CHAPTER 1

Public-Private Partnerships for Infrastructure and Service Delivery: An Introduction

Veronica Vecchi, Francesca Casalini, Niccolò Cusumano, and Velia M. Leone

Abstract This chapter provides a wide framework to understand how public and private actors collaborate. Collaborations happen at three different levels (macro, meso, and micro) and with different levels of intensity and formalization. Despite the mixed results experienced so far with public-private partnerships (PPPs) for infrastructure and service delivery, the shift toward a new approach to sustainability by corporations can certainly prove useful to reconceive the way in which PPP is used and structured. Further, Covid-19 pandemic has shed a new light on the importance of collaborations to improve resilience and foster innovation. This chapter also presents the main feature of PPP contracts for infrastructure and service delivery, which are the focus of this book; the policy goals that could be pursued and the main challenges to achieve such goals.

Keywords Public-private collaborations • Public value • Public procurement • Economic and social infrastructures • Benefits and drawbacks of PPP
1.1 Public-Private Collaborations in General: A Comprehensive Framework

This book is about public-private partnerships (hereafter, PPPs) for infrastructure development and/or service delivery. PPPs, as a first approximation, may be understood as a formalized cooperation between the public and the private sector, based on mutual trust and shared goals such as stepping up quality standards and sustainability for the provision of services and infrastructures.

PPPs, for instance, encompass a wide array of cooperating forms. In this chapter we will provide an overview of different kinds of PPPs, in their wider understanding, and, then, focus on the most specific features of PPP contracts, their peculiarities, their possible evolution, and their strategic use toward the achievement of wider policy goals.

PPP is often associated with bundled contracts for financing, building, and operating an infrastructure—or even for service delivery and, therefore, without involving a major investment component. These kinds of partnerships can be considered as having a contractual nature, since the partnership is established through a (mid/long-term) contract between the competent public, or contracting authority (hereafter, CA), and the economic operator (hereafter, EO). Nevertheless, other forms of collaboration between the public and the private sectors exist and they have been increasingly important since the 2008 global economic and financial crisis and, furthermore, in the aftermath of the Covid-19 pandemic.

Figure 1.1 shows a conceptual scheme useful for understanding the main types of public-private collaborations.

Collaborations may be developed on three levels: macro, meso, and micro. Starting from the bottom of the scheme, at macro level, collaborations are informal and mainly intended to influence policy design. Further, at this level, informal collaborations can be originated from corporates’ sustainability strategies. Since more and more companies reject the idea of pure profit maximization and feel an obligation to contribute to the solution of societal challenges—which they may have contributed to create in the past with wrong business practices—they are willing to act as responsible partners and advocate for innovative solutions to create social value (Hartley et al. 2013). Stakeholder theory (Freeman et al. 2010; Jensen 2010), Corporate Social Responsibility (CSR) theory (Carroll 1979, 1991; Garriga and Melé 2004), and its strategic approach (Baron 2001; Bhattacharyya 2010; McElhaney 2009; Porter and Kramer 2006) lately evolved into shared value (Porter and Kramer 2006, 2011), underpin
from a theoretical perspective such efforts. Within responsibility agendas, corporations contribute to generate public and shared value: in other words, they proactively incorporate the pursuit of some societal goals in their strategies, thus behaving as responsible corporate citizens. For some companies, CSR is becoming a strategic component of their competitive advantage and a way to attract responsible investors, that is, those including Environmental, Social, and Governance (ESG) criteria in their investment decisions. Michael Porter captured these trends with the conceptualization of the social dimension of the competitive advantage (Porter and Kramer 2006) and, later, with the shared value creation (Porter and Kramer 2011) sustains that societal challenges can represent a new business field in which it is possible to create profit while achieving social value.

Balancing financial and social return is also a new investment approach, which takes the name of impact investing and is attracting more and more investors. More in general, according to the Global Sustainable Investment Alliance (2018),\(^1\) sustainable investments are growing, and they include not only the so-called negative/exclusionary screening ones—in other words, those excluding certain harmful sectors—but also, where the main

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\(^1\) [http://www.gsi-alliance.org/wp-content/uploads/2019/06/GSIR_Review2018F.pdf](http://www.gsi-alliance.org/wp-content/uploads/2019/06/GSIR_Review2018F.pdf)
increase is recorded, those that integrate ESG dimensions or even those that tackle specific social or community challenges.

According to such emerging corporate and financial perspectives, society shall no longer be considered as the exclusive domain of public authorities or philanthropists. Social and societal challenges (such as global warming and the environment) are a terrain where public and private actors can work together (collaborate) to generate what is called public value. In the last few years, many inspired CEOs have expressed their strong commitment to a purpose-driven economy, trying to encourage public and private institutions to scale up their efforts. When public policies are designed to incentivize such efforts, an innovative form of macro public-private collaboration can ensue.

At **meso level**, PPP collaborations, with different degrees of intensity, create opportunities where public and private actors combine financial and non-financial resources to achieve a common goal. At this level, we find, on one hand, institutional partnerships, such as public-private-owned companies/joint-ventures (where the partnership is institutionalized through the setting up of a legal entity); on the other hand, programs that have been co-designed and are co-implemented by public and private bodies to achieve social and economic development goals. These programs can be co-funded or they can mobilize individual investments toward such mutual goals. The level of formalization of such programs may significantly vary; for example, they can be implemented through associations or memorandums of understanding. Development banks are among the key actors at this level. They operate at regional, national, or supra-national level and can also be set up through different models of public-private governance. A relevant example of meso collaboration is represented by blended finance programs, aimed at attracting (or crowding-in) traditional investors in riskier investments, such as impact investing or PPP initiatives, especially in emerging countries, as discussed in Chap. 2.

At **micro level**, PPP is a contract entered into by two parties, that is, the CA and the EO. These contracts—which are the main focus of this book—have a mid/long-term horizon and they allocate risks between the two parties in order to create incentives to achieve complex and/or innovative goals, which are more difficult to achieve through a traditional public procurement contract. The objective of such contract is usually the delivery of a service or the development and operation of an infrastructure where the EO is paid based on the results achieved, according to different contract schemes, discussed in Chap. 4. Concisely, such payments can be
either in the form of tariffs from end-users (when the EO retains the demand risk) or availability charges, paid by the CA in return for a non-core service. In this instance, CAs retain full responsibility for the delivery of the main, or core, service. In recent years, outcome-based PPP contracts (OBC), also known as Social Impact Bonds (SIBs), have emerged: here, a premium is paid to EOs in proportion to the social result/outcome achieved. SIB contracts are discussed in Chap. 6. At this level, partnerships can also be established for the delivery of goods and services through strategic public procurement. However, these contracts are often regarded as supply contracts, under a legal perspective, as explained in Chap. 3.

PPP contracts are relevant especially in strategic sectors, such as defense or healthcare. In the latter, the importance of partnership has emerged during the Covid-19 pandemic; more in general, the healthcare sector can leverage on contractual partnerships, such as value-based contracts, in order to optimize financial resources while increasing the effectiveness of purchases, such as pharmaceutical products, medical devices, medical equipment, and IT solutions.

1.2 PPP: Main Features and Applications

PPP contracts for infrastructure and service delivery, the focus of this book, are characterized by four main features:

1. Mid/long-term agreement
2. Investment of private capitals on an exclusive basis or with a co-investment of public money
3. Risk allocation between public and private parties
4. Performance-related pay (i.e. based on results or outcome).

A PPP is a long-term contract between a public authority and, usually, a special purpose vehicle (SPV), in order to design, finance, build, and operate economic or social infrastructure. The SPV is responsible for delivering associated works and services on time, on budget, and on quality. A well-drafted PPP contract is characterized by balanced risk allocation between the public authority and the SPV.

SPVs are generally set up to ring-fence project risks and cash flows, thus fostering the attraction of capitals (see Box 1.1).

Two kinds of private sponsors are involved in PPP transactions: pure financial investors, that is, those investing their capital (in the form of
equity and shareholder loans) in the SPV, and industrial investors. The latter generally invest money in the SPV and are entrusted by the SPV, through sub-contracts, to build the infrastructure and/or operate and manage the underlying services. Indeed, industrial players invest in the SPV’s equity to expand their business and to gain access to better economic conditions for subcontracted activities. The SPV may use subcontractors different from the players that are also industrial investors. It is also widespread for industrial sponsors that are subcontractors to further subcontract part of the activities assigned by the SPV.

In sectors where PPP contracts are applied as a standard way to deliver public services, the involved EOs are, usually, large companies, often listed, who may decide not to establish an SPV.

Box 1.1 The role of SPV in PPP contracts

In PPP projects, SPVs are fundamental to attracting financial resources and subsequently dedicating them to the project development; further the SPV insulates the project cash flows to service the debt. Through the SPV, such resources are ring-fenced vis-à-vis the sponsors’ or other shareholders’ assets, therefore lenders have limited recourse to the shareholders’ own assets (see Chap. 2).

This model allows EOs to engage in several investments at the same time and without risking all their assets. Furthermore, the establishment of an SPV represents a guarantee also for the CAs, because:

- the SPV’s capital is dedicated solely to the performance of a specific contract, and
- the project cash flow cannot be used for a scope different than repaying lenders’ financing of the investments and costs deriving from the contract, nor can risk being affected by the soundness of other activities carried out by individual EOs holding the SPV’s shares.

PPP contracts may apply to a variety of projects and may take different forms, according to the nature of the infrastructure/service involved. PPP may be used for the building and operation of economic and social infrastructure, but also for service delivery in itself, resulting in a minor upfront investment.
A PPP contract is generally financed through a project finance scheme, where a large portion of the investment is financed with debt in the form of syndicated loans or bonds (see Chap. 2).

Economic infrastructures refer to, for instance, the energy, transportation, and telecommunication sectors. Typical social infrastructures are hospitals, schools, and affordable housing. Generally, economic infrastructures are paid for by their users through tariffs or fees (the acronym BOT—build, operate, and transfer—contract is often used to refer to such transactions). In social infrastructure, the remuneration of investors usually stems from an availability payment, that is, a fee paid by the competent public authority, which uses infrastructure and related services to deliver core public services. Availability contracts are also known as DBFMO, that stands for design, build, finance, maintain, and operate. Chapter 4 analyzes in detail different types of PPP contracts for economic and social infrastructure. In any event, although at international level different contract and payment schemes are used, an efficient PPP contract must be tailored based on local jurisdiction and regulatory context.

PPP contracts can be used for greenfield projects—frequently used in emerging countries—and brownfield projects—targeting already existing infrastructure to be revamped and refurbished. In the latter case, the level of risk is lower, since capital investments are lower and demand is already known and therefore more predictable.

BOT contracts are usually construed as concessions, while DBFMO contracts were introduced under the label of “public private partnership.” Nowadays, this distinction is no longer relevant: however, it still creates certain confusion, since the term “concession” has a legal nature, while the term “PPP” has a more generic meaning.

From a legal perspective, the most appropriate contract type for a PPP is a concession model, as it transfers a higher level of risk to EOs, contrary to traditional procurement. In the context of EU law, this distinction is defined in the Concession Directive, according to which the distinctive feature of concessions is the transfer of operating risk to EOs, as it is explained in Chap. 3.

Figure 1.2 shows the standard structure for a PPP project.

PPP is widely regarded as a way to attract long-term investors in infrastructure development, thus contributing to the closure of the infrastructure gap. At the time of writing, the infrastructure gap is estimated by the
OECD, WEF, IMF, World Bank, and various academic institutions to be somewhere between $2 trillion and $3 trillion per year. This takes into account the dual need to modernize and expand infrastructure, as well as the need to make green investments called for by the UN sustainable development goals (SDGs).

Box 1.2 provides a definition of the infrastructure gap.

PPP are used to involve EOs in the development or operation of infrastructure that cannot be privatized because they represent a natural monopoly, or, in some instances, for policy reasons (as described in Box 1.3). However, as stated in Sects. 1.1 and 1.4, PPP is also a way to encourage EOs to deliver more innovative public services, that is, of better quality or with a superior outcome.

Therefore, PPP is the ideal tool to attract capitals and know-how able to ensure the efficiency and effectiveness of public services. Furthermore, PPP can foster competition (for the market) even in a context of natural monopoly, such as network infrastructure.

Fig. 1.2 Standard structure of a PPP project. Source: Authors
Box 1.2 Infrastructure gap

The infrastructure gap, broadly speaking, is defined as an inadequate level of infrastructure or as the difference between investment needs and actual spending.

There are many existing estimates at local, national, regional, and world-wide level, calculated according to a variety of models that can be categorized as (1) bottom-up microeconomic or micro-engineering models, (2) top-down macroeconomic models, and (3) hybrid models.

Microeconomic and micro-engineering models are both based on bottom-up sectoral knowledge and encompass a wide variety of grey literature, from national project pipelines, which may span from a basic project list identifying local gaps, to comprehensive reports, such as the UK Infrastructure and Projects Authority Report (one of the most detailed ones in Europe), to sectoral analyses. Research on macroeconomic models, which explain and predict levels of infrastructure based on macroeconomic variables, stems from the seminal research conducted by Marianne Fay for the World Bank Group in 2000. This work disentangled the primary relationship between macroeconomic variables and the level of infrastructure needed. Finally, hybrid models are a combination of sectoral approaches to macroeconomic evaluations.

Looking at the most recent estimates, according to Global Infrastructure Hub (GIH), a G20 initiative, the infrastructure gap globally amounts to $15 trillion and $18 trillion if you also consider the investments needed to achieve sustainable development goals (SDGs). It should be noted that this value refers to “economic” infrastructures: roads, ports, airports, telecommunications, energy, and water. GIH does not therefore represent the infrastructural gap for social sectors, such as health, education, and affordable/social housing.

This is a gap estimated using an econometric model in which the future investment needs of a single country are defined as the value of the infrastructural stock necessary to ensure an economic performance equal to that of the countries deemed most competitive for a similar level of development. In other words, it is a question of comparing the situation of a country to a reference benchmark. The requirement is then weighed by “country-specific” factors (e.g. economic structure, population density) and “sector specific” factors (typical of the economic sectors considered).
Box 1.3  PPP versus privatization

It is worth clarifying that PPPs are not equivalent to privatization of infrastructure or related services. Rather, PPPs are a way to finance the development of infrastructure through private or public-private capitals, whose remuneration depends on the management of the services delivered through the underlying infrastructure.

The scientific literature distinguishes in a clear manner a partnership (i.e. a PPP) from standard outsourcing. A partnership is aimed at introducing a system of risks and rewards to create incentives to economic players to achieve challenging results, accruing remuneration (Forrer et al. 2010). Therefore, PPPs are contract models intended to manage public services, as an alternative to a direct in-house management (direct management by public authorities or though state-own enterprises—SoEs). However, this is not equivalent to the privatization of public services, even when the partnership is executed through a long-term contract. This is because, in a PPP, CAs set the characteristics and scope of the infrastructure and services, and retain the ultimate responsibility for the quality and appropriateness thereof, together with the possibility to terminate the contract, eventually, if EOs prove unable to achieve the public goals set or to meet the required standards. Conversely, in privatized contexts, public authorities play a regulatory role, that is, setting a framework for the free deployment of competition among EOs, as the latter become the ultimate owners of infrastructure, or compete freely in a liberalized market for the delivery of services.

Figure 1.3 shows a synthesis of these three main approaches for the delivery of public interest services.
1.3 Policy Goals Beyond PPP and the Challenges to Achieve Them

PPPs have become popular with the rise of New Public Management policies in the Anglo-Saxon countries as a means to increase public services efficiency and performance (a concept known as “value for money”) and to reduce red tape, by lifting some of the constraints for the public sector and easing public bureaucracy. PPP projects can deliver “value for money” when they achieve the same outcomes at a lower cost (efficiency), and/or higher/better quality for services and innovative solutions at the same cost (added value), if compared to standard projects. Therefore, value for money in PPPs is mainly linked to the delivery of works and related services “on-time, on-budget and on-quality,” through the whole life-cycle optimization of projects, which is achieved, inter alia, thanks to the efficient management of the required means and resources and the bundled nature of PPP contracts. More recently, public value literature considers PPPs as a way to foster collaborative co-production, capable of providing more innovative responses and improving services quality.
The global spread of PPPs is mainly rooted in macroeconomic reasons. PPPs have been widely used as an alternative to privatization policies, often opposed by public opinion, therefore, politically embarrassing.

PPPs’ popularity is associated with the opportunity that it affords CAs to account investment “off balance sheet”: in other words, the possibility of obtaining assets requiring substantial investments without increasing public debt. PPP contracts can also act as a filter, especially for user-fee-based projects, by skimming unfeasible and un-bankable projects. This is particularly true for projects only partially funded or guaranteed by the public sector. In these instances, the matching fund mechanism can mitigate the potential risk of misallocation of public money by excluding unrealistic projects.

Current research is often critical of the value for money and affordability of PPPs, and this is in spite of the widespread belief of many international institutions that these kinds of arrangements lead to more efficient and more effective outcomes for policy development. Indeed, there is a wide international consensus on the fact that PPPs, in many cases, facilitate the delivery of new infrastructure on time and on budget. Because of the difficulties in designing correct allocation of risks during the management phase or in incorporating innovative delivery solutions, in many cases PPP has not lived up to expectations.

Scholars are often critical of the capacity of the public and private sectors to develop mutual trust, which is needed to implement a long-term contract. Actually, the institutional and value-related differences between public and private players determine an over-formalization of the relationship through contractual obligations that could prove hardly enforceable, due to the information asymmetry between public and private subjects. Further, the variety of possible events that may occur during the contract life are often difficult to forecast and incorporate into contractual provisions. This issue can be particularly critical in contexts with weak institutions. Since PPPs are long-term contracts, it is indeed crucial to find the right balance between completeness and flexibility.

Despite the fact that contractual PPP is not a new concept, high barriers still exist which prevent its diffusion and consolidation: PPP has been applied to many sectors across the world with mixed results that, at times, have generated reluctance among policy makers and public managers.
The inherent contract complexity, the level of uncertainty typical of long-term transactions, and the oligopolistic features of the market are some of the issues making value for money difficult to achieve, especially when risk allocation is influenced by the need to attract private capitals (the issue is discussed in Chap. 2). Some relevant contracts across the globe experienced several implementation criticalities due to the need to renegotiate the contract, the failure of the SPV, or excess costs for users or the CA, just to quote a few. This has fueled arguments about the appropriateness of the contract type/policy. In fact, Teisman and Klijn (2002) described PPPs as the “right proposal at the wrong time.” The increased commitment of market players to public value, as discussed in Sect. 1.1, could be useful to overcome the drawbacks experienced so far and to stimulate the co-evolution of the public and private parties.

More recently, a growing body of literature has been discussing the importance of a stable institutional framework and a strong policy commitment for supporting the efficient and effective application of PPPs (Hodge and Greve 2017; Verhoest et al. 2014). Three main factors appear to be crucial for the development of PPPs: i) clear policies and political commitment; ii) appropriate legal and regulatory frameworks; and iii) dedicated PPP-supporting units. Explicit policies and long-term political commitment are crucial for creating legitimacy for PPP and for transforming it from an extraordinary approach into a standard option for the public sector, especially when developing complex investments or incorporating innovative solutions in the services delivery. An appropriate PPP legal and regulatory framework, including specific PPP laws, helps procuring authorities and market players to reduce uncertainty and transaction costs, thus fostering collaboration and transparency. PPP-supporting units may be crucial as competence hubs to support CAs and EOs, and to enhance the application of PPP, on a constant basis, through the collection and dissemination of good practices. However, the above-mentioned factors are not enough without an adequate set of competencies within CAs directly involved in transactions.

It is, therefore, essential, both at central and local levels, to build up strong competencies to structure, manage, monitor, and enforce PPP contracts. As discussed in Chap. 2, it is fundamental that public authorities have access to the most sophisticated skills to design the most appropriate PPP contract, based on the goals to attain and the relevant context, and to choose the right balance of risks/rewards to achieve value for money, innovation, and value added.
1.4 From Traditional to Strategic Procurement: Lessons from Covid-19 to Create a Shared Culture to Foster Partnership between Public and Private Sectors

The extraordinary Covid-19 outbreak, faced by governments all around the world, sheds light on the importance of improving public procurement. This shall not be limited to the field of healthcare. An enhanced focus on the strategic role of procurement coupled with the value of public-private partnerships are twin goals that can be prioritized whenever the CAs act as sophisticated buyers (Vecchi et al. 2020).

More often than not, within the public sector, procurement has been perceived as a clerical function, mainly focusing on transparency and accountability (Table 1.1 shows the main differences between the two approaches). This culture hindered the development of inter-organizational relationships and trust: efforts to prevent corruption in public contracting, although justified, have generated a bureaucratic approach to procurement that stifles any attempt at contracting innovation and, more in general, many solutions that could better meet societal needs, including risk mitigation.

To overcome the limits of traditional public procurement, the public sector has relied on public-private collaborations, although, with mixed and not always fully appreciated results. Partnerships can prove crucial, also in crises like Covid-19, because they improve the flexibility of the public sector and its capacity to provide immediate answers to communities.

Table 1.1 Differences between conventional and strategic procurement

| Conventional procurement | Strategic procurement |
|--------------------------|-----------------------|
| Lowest bid selection criteria | Best value selection criteria |
| Prioritizing cost savings | Prioritizing innovation |
| Transactional contractor relationships | Partnership-based contractor relationship |
| Fragmented acquisition for narrowly defined products | Coordinated acquisition for integrated solutions |
| Minimal attention to contractor business practices | Strong understanding of contractor business processes (supply chain, risk management, ESG policies) |
| Acquiring products for short-term needs | Acquiring products for long-term, risk-managed needs |

Source: Vecchi et al. 2020
Disaster situations call for the immediate creation of reactive short-term collaborative relationships, also known as hastily generated partnerships (Busch and Givens 2013), between public and private entities. Such partnerships are not only fundamental to ensure resilience but, also, may pave the way to build up relationships of trust on a larger scale. Indeed, the development of relationships and trust allow collaborative procurement arrangements to function more effectively in complex policy areas by providing an opportunity for interested stakeholders to work closely together to address community problems.

Based on the lessons of global scale crises, such as Covid-19 pandemic, policy makers should consider areas of procurement that would have been less affected, had previous partnerships existed with EOs, by comparing the flexibility, rapidity, and business continuity that would have been offered by contractual agreements based on different levels of collaboration. Resilience-oriented procurement strategies, therefore, shall be based on the selection of reliable providers; the creation of a portfolio of providers to be called upon in case of emergency; and the use of contracts to allow flexibility and outcome-assurance (Bovaird and Quirk 2016).

In order to do this, co-designed solutions are needed, which, in turn, is possible only if the public sector is open and ready to negotiate with EOs, thus moving procurement from a compliance-based perspective to a risk-management and collaborative perspective. A strategic approach to procurement would also enable business resilience and innovation and implement other strategic public policies, as an economic stimulus for market organizations, for employment and, ultimately, as a driver of domestic growth.

The post Covid-19 period will certainly leave more room for the adoption of new practices in public procurement and PPP.

To make the most of strategic management of public procurement and PPP, however, it is fundamental to invest in the managerial competencies of the public sector, whose weaknesses are deemed to have been one of the main reasons behind the unmet promises of the previous public-private partnership season (Bloomfield 2006). Equally, the private sector should invest more in building up an adequate set of skills and competencies, with a view to providing solutions able to meet profit and public value goals at the same time. A shareable background of competencies and skills is crucial to create a common playing field to develop trust and, therefore, to co-create more sustainable, balanced, and innovative partnerships.
In conclusion, to allow and sustain a renewed approach to PPP, based on more balanced and sustainable contracts—that is where achieving public value becomes the main goal—it is fundamental that both public and private actors evolve. On one hand, public procurement should play a more strategic role; on the other hand, PPP should be chosen by EOs as a means to pursue their sustainability/purpose-driven corporate strategies, as discussed above in Sect. 1.1.

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