: Ministry of Strategy and Finance and Korea Development Institute (2008), *Building a Better Future through Public-Private Parterships in Infrastructure in Korea*, Ministry of Strategy and Finance, Seoul.

Figure 2.2. Trends in private investment in Korea, 1998-2008



SOC: Social Overhead Capital, *i.e.* infrastructure investment by the central government.

Source: Ministry of Strategy and Finance and Korea Development Institute (2008), *Building a Better Future through Public-Private Partnerships in Infrastructure in Korea*, Ministry of Strategy and Finance, Seoul.

Legal framework

Korea introduced public-private partnerships with the enactment of the Promotion of Private Capital into Social Overhead Capital Investment Act (PPP Act) in August 1994. The PPP Act precedes the other related laws that regulate specific sectors such as the Toll Road Act, the Railroad Construction Act and the Harbor Act. The PPP Act defines the eligible infrastructure sectors, the roles of public and private entities, and the procurement process as well as procedures for conflict resolution/termination. The Act has since been amended twice, in December 1998 and January 2005. The changes introduced in both years have been a broadening of eligible sectors and investors. More importantly in the context of this report, the 1998 amendment established a dedicated PPP unit in the Private Investment Center of Korea (PICKO). Amendments in 2005 subsequently transferred authority of the functions of PICKO to its current location in the Public and Private Infrastructure Investment Management Center (PIMAC) at the Korea Development Institute (KDI).

The PPP Act is supported by an Enforcement Decree and the Basic Plan for PPPs. The Enforcement Decree regulates matters delegated by the PPP Act and those necessary for the enforcement of the Act, *e.g.* the Basic Plan, implementation procedures and management of project, the Infrastructure Credit Guarantee Fund. The Basic Plan articulates the government's policy directions on public-private partnerships, detailed project implementation procedures, financing and re-financing guidelines, risk-sharing arrangements and payments of government subsidies, support and incentives. Guidelines and standards have also been developed for specific sectors to support project implementation, including feasibility and value-for-money tests, requests for proposals and standard agreements for both build-transfer-operate and build-transfer-lease facilities, as well as for project refinancing. Output specifications have also been developed for a number of different sectors (*e.g.* education, defence, environment and culture).

Box 2.2. Korea Infrastructure Credit Guarantee Fund

The Korea Infrastructure Credit Guarantee Fund (ICGF) was established under the PPP Act 1994 to guarantee the credit of a private partner that intends to obtain loans from financial institutions for a public-private partnership project. The Fund is managed by the Korea Credit Guarantee Fund and funded by the Ministry of Strategy and Finance using government subsidies, guarantee fee and investment returns. It guarantees loans and borrowing from financial institutions by concessionaires as well as infrastructure bonds. This can be done up to KRW 100 billion for a single company (or where unavoidable, then KRW 200 billion). When the project guaranteed by the Fund defaults, the ICGF subrogates on behalf of the project company.

Institutional responsibilities

Responsibility for public-private partnerships in Korea is shared between the procuring line ministries/local governments, the Ministry of Strategy and Finance and PIMAC. Within this division of responsibility, procuring line ministries/local governments develop and oversee sector-specific investment plans and policies which include public-private partnerships. Major procuring line ministries include the Ministry of Culture, Sports and Tourism; Ministry of Education, Science and Technology; Ministry of Environment; Ministry for Health, Welfare and

Family Affairs; Ministry of Land, Transport and Maritime Affairs; and Ministry of National Defence.

The Ministry of Strategy and Finance is responsible for developing and implementing public-private partnership policies – including the PPP Act and its Enforcement Decree – formulating national investment plans and the state budget. These functions are located within the Economic Budget Bureau of the Budget Office. The Bureau has two divisions that work on public-private partnerships. The Private Participation in Infrastructure Planning Division is responsible for investment planning of build-transfer-operate projects. The Private Participation in Infrastructure Project Management Division is responsible for investment planning of build-transfer-lease projects.

Importantly, the Ministry of Strategy and Finance chairs the high level PPP Review Committee that must give final approval to projects as in most countries (see Table 2.2). The rationale for the ministry having the final say obviously relates to PPP budget obligations (*e.g.* construction subsidy, revenue guarantee and/or government payment). This Committee is chaired by the Minister of Strategy and Finance and its members include the Vice Minister for procuring line ministries, as well as private sector experts. The Private Participation in Infrastructure Planning Division, discussed above, serves as a secretariat to the PPP Review Committee.

PIMAC is located within the Korea Development Institute, an autonomous policy-oriented research organisation that was established in 1971. PIMAC provides support to the government both for traditional procurement and public-private partnership projects. With respect to public-private partnerships, PIMAC has four major functions. First, it provides policy research and strategy, including the development of the Basic Plan for PPPs on behalf of the Ministry of Strategy and Finance. Second, it provides technical support to the Ministry of Strategy and Finance to review proposed public-private partnership projects using feasibility studies and value-for-money tests, as well as to formulate request for proposals and other necessary project documentation. Third, it promotes public-private partnership projects to foreign investors. Finally, it develops education programmes on public-private partnership systems to line ministries/local governments and private partners.

Three factors supported the original decision to establish a dedicated PPP unit in Korea. First, it was a response to a perceived lack of government expertise in the development and evaluation of public-private partnership projects following their establishment as a policy instrument in 1994. Second, concern had been raised over a lack of transparency, excessively complicated procedures, unattractive risk-sharing arrangements and insufficient incentives for private sector participation in public infrastructure. Third, concern existed over the level of public investment in the aftermath of the 1997 east Asian financial crisis – and raised the urgency to respond visibly to the two challenges raised above.

Procurement process

Table 2.10 outlines the procurement cycle for public-private partnerships in Korea. It distinguishes between build-transfer-lease and build-transfer-operate projects, and between solicited and unsolicited build-transfer-operate projects. It identifies the responsibilities of the procuring line ministries/local governments (the competent authority), the Ministry of Strategy and Finance and PIMAC. Reference to the Ministry of Finance and Strategy in the table includes both the PPP Review Committee where decisions are required and the Economic Budget Bureau of the Budget Office to factor decisions into the state budget.

PIMAC is involved in the procurement process of all projects – build-transfer-lease and both solicited and unsolicited build-transfer-operate. It reviews the value-for-money tests prepared by competent authorities for all build-transfer-lease projects and solicited build-transfer-operate projects that exceed KRW 20 billion. Under the PPP Act, PIMAC is entitled to conduct value-for-money tests for all unsolicited projects. PIMAC submits the result of the test for the private proposal with its opinion to the concerned ministry/local government and the Ministry of Strategy and Finance. If the concerned ministry/local government decides to proceed with the project based on the result of the value-for-money test, it must notify a request for alternate proposals to invite other private parties for competitive bidding. The other steps in the procurement process are broadly similar to solicited projects. PIMAC is not, however, responsible for designation of a project as a public-private partnership.

Table 2.10. Responsibility in the public-private partnership procurement cycle in Korea

Stage	Build-transfer-lease projects	Build-transfer-operate projects	
		Solicited	Unsolicited
Identification of proposed project	Competent authority[1]	Competent authority	Private sector
Preliminary feasibility study, if applicable[2]	PIMAC	PIMAC	PIMAC
Determination of aggregate investment ceiling for project	MoSF	n/a	n/a
Feasibility/value-for-money test	Competent authority reviewed by PIMAC	Competent authority reviewed by PIMAC (if more than KRW 20 bilion)	PIMAC
Approval by National Assembly	MoSF to National Assembly for approval	n/a	n/a
Designation as PPP project[3]	Competent authority	Competent authority	Competent authority
Announcement of request for proposals (for solicited projects) or alternative proposals (for unsolicited projects)[3]	Competent authority	Competent authority	Competent authority
Submission of project/alternative proposals (if applicable)	Private sector		
Evaluation and selection of preferred bidder	Competent authority		
Negotiation and contract award (designation of concessionaire)[4]	Competent authority with preferred bidder. Input may be solicited from PIMAC		
Application for approval of detailed implementation plan	Concessionaire to the competent authority		
Construction and operation	Concessionaire		

MoSF = Ministry of Strategy and Finance
PIMAC = Public and Private Infrastructure Investment Management Center

1. Competent authority refers to procuring line ministries/local governments.
2. A preliminary feasibility study is required under the National Fiscal Act for investment projects that exceed a certain threshold size. A preliminary feasibility study is required if the proposed public-private partnership project costs more than KRW 50 billion and requires a central government subsidy of more than KRW 30 billion.
3. Deliberation by the PPP Review Committee is required for build-transfer-lease projects that exceed KRW 100 billion and build-transfer-operate projects that exceed KRW 200 billion.
4. Deliberation by the PPP Review Committee on a concession agreement and designation of a concessionaire is required for build-transfer-lease projects that exceed KRW 100 billion and build-transfer-operate projects that exceed KRW 200 billion.

Sources: Authors' notes; Korean authorities.

Organisation and resources

The mandated mission of PIMAC is twofold: the evaluation of publicly financed investment projects, and the administration and support of PPP projects in Korea. To function as the supporter of both the publicly financed projects and the PPP infrastructure projects, PIMAC is structured into three separate divisions: the Policy and Research Division, the Public Investment Evaluation Division and the Public-Private Partnership (PPP) Division. Efficient management of PPP projects requires that the market environment and changes in various circumstances be timely incorporated into policy. The Policy and Research Division conducts policy research and does so independently of actual project implementation to give feedback to and assist the government in deciding its policy direction and institutional arrangement. According to the National Finance Act, the Public Investment Evaluation Division is mandated to carry out the execution and management of publicly financed infrastructure projects. Preliminary feasibility studies are carried out at the planning stage of a project to examine the proposed project's objectives, economic feasibility, policy appropriateness and value for money. According to the PPP Act, the Public-Private Partnership Division is mandated to provide actual administrative and technical support in the process of PPP project preparation and implementation. The division develops guidelines for PPP procurement, conducts value-for-money tests and assists in formulation of requests for proposals (RFPs), tendering and negotiation.

Approximately 80 people staff PIMAC, of whom 42 work in the PPP Division. PIMAC is fully funded by the Ministry of Strategy and Finance, but its additional resource comes partly from fees levied upon line ministries/local governments for services provided. However, PIMAC must consult the Minister of Strategy and Finance about its fees. Overall the approximate annual budget of PIMAC amounts to KRW 17 065 million or EUR 9.56 million. The Managing Director of PIMAC reports annually to the Minister of Strategy and Finance.

South Africa

The South African government defines a public-private partnership as a contract between a public sector institution/municipality and a private partner, in which the private partner assumes substantial financial, technical and operational risk in the design, financing, building and operation of a project. Three types of public-private partnerships are specifically defined: where the private partner performs an institutional/municipal function and the institution/municipality pays the private partner for the delivery of the service; where the private partner acquires the use of state/municipal property for its own commercial purposes and the private partner collects a fees or charges from users of the service; or a hybrid of these types. The system does not allow for unsolicited bids as they are considered difficult to manage and as having the potential to threaten a level playing field among firms.

Pioneering public-private partnership projects were undertaken between 1997 to 2000 by the South Africa National Roads Agency for two major toll roads; by the Departments of Public Works and Correctional Services for two maximum security prisons; by two municipalities for water services; and by South Africa National Parks for tourism concessions. As of February 2009, 63 projects were in various stages of the procurement cycle: inception, preparation, and construction/operation. There are currently 19 projects under construction/operation worth approximately ZAR 21.9 billion. Among these projects, design-finance-build-operate-transfer are the most common types. The view is held in the PPP unit that investment through PPPs in South Africa is unlikely to exceed 20% of the total public service investment in any given year (Dachs, 2006).

Table 2.11. Status of public-private partnership projects in South Africa (as of February 2009)

	Under construction/ operation	Negotiations	Procurement	Feasibility	Inception	Total
National	16	0	4	6	9	35
Provincial	0	1	2	5	1	9
Public entities	1	0	1	9	1	12
Municipalities	2	1	3	7	4	17
Total	19	2	10	27	15	63

Source: National Treasury PPP Unit website, *www.ppp.gov.za*.

Legal framework

At a national and provincial level, and in public entities, PPP projects are governed by the Public Finance Management Act (Act 1/1999); Treasury Regulation 16 on Public-Private Partnerships (16 January 2004); and National Treasury Practice Notes. The legal framework at the national and provincial level is mirrored at the level of municipalities by the Municipal Finance Management Act (Act 56/2003); Municipal Treasury Regulations (2005); and National Treasury/Department of Provincial and Local Government Municipal Service Delivery and PPP Guidelines (2007). This section will focus on the procedures at the national and provincial level.

The Public Finance Management Act designates the heads of national and provincial departments (as "accounting officers") and the chief executive officers or boards of public entities (as "accounting authorities") as responsible for the effective and efficient management of their budgets to achieve their public mandates. Within this legislative framework, public-private partnerships represent one service delivery mechanism to ensure value for money. Treasury Regulation 16 defines the exclusive competency of accounting officers, the various stages of the public-private partnerships procurement cycle and associated National Treasury approvals, management and amendment of project agreements.

A Public-Private Partnership Manual and standardised project provisions are issued as by the National Treasury as "PPP Practice Notes". These notes outline the legal framework and different requirements of the procurement cycle. A Code of Good Practice for Black Economic Empowerment in Public-Private Partnerships is one of the Treasury PPP Practice Notes issued as part of the Manual in accordance with South Africa's Broad-Based Black Economic Empowerment Act (2003).

Institutional responsibilities

Institutional responsibilities for public-private partnerships in South Africa are divided between national and provincial departments, public entities and municipalities, and the National Treasury's PPP Unit. National and provincial departments, as well as public entities, are directly responsible to the Parliament/elected legislature for the implementation of projects under the Public Finance Management Act. The accounting officer/authority establishes a project team to manage the project budget and handle communication about the project to all concerned parties. (S)he reviews and approves the documents needed for treasury approvals during various stages of project development. The project team comprises four key positions. The appointment of the project advisor creates the obligation upon the department/public entity to involve the National Treasury's PPP Unit from the first stage of the procurement process.

Box 2.3. National Treasury PPP Practice Notes

- Standardised PPP Provisions (National Treasury PPP Practice Note Number 01, 2004)
- Module 1: South African Regulations for PPPs (National Treasury PPP Practice Note Number 02, 2004)
- Module 2: Code of Good Practice for Broad-based Black Economic Empowerment in PPPs (National Treasury PPP Practice Note Number 03, 2004)
- Module 3: PPP Inception (National Treasury PPP Practice Note Number 04, 2004)
- Module 4: PPP Feasibility Study (National Treasury PPP Practice Note Number 05, 2004)
- Module 5: PPP Procurement (National Treasury PPP Practice Note Number 06, 2004)
- Module 6: Managing the PPP Agreement (National Treasury PPP Practice Note Number 07, 2004)
- Module 7: Auditing PPPs (National Treasury PPP Practice Note Number 08, 2004)
- Module 8: Accounting Treatment for PPPs (National Treasury PPP Practice Note Number 09, 2004)
- Module 9: An Introduction to Project Finance (National Treasury PPP Practice Note Number 10, 2004)

A dedicated PPP unit was set up in the South African National Treasury in 2000 to streamline the preparation, negotiation and post-award contract management of public-private partnerships. It was implemented following the recommendations of an inter-departmental task team set up in 1997 by the South African Cabinet to develop a package of policy, legislative and institutional reforms to support the development of public-private partnerships – and a Municipal Infrastructure Investment Unit in the Ministry of Provincial and Local Governments, to provide support to municipalities involved in public-private partnerships.[9] The PPP Unit issues detailed toolkits, policy manuals and standardisation tools for departments/public entities and oversees the projects from inception through contract conclusion. It also provides technical assistance and capacity building to public sector organisations and appoints a PPP Unit Project Advisor to projects to provide specific direct technical assistance.

Box 2.4. Key positions with a PPP project team in South Africa

- **The accounting officer/authority** provides overall direction to the project, obtains all necessary Treasury approvals and is the signatory of the project agreement with the private partner, as well as an anti-corruption policy for the project. During project implementation, the accounting officer/ authority is responsible for ensuring that the project agreement is appropriately enforced.

- **The project officer** manages the project agreement full-time from project preparation until at least the first few years of the delivery. This requirement is designed to ensure institutional memory and support the development of a durable relationship with the client. The project officer is a public servant within the relevant implementing department/public entity.

- **The transaction advisor** works on the legal, technical and financial aspects of the project agreement. This includes, among other things, preparing a project feasibility study, preparing the necessary documents for Treasury approval as well as providing support during the first few years of project construction/operation. The transaction advisor does not have to be a public servant; (s)he may be an external consultant hired specifically for the project.

- **The National Treasury (PPP Unit) project advisor** supports the relevant department/public entity throughout the procurement cycle including preparation and implementation throughout the full project term. The project advisor also helps the accounting officer/authority to apply for Project Development Funds available through the National Treasury, to establish a project team and other key project activities.

Finally, the National Treasury gives “Treasury Approvals” at various stages of the public-private partnerships procurement cycle: after the feasibility study, procurement, and value-for-money report, and when the project agreement management plan is finalised.

The move to establish the National Treasury's PPP Unit served as a filter to exclude fiscally irresponsible projects while reassuring investors of the government's interest in public-private partnership projects and the soundness of the domestic legal framework. The creation of the PPP Unit was driven primarily by Treasury's concerns over a specific project proposed by the Ministry of Public Works, a 30-year build-operate-transfer contract for two prisons. When it found out about the contract, a Treasury review found that while the prisons offered value for money (in the sense of being better value than a public sector alternative), there were affordability issues. It was decided to create a dedicated PPP unit in order to streamline project development and Treasury involvement.

The National Treasury's PPP Unit has also established and manages a Project Development Facility, a "single-function trading entity" to help government departments/public entities pay a part of the costs needed for the transaction advisors.[10] The funds are not grants. Rather, the funds are recovered from the successful private partner at the time of financial closure through a "success fee". Funding, however, is only provided after the approval of the feasibility study by the National Treasury to ensure that funding does not influence the results of the feasibility study. The facility has a limited life span, however. It is expected to close its operations in 2014 when it is hoped that public-private partnerships will be sufficiently well established and will be completely funded through the budget of the respective department/ public entity. Initial funds for the facility came from the South African government together with bilateral and multilateral donors. In this regard, donors are also able to fund specific projects based on pre-defined sectors and/or geographic areas.

Project procurement cycle

The project procurement cycle is divided into six phases: inception, feasibility study, procurement, development, delivery and exit. According to the Public Finance Management Act, the heads of national and provincial departments (accounting officers) and the boards of public entities (accounting authorities) are responsible for implementing of public-private partnership projects. They are directly responsible to the Parliament/elected legislature and need to evaluate the value for money. During this process, the National Treasury gives "Treasury Approvals" at different stages of the public-private partnerships procurement cycle: after the feasibility study, procurement, and value-for-money report, and when the project agreement management plan is finalised. Typically procurement timelines range from 41 weeks (ten months) to 103 weeks (approximately two years).

Table 2.12. Public-private partnership procurement cycle in South Africa

Phase	Description
Phase 1: Inception	The accounting officer/authority registers the proposed project with the National Treasury PPP Unit. The accounting officer/authority appoints a project officer and the PPP Unit will appoint a project advisor.
Phase 2: Feasibility study	The accounting officer/authority conducts a project feasibility study including a needs analysis, a solutions options analysis, a project due diligence assessment and a value assessment. An economic valuation may also be required.
	The project team prepares a project procurement plan, including a project timetable, availability of funds, list of potential challenges, project stakeholders, project team, bid evaluation process, and list of required approvals.
Treasury Approval I (feasibility assessment)	The project team submits the feasibility report and project procurement plan to the National Treasury PPP Unit for approval prior to preparing the bid documents and draft project agreement.
Phase 3: Procurement	The project team and project officer must prepare the request for qualification documents.
Treasury Approval IIA (request for qualification documentation)	Request for proposal submitted by the project team to the National Treasury for approval.
Phase 3: Procurement *(cont'd.)*	The request for qualification is published and the submissions evaluated by the project team against the project documents to select a list of pre-qualified bidders to participate in a request for proposal.
Treasury Approval IIB (request for proposal documentation)	The request for proposal and the draft PPP agreement are submitted to the National Treasury for approval.
Phase 3: Procurement *(cont'd.)*	The request for proposal is sent to pre-qualified bidders to prepare their bids. Upon receipt of the bids, the project team evaluates them. This involves technical evaluation, evaluation by the Evaluation Co-ordination Committee and the Project Evaluation Committee.
Treasury Approval III	Once the PPP agreement is negotiated, legal due diligence is completed and approval is granted, the project team must request Treasury Approval III.
Phase 3: Procurement *(cont'd.)*	Proposal together with the draft PPP project agreement is published and the bids evaluated against the feasibility study to select a preferred bidder by the project team.
Phase 4: Development	Project is developed.
Phase 5: Delivery	The project team manages performance of the project to ensure that the project remains affordable and is in accordance with the project agreement.
Phase 6: Exit	The project team assesses the project deliverables, integrates lessons from the partnership and prepares a post-implementation review.

Source: National Treasury PPP Unit, *www.ppp.gov.za*.

Organisation and resources

The PPP Unit consists of six “desks”. A project evaluation division (two professionals) is responsible for overall evaluation of national and provincial projects, and a municipal desk (three professionals and one consultant) provides a similar role for municipal projects. In addition, an IT desk (one professional) evaluates any information technology component within projects. A financial analysis desk (three professionals) reviews the value for money in all projects using a public sector comparator tool, and a performance monitoring and evaluation desk (two professionals) examines contract management during project implementation. Finally, a business development desk (two professionals) is responsible for media, publications and presentations. In total the PPP Unit has a staff of 20 people including 13 professional and six administrative staff. This can be compared to when the Unit was established in 2000 with only five professional staff. All employees are paid in accordance with government pay scales. The PPP Unit is funded similar to other divisions in the National Treasury.

The National Treasury acknowledges significant shortages of professional staff that have experience in a host of different disciplines required by the PPP Unit. The government must compete with the higher wages and the career development offered by the private sector. In response to these challenges the PPP Unit has taken an approach to attract talented recent university graduates and provide them with extensive on-the-job training.

United Kingdom

According to HM Treasury, a Private Finance Initiative (PFI) is an arrangement whereby the public sector contracts to purchase services, usually derived from an investment in assets, from the private sector on a long-term basis (often between 15 to 30 years) so as to take advantage of private sector management skills incentivised by having private finance at risk. HM Treasury distinguishes PFIs from other forms of private sector involvement, some of which might be classified as PPPs in other countries. For instance, PFIs are distinguished from concessions, strategic infrastructure partnerships, integrators and alliances (HM Treasury, 2008). The government describes PFI as a small but important part of the government’s strategy to deliver high quality public services. There are currently 668 Private Finance Initiative projects in operation with a total capital value of GBP 55.2 billion, constituting 10-15% of the total public investment in the United Kingdom (HM Treasury, 2009).

Legal framework

There is no specific law governing the regulation of Public Finance Initiative projects. Three Private Finance Initiative policy documents have been issued by HM Treasury including: *Meeting the Investment Challenge* (2003); *Strengthening Long-Term Partnerships* (2006); and *Infrastructure Procurement: Delivering Long-Term Value* (2008).

Institutional responsibilities

A number of organisations are involved in PPP/PFI policy and project management in the United Kingdom. In addition to the sponsoring government departments and local authorities, there are a number of bodies inside HM Treasury that play key roles in PPP review and approval (see Figure 2.3). HM Treasury's Corporate and Private Finance Unit is located within HM Treasury and within this unit is the PPP Policy Team. The PPP Policy Team is the PPP unit responsible for the approval of PPP/PFI deals in England, with PPP/PFI deals in Scotland, Wales and Ireland being the responsibility of the devolved administrations of Scotland, Wales and Ireland. The PPP Policy Team manages the PPP/PFI programme and market. The overall aim of its activities is to ensure that projects deliver value for money and that the PPP/PFI market develops. The PPP Policy Team is responsible for policy development and support to departments/local authorities developing PPP/PFI projects. It also scrutinises PPP/PFI business cases and provides input to the Major Projects Review Group (MPRG) and the Project Review Group (PRG). The MPRG operates within HM Treasury and scrutinises all major central government projects, not just PFI/PPP projects. The PRG oversees the approval process for local authority PFI projects receiving government support and is chaired by the head of the PPP Policy Team (see the following section on the role of the Treasury).

The government of the United Kingdom also developed a standardised PFI contract (referred to as SoPC4), and the PPP Policy Team is responsible for its updating and publication. The PPP Policy Team develops policy for the Operational Taskforce and the Infrastructure Finance Unit (see Figure 2.3). The latter will extend loans where PFI projects are unable to obtain loans. Created in 2009 amid the global financial crisis, this lending is intended to be temporary, until normal market conditions return. To ensure that no clash of interest occurs, the unit will operate at arm's length from the procuring departments. The Operational Taskforce was set up by Treasury in 2006 to provide help, support and guidance to the public sector managers of operational PFI/PPP projects. The Taskforce advises and provides guidance on a wide range of operational issues including the development of contract management strategies, benchmarking, market testing, managing variations, refinancing and other issues that occur during the operational phase of a contract.

In addition to HM Treasury and its PPP Policy Team, Partnerships UK also supports PFI projects. Established in 2000, Partnerships UK is a PPP that has operational independence and therefore operates at arm's length from HM Treasury. The private sector owns 51% of its equity, with HM Treasury and the Scottish Executive owning respectively 44% and 5%. Partnerships UK activities are limited to working with the public sector (*i.e.* it does not support or advise private sector companies). Its activities include the support of projects, the development of procurement and investment policies, and investment in projects and companies through Partnerships UK Ventures.

Chapter 1 highlighted the functions of PPP units. It noted that the functions of a dedicated unit may include policy guidance and green lighting of projects, and technical support to and capacity building in government organisations, as well as PPP promotion. In England the PPP Policy Team is responsible for all of these activities (with the devolved administrations being responsible for these in the case of Scotland, Wales and Ireland), while Partnerships UK's role is limited to technical support, capacity building and PPP promotion. Therefore, what in many countries is performed by a single PPP unit, is, in essence, in England performed by two entities; the PPP Policy Team and Partnerships UK (the same would be true for the devolved administrations).

However, this will change in the course of 2010. In December 2009, the Chancellor of the Exchequer announced the establishment of Infrastructure UK (IUK). According to HM Treasury, Infrastructure UK will:

- develop a strategy for the United Kingdom's infrastructure over the next 5 to 50 years, to be published at Budget 2010;
- identify and attract new sources of private sector investment in infrastructure;
- manage the government's investment in the 2020 European Fund for Energy, Climate Change and Infrastructure;
- support HM Treasury in prioritising the government's investment in infrastructure;

- support the delivery of major infrastructure projects and programmes and help build stronger infrastructure delivery capability across government.

Infrastructure UK will consolidate in one body the PPP Policy Team and the Infrastructure Finance Unit. It will also, subject to agreement, include in this body the capabilities within Partnerships UK that support the delivery of major projects and programmes.

Role of HM Treasury (and the PPP Policy Team) in the approval of PPPs

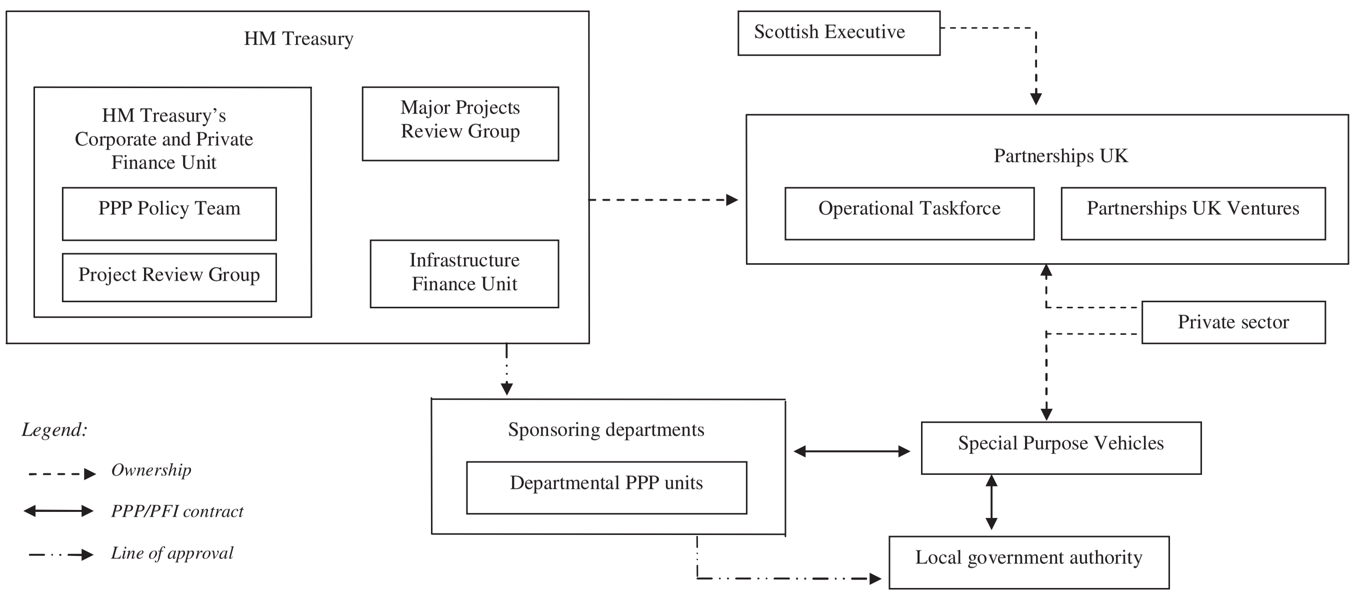
As discussed in HM Treasury (2008), all spending needs approval by the Treasury. However, in practice the Treasury allows departments to spend their budgets as they see fit (subject to the internal approval processes of the departments) if the expenditure is below a limit set by the Treasury. Above that limit, Treasury approval is required, *i.e.* the largest projects (be they procured through PFI or through another mode of procurement). PFI projects must have received all departmental approvals before the Treasury will consider the Outline Business Case for approval. Treasury approval is required before the project issues a notice in the *Official Journal of the European Union* (OJEU).

Victoria, Australia

The State of Victoria, Australia defines a public-private partnership as the provision of infrastructure and any related ancillary service that involves private financing in which the present value of payments to be made by the government (and/or by consumers) exceed AUD 10 million over the partnership period. Under this definition, the procurement of services without public infrastructure is not considered to be a public-private partnership.

There are currently 18 public-private partnership projects worth approximately AUD 6 billion that have been prepared under the Partnerships Victoria programme.[11] This accounts for 10% of total public asset investment in Victoria. At the time of this publication, a further three projects worth approximately AUD 4 billion were under preparation. In comparison to other states and territories in Australia, Victoria has one of the largest public-private partnership programmes.

Figure 2.3. Organisational structure of institutions involved in UK PPP/PFI ownership, management and approval



Sources: Authors' notes; United Kingdom authorities.

Table 2.13. Public-private partnership investment in infrastructure projects in Australia since 2000[1]

	Volume of projects	Value of projects, in AUD million (in EUR million)
Australian government	2	706 (412.8)
Australian Capital Territory	0	0
New South Wales	16	8 000 (4 677.8)
Northern Territory	1	600 (350.8)
Queensland	2	2 500 (1 462.1)
South Australia	1	40 (23.4)
Tasmania	1	90 (52.6)
Victoria	18	6 000 (3 509.1)
Western Australia	1	200 (117.0)
Total	42	18 136 (10 603.5)

1. Data for Victoria until 2009; data for federal and other state and territory governments until 2006.

Source: Australian Productivity Commission (2009), *Public Infrastructure Financing*, Australian Productivity Commission, Canberra.

Legal framework

National Policy and Guidelines issued in November 2008 provide a common framework for Australian federal, state and territory governments for public-private partnerships. This is supplemented with state specific guidelines issued by their respective public-private partnership authorities. In Victoria, all public-private partnership projects entered into by state budget sector agencies are required to comply with both the National Policy and Guidelines and Partnerships Victoria specific guidelines. The application of national and state policies to the provision of infrastructure by a public enterprise is determined on a project by project basis. The National Policy and Guidelines are considered largely consistent with the previous public-private partnerships policy framework in Victoria prior to November 2008.[12] Both the national and Partnerships Victoria policies and guidelines are described as seeking value for money, innovation, market competition and good project governance. A number of state-specific objectives have also been identified in Victoria's policy framework. These include maximising social and economic returns from government expenditure, promoting growth and employment opportunities for the whole of Victoria and managing contracts in a proactive, practical and constructive manner.

Institutional responsibilities

The management of public-private partnerships projects in Victoria is shared between the procuring relevant portfolio minister and Partnerships Victoria. Portfolio ministers have to appoint an appropriately skilled and resourced procurement team, led by a project director, responsible for project delivery. Senior representatives of the Department of Treasury and Finance and, where appropriate, other agencies, are represented on all project steering committees and project working groups.

The Department of Treasury and Finance is the public-private partnership authority in Victoria and is responsible for establishing the policy and regulatory framework, supporting and reviewing projects, monitoring and independently advising the Treasurer and Cabinet on significant public-private partnership policy and project issues. To assist the department in fulfilling its task, Partnerships Victoria was created in 2000 within its Commercial and Infrastructure Risk Management Group. Partnerships Victoria is responsible for policy guidance. In addition to the policy and regulatory functions of the Department of Treasury and Finance, Partnerships Victoria also provides technical support and capacity building to portfolio ministries.

Procurement process

Table 2.14 outlines the procurement cycle for public-private partnerships in Victoria. It identifies the responsibility of procuring government agencies, Partnerships Victoria and the different gateway review teams.

The procurement process is conducted in line with the government's Gateway Initiative. The initiative is a government-wide project led by the Victoria Department of Treasury and Finance to improve the selection, management and delivery of infrastructure and ICT projects in the State of Victoria. A core element of the initiative is the "gateway reviews" to help government departments and agencies to align investment with the government's strategic and value-for-money objectives. Gateway reviews are conducted by a team of experts, independent of the project team. In total there are five gates, or key decision points, that are assessed by an independent gateway review team in the preparation of public-private partnership projects: strategic assessment, business case, readiness for market, readiness for service and benefits evaluation.

Table 2.14. Key approval steps in PPP procurement for government agencies in the State of Victoria, Australia[1]

	Responsibility
Identification of proposed project	Government agency
Development of business case, procurement option analysis, together with preliminary public sector comparator and public interest test.	Government agency
Gate 1 (Strategic Assessment): review of initial project development, business case and procurement options analysis, preliminary public sector comparator and public interest test.	Gateway Review Team
Gate 2 (Business Case): review of business case and procurement options analysis, preliminary public sector comparator and public interest test.	Gateway Review Team
Government approval of project and procurement method based on the business case and public interest test and the procurement options analysis.	Government agency
Approval of release of expressions of interest.	Government agency
Gate 3 (Readiness for Market): approval of the public sector comparator (may be earlier than this point).	Gateway Review Team
Approval of release of request for proposals and evaluation of responses by project team.	Government agency
Approval of contract execution note and financial close (within three months of financial close).	Government agency
Approval of project contract summary (within three months of financial close).	Government agency
Gate 5 (Readiness for Service): the portfolio minister in consultation with the Treasurer approves the Contract Administration Plan (within three months of financial close).	Gateway Review Team
Ongoing requirement for material contract variations to be considered and approved.	Subject to existing delegation authority
Gate 6 (Benefits Evaluation): one or more benefits evaluation reviews should be conducted by the procuring agency, in consultation with the Department of Treasury and Finance.	Gateway Review Team

1. Public-private partnership projects are not subject to Gate 4 reviews (tender decisions) in accordance with the Gateway Review Process.

Source: Victoria Department of Treasury and Finance (2009), *National PPP Guidelines: Partnerships Victoria Requirements*, Department of Treasury and Finance, Melbourne, Victoria, Australia.

Box 2.5. Public-private partnership authorities in Australia

Owing to the country's federal structure, a multitude of authorities exist to procure public-private partnerships in Australia. At both state and federal levels it is typical for the government agency that will bear ultimate responsibility for operating a project to be the procuring authority. Each state and territory has, however, appointed a lead government agency to implement PPP-related policies. Among these, only three state/territory governments (New South Wales, South Australia and Victoria) have established dedicated units.

- Australian Capital Territory: Australian Capital Territory Department of Treasury;
- New South Wales: New South Wales Treasury (Private Projects Branch);
- Northern Territory: Northern Territory Department of the Chief Minister;
- Queensland: Queensland Treasury, in association with the Queensland Co-ordinator General and the Queensland Department of State Development, Trade and Innovation;
- South Australia: South Australian Department of Treasury and Finance (Projects and Government Enterprises Branch);
- Tasmania: Tasmanian Department of Treasury and Finance;
- Victoria: Victoria Department of Treasury and Finance (Partnerships Victoria);
- Western Australia: West Australian Department of Treasury and Finance;
- Federal: Department of Finance and Deregulation (as well as the Department of Defence for defence-related public-private partnerships).

In 2004, the National PPP Forum comprising Treasurers and Finance and Infrastructure Ministers was established to facilitate greater consistency and co-operation across jurisdictions in the delivery of PPPs. At officer level, the National PPP Forum Working Group has met regularly and has been an effective and co-operative inter-jurisdictional arrangement.

In 2008, Infrastructure Australia was established under the portfolio of the federal Minister for Infrastructure, Transportation, Regional Development and Local Government. Infrastructure Australia is an independent federal government agency responsible, among other things, for setting PPP policy and guidelines, through an intergovernmental PPP sub-group. The PPP subgroup members have been drawn from the National PPP Forum Working Group and are from the Australian federal government, as well as from each state and territory government.

The strategic assessment review examines whether or not proposed projects are the best value means of servicing the identified need and whether it aligns with government and relevant departmental or agency strategic plans. The business case review considers whether or not the project options have been fully canvassed and evaluated, whether or not the recommended option is the best value solution. The procurement strategy review questions whether or not the optimum method to deliver the project has been selected in consideration to budget and time constraints, as well as appropriate allocation of project risks to those best able to manage them. The readiness for service review assesses the state of readiness to commission the project and implement the change management required. All together, the procurement process, from project planning to the beginning of contract execution, can extend for two to two and a half years (Victoria Department of Treasury and Finance, 2006). The final gateway is a benefits evaluation to assess whether or not the expected benefits, as outlined in the business case, were achieved and the findings communicated to improve future projects.

During project preparation, the procuring government organisation prepares the business case and constructs a public sector comparator, including the development of output specifications and a reference project. The procuring agency is also responsible during contract management to establish and maintain a robust contract management framework throughout the contract term to successfully deliver the project objectives. This includes establishing appropriate governance structures and effective communication and reporting lines; ensuring that all relevant project staff undertake appropriate training within six months of their appointment; systems to ensure the continuity and retention of project knowledge over the life of the project; risk and dispute mitigation and their reporting; and regular ongoing review of its contract management practices to identify outstanding and emerging issues and take into account recent and anticipated future developments.

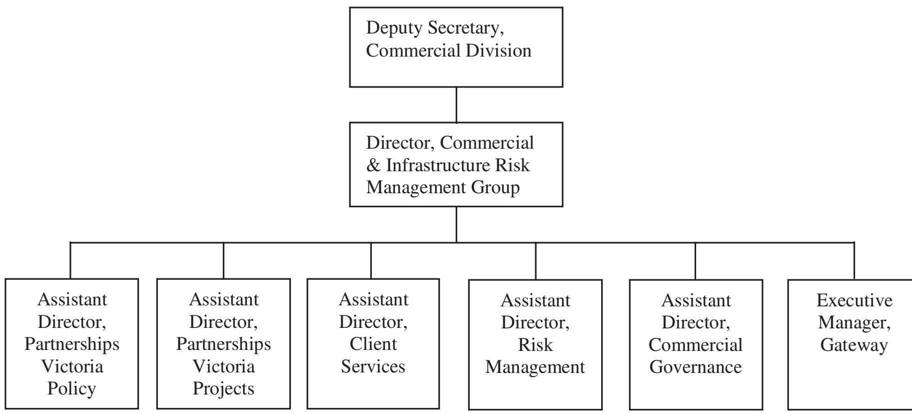
In addition, Partnerships Victoria assists procuring agencies to develop preliminary costings for the main public sector comparator components and review of the preliminary public sector comparator as part of the business case. Partnerships Victoria supports and reviews the contract management, including assisting in risk mitigation and dispute resolution; facilitating knowledge sharing of contract management, including conducting forums for contract managers to share lessons learned and networking with their peers; establishing and implementing professional training programmes for public sector contract directors/managers; and monitoring and independently advising the Treasurer and Cabinet on significant contract management issues.

Partnerships Victoria is, however, not responsible for the gateway reviews; this is done by an independent team, comprising three or four people, appointed by the Department of Treasury and Finance. The review team is selected according to each project's needs and to provide a mix of skills, knowledge and experience. The team should possess project-relevant skills and experience in its current phase in the procurement cycle, and knowledge and understanding of the project's industry sector as well as knowledge of government processes such as the gateway review. Gateway review teams are appointed to be independent from the project, and in the case of high-risk reviews, the independence of the review team from the department is the key to delivering objective, high-quality reviews and reports.

Staffing and funding

Partnerships Victoria has 12 full-time employees including the director of the Commercial and Infrastructure Risk Management Group. Apart from Partnerships Victoria staff, the Commercial and Infrastructure Risk Management Group also includes other commercial advisory services involved in handling infrastructure projects in Victoria. These include executives working on client advisory services, commercial risk management, and commercial governance. In addition, key government departments also maintain experts in PPP policy, *e.g.* the Department of Primary Industries, Department of Human Services, Department of Infrastructure, and Department of Justice. Employees come from diverse backgrounds such as banking, law, economics, finance and engineering. While salaries do not match private sector pay scales, other benefits include job security and involvement in policy development and strategic project delivery. The government funds Partnerships Victoria through the government budget. Precise figures regarding the budget of Partnerships Victoria is not possible because it constitutes one of several units within the Commercial and Infrastructure Risk Management Group.

Figure 2.4. Commercial and Infrastructure Risk Management Group, State of Victoria, Australia



Source: Victoria Department of Treasury and Finance, Melbourne, Victoria, Australia.

Notes

1. Chapter 2 draws on information obtained from government websites, as well as interviews with and inputs from relevant government officials.

2. For example, technical sector specific skills may be necessary to understand the nature of the projects that are being prepared. Economics expertise is necessary to conduct cost-benefit analysis of projects, analyse project construction forecasting, model demand for the service, model the true cost of subsidies and contingent liabilities. Financial analysis expertise is necessary to develop cash flow models, conduct sensitivity analysis, cost risk and develop cost recovery models. Corporate finance expertise is necessary to evaluate the financial proposals and to understand the exposure of a private partner to risk. Regulatory expertise is necessary to understand the statutory requirements that projects must meet. Procurement expertise is necessary to develop tender documents, assess firm's due diligence, as well as to manage the receipt and evaluation of bids. Legal expertise is necessary to understand the financial implications of various contractual clauses within contracts, as well as to draft and negotiate contracts.

3. See Q. 64 "Is there a system to charge a price for goods and services provided by one government organisation to another?" (OECD, n.d.)

4. See *www.ppp-projektdatenbank.de*. The database includes all projects that have been signed since 2002 and those that have been advertised since 2009.

5. *Inhaber-Modell* – the asset belongs to the government the entire time.

6. *Miet-Modell* – the private sector designs, builds, finances, operates and manages assets, model works like leasing model, government pays fixed rate for "rent" and facility management, asset may be purchased at the end of contract at market value.

7. The Korean government refers to public-private partnerships and private participation in infrastructure. This publication considers the terms public-private partnership and private participation in infrastructure as synonymous and adopts the former.

8. The Municipal Infrastructure Investment Unit was a non-profit private company which, in 2003, had a Board of Directors comprising 13 individual

representatives from a range of stakeholders but the majority from the private sector. The Unit was a five-year initiative to develop capacity in local markets for project preparation by providing technical assistance and matching grants for municipalities to hire consultants for technical, financial and legal advice.

9. During the first three years of the Project Development Facility, *i.e.* 2004-07, the facility was managed by a contracted financial management firm.

10. Partnerships Victoria was established in 2000. A number of public-private partnerships had been prepared and awarded prior to the Partnerships Victoria Programme.

11. The largest difference between the pre-existing framework in Victoria and the new national framework relates to the discount rate methodology applied when assessing a potential public-private partnership project. Under the pre-existing approach in Victoria, only large and unusual public-private partnership projects were subject to special discount rate rules. A general rule was applied to all other projects. Under the National Guidelines, special discount rules apply to all projects. The national government anticipates that the change in methodology will not have a large impact.

Bibliography

Australian Productivity Commission (2009), *Public Infrastructure Financing*, Australian Productivity Commission, Canberra.

Dachs (2006), interview with Philippe Burger.

German Ministry of Finance (2008), "The Market for Public-Private Partnerships in Germany", powerpoint presentation, *www.veb.ru/common/img/uploaded/files/ppp/c0810_muller.pdf*.

HM Treasury (2008), *Infrastructure Procurement: Delivering Long-Term Value*, HM Treasury, London, available at *www.hm-treasury.gov.uk*.

HM Treasury (2009), "Signed Project List", HM Treasury, London, available at *www.hm-treasury.gov.uk.*

Korean Ministry of Strategy and Finance and Korea Development Institute (2008), *Building a Better Future through Public-Private Partnerships in Infrastructure in Korea*, Ministry of Strategy and Finance, Seoul.

OECD (n.d.), *International Budget Practices and Procedures Database*, *www.oecd.org/gov/budget/database.*

World Bank and Public-Private Infrastructure Advisory Facility (2007), *Public-Private Partnership Units: Lessons for their Design and Use in Infrastructure*, World Bank, Washington DC, *www.ppiaf.org*.

Victoria Department of Treasury and Finance (2006), *Partnerships Victoria*, July, Melbourne, Victoria, Australia.

Victoria Department of Treasury and Finance (2009), *National PPP Guidelines: Partnerships Victoria Requirements*, Department of Treasury and Finance, Melbourne, Victoria, Australia.