Working Paper Series
Paper 39

Private Finance Initiative (PFI) and Public Private Partnerships (PPPs): Definitions and Sources

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June 2003

ISBN 872330 90 8
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INTRODUCTION

In recent years there has been a proliferation of schemes promoting co-operation between the public and private sectors to provide infrastructure development over a wide range of economic activities. Governments in many different parts of the world have embraced these Public-Private Partnerships (PPP) arrangements. One stated reason for these developments is a concern over public expenditure. These arrangements are often presented as a core part of ‘modernising public services, so there is a claim that such initiatives are part of improving the quality and efficiency of public services.

PPPs are contentious. The European Commission identifies four principal roles for the private sector in PPP schemes:

- to provide additional capital;
- to provide alternative management and implementation skills;
- to provide value added to the consumer and the public at large;
- to provide better identification of needs and optimal use of resources.

However, while this is a positive view of PPPs, many take a more sceptical view of their value, pointing to their complexity, the short-term and long-term costs and the consequences for labour and those reliant on public services.
DEFINITIONS

PPPs in the UK have developed against a background of two decades of increased use of the market in public services. This has been through a combination of deregulation (or liberalisation), privatisation and contracting out.

Deregulation/liberalisation

The terms de-regulations and liberalisation are often used interchangeably. However, either term can be used in two senses.

First, it refers to the general opening of state activities to private sector competition. This has taken the form of the break-up of public sector monopolies through privatisation and the subsequent opening-up of markets to competitors.

Second, it refers to general government policy aimed at encouraging enterprise and job creation through the removal of what are seen as legislative constraints (‘red tape’) on businesses, especially small firms. The Conservative governments of the 1980s argued that much legislation aimed at protecting employee rights was inimical to the effective working of the labour market and hence to efficient performance (EIRO).

Privatisation

Before the large scale adoption of the policy of selling off state assets under Margaret Thatcher, this policy was called denationalisation.

Entire state corporations and nationalized industries such as British Telecom, British Gas and the electricity supply industry were sold into the private sector by a combination of share issues (see IPO) and trade sales.

Sometimes people use the term privatisation to include the policy requiring parts of the public sector such as local government and the National Health Service to contract out work previously done by their own employees (see CCT, contracting out).

♦ IPO Initial Public Offering

This refers to the first sale of shares in a company to the public.

♦ Trade sale

This refers to a privatisation in which a state asset is sold as a unit to a private company without a public share offering.

Contracting out/outsourcing/sub-contracting

The policy of contracting out to a private service supplier, a service which would previously have been provided by an-house staff
♦ CCT Compulsory Competitive Tendering

In the 1980s the Conservative government introduced legislation to force local councils to put out to tender a number of named services. The Labour government abolished CCT but introduced the ‘Best Value’ regime in its place, which requires local councils to consider whether contracting out would be appropriate for all of their services.

♦ Market Testing

A procedure for re-pricing the provision of certain soft services on a periodic basis by means of competitive tender (4ps b). This procedure usually included an in-house bid.

Public Private Partnerships.

Definitions are wide-ranging:

- It can mean just about any collaboration between the public and private sectors. It covers PFI, but it also embraces traditional procurement in which a public body engages a private company for a specific purpose (for example to build a road).

- In international terms it is used equally broadly, so that the ILO becomes a PPP under some definitions.

- It is sometimes more narrowly used to describe a joint venture between a private and public body in which risk is shared.

PFI Private Finance Initiative

PFI projects are usually long-term contracts for services that include the provision of associated facilities or properties. Under the contract, the private sector entity will have responsibility for designing and constructing the building or facility and maintaining and servicing it throughout the contract term (Scottish Executive).

There are a variety of slightly different forms of PFI, the most important of which are listed below. Design Build Finance Operate (DBFO) is the most common and is also similar to the French model of the concession used in the water industry (see below). However, different combinations of the construction, operation, and finance responsibilities appear in the various options and there are also often different patterns of ownership.

♦ DBFO Design, Build, Finance and Operate

A contract let under the principles of the private finance initiative whereby the same supplier undertakes the design and construction of an asset and thereafter maintains it for an extended period, often 25 or 30 years (Audit Commission 2003).
♦ **DB Design and Build**

A contract where a single supplier is responsible for designing and constructing a built asset (Audit Commission 2003).

♦ **FM Facilities Management**

Management of services relating to the operation of a building. Includes such activities as maintenance, security, catering and external and internal cleaning. (Audit Commission 2003).

♦ **O&M Operation and Maintenance Contract**

These projects involve the private sector operating a publicly-owned facility under contract with the Government (Dept of the Parliamentary Library, Australia).

♦ **LDO Lease Develop Operate**

This type of project involves a private developer being given a long-term lease to operate and expand an existing facility. The private developer agrees to invest in facility improvements and can recover the investment plus a reasonable return over the term of the lease (Dept of the Parliamentary Library, Australia).

♦ **BOOT Build Own Operate Transfer**

Projects of the Build-Own-Operate-Transfer (BOOT) type involve a private developer financing, building, owning and operating a facility for a specified period. At the expiration of the specified period, the facility is returned to the Government (Dept of the Parliamentary Library, Australia).

♦ **BOO Build Own Operate**

The Build-Own-Operate (BOO) project operates similarly to a BOOT project, except that the private sector owns the facility in perpetuity. The developer may be subject to regulatory constraints on operations and, in some cases, pricing. The long term right to operate the facility provides the developer with significant financial incentive for the capital investment in the facility (Dept of the Parliamentary Library, Australia).

**The French model of concessions or delegated management**

Delegated management (*gestion déléguée*) is a system where the delivery of a public service is assigned to a third party. The term “delegated management” however can have a more restrictive meaning, namely that of “delegation of public service” as it appears in the law of 29 January 1993 (Sapin law). Under this meaning of the term, the delegation of public service corresponds to a contractual procedure that differs from that provided for by the French public procurement code.

The term “delegated management” applies to a contract concluded for the delivery of a public service, where the remuneration of the delegatee is largely dependent on
operating results, and where management of the service is entrusted to a legal entity which can be a private company, individual, local semi-public company, association, another local authority or a public corporation not controlled by the delegating local authority.

As can be seen from the above, the French delegated management model has many similarities with some forms of the PFI in the UK.

In theory, there are three main variants of concession:

- a concession in the strict sense ("concession" in French) when the private company has complete responsibility for operating the system, and making the necessary investments in the infrastructure, and takes responsibility for financing them at its own risk ("à ses risques et périls" in French). Build-operate-transfer (BOT) concessions are usually of this type.

- an operating concession ("affermage" in French), whereby the private company has to operate the business and carry out maintenance at its own risk, depending on revenue from water charges - but the commune remains the owner of the infrastructure, and is responsible for investment in the system.

- management contracts ("gérance" in French), in which the company is paid a flat fee to manage the system, without taking any responsibility or risk for investments.

In practice, concessions do not always fit neatly into a single category. However, the technical distinction between concessions and affermages may be of great significance in respect of rules on public finances and tendering. According to the French state audit office, Cour des Comptes, if the contract is a concession in the strict sense, then the rules on public works contracts ("Code des marchés publics") do not apply - and so works contracts do not have to be tendered. This means that other companies in the same group can enjoy privileged access to the contracts without having to compete for them.
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Sectors

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Company focus

GMB. PFI Major Contractors
http://www.gmb.org.uk/docs/pdfs/majorPFIcontractors-158.pdf

GMB. PFI projects and Andersen

GMB. PFI projects and Ernst and Young
http://www.gmb.org.uk/docs/pdfs/ErnstYoungReport1.pdf
GMB. PFI projects and PriceWaterHouseCoopers
http://www.gmb.org.uk/docs/pdfs/pricewater.pdf

GMB. PFI projects of the Tube PPP Companies
http://www.gmb.org.uk/docs/pdfs/Tube-consortia.pdf

GMB. PFI and Railway Companies
http://www.gmb.org.uk/docs/pdfs/RailwayCompaniesAndPFI(Re-Revised)1.pdf

GMB. PFI and Privatisation: Ocean cleaning contract Ltd
http://www.gmb.org.uk/docs/pdfs/oceancontractcleaningltd.pdf

GMB. PFI Deals and Privatisation involving Sodexho
http://www.gmb.org.uk/docs/pdfs/SodexhoPostVictoriaInfirmary.pdf

PSIRU. Water multinationals - no longer business as usual
March 2003
http://www.psiru.org/reports/2003-03-W-MNCS.doc

PSIRU. Multinacionais da água em retirada - A Suez retira investimentos
January 2003

PSIRU. Water multinationals in retreat - Suez withdraws investment
January 2003

Unison. Stitched up How the Big Four accountancy firms have PFI under their thumbs
30 January 2003

Unison. A web of private interest
24 June 2002

Unison. Public Service - Private Profit - how the fat cats got the cream
23 April 2002

http://www.ucl.ac.uk/spp/download/health_policy/Big5-June-02FINAL.doc
Organisations

The following union federations, individual unions, research bodies, campaign groups and publications regularly publish information, news and analysis of various forms of PPPs and public service alternatives.

Union Federations

Public Services International
http://www.world-psi.org/
European Federation of Public Service Unions
http://www.epsu.org

Unions

Unison (UK)
http://www.unison.org.uk/
General and Municipal Workers, GMB (UK)
http://www.gmb.org.uk
Canadian Union of Public Employees, CUPE (Canada)
http://www.cupe.ca/
National Union of Public and General Employees, NUPGE (Canada)
http://www.nupge.ca/
National Union of Teachers, NUT (UK)
http://www.teachers.org.uk
American Federation of Teachers, AFT (USA)
http://www.aft.org/privatization/welcome.html
American Federation of State County and Municipal Employees, AFSCME (USA)
http://www.afscme.org/private/index.html

Research Bodies

Public Services International Research Unit (PSIRU)
http://www.psiru.org/
Public World
http://www.publicworld.org/
Catalyst
http://www.catalystforum.org.uk/
Public Health Policy Unit, University College London
http://www.ucl.ac.uk/spp/about/health_policy/index.php
Labour Research Department
http://www.lrd.org.uk/
Centre for Public Services
http://www.centre.public.org.uk/
National Labour and Economic Development Institute, NALEDI (South Africa)
http://www.naledi.org.za/
Municipal Services Project (South Africa)
http://qsilver.queensu.ca/~mspadmin/
Publications

British Medical Journal
http://bmj.com/

Others

International Labour Office
http://www.ilo.org
National Audit Office
http://www.nao.gov.uk/
Audit Commission
http://wwwaudit-commission.gov.uk/
Audit Scotland
http://wwwaudit-scotland.gov.uk/
Auditor General for Wales
http://www.agw.wales.gov.uk/
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Lister J (2002) Pricewaterhousecoopers and PFI. A Public Service Insight report for the GMB.


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Sachdev, S (2001) Contracting culture: from CCT to PPPs. Unison


TGWU/Catalyst (2002) Enron NHS? Foundation Hospitals and the backdoor privatisation of the National Health Service


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